Amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
The effect of the use upon the potential market for or value of the copyrighted work.

One cannot easily differentiate between fair use and copyright infringement. There is no mention of the number of lines, words, and notes that one can take from a copyrighted work and still escape infringement.

Investigating Copyright Violations

Copyright violation can be investigated in the following ways:

1. Explanations of parties and third persons
2. Testimonial evidences
3. Written and material evidence
4. Audio and video records
5. Conclusions of experts

The following are the evidence of copyright violations:

- The documents received by law enforcement agencies during checks committed by them on their own initiative or by complaints of rights owners
- Record of examination of computer and software
- Record of examination of a tangible carrier where the installation of software products on the computer was performed
- Conclusion of expert performing examination of the seized computer and tangible carriers with software
- Delivery note or cash memo for the purchased computer
- Warranty statement on the purchased computer
- Explanations of the employees of the seller company, explanations of the customer
- Copies of statutory documents of a legal entity (statute and foundation agreement)
- Job functions of the organization directly related to selling computer facilities and software
- Advertising materials and price lists evidencing that accused person carried out entrepreneurial activity
- Other documents related to the software's illegal sale or distribution in any form

Counterfeit samples of software, the production or use of which involves copyright violations, are also referred to as evidence of copyright violation. Advertising materials, price lists, documents on goods, and other materials evidencing copyright violation are also regarded as evidence along with counterfeit samples.

During investigation, it is necessary to establish, at least approximately, the volume of the obtained revenue from the violation of copyright and adjacent rights.

The following accounting documents should be analyzed and attached to the file:

- Reports of different checks and inspections;
- Delivery notes, charge tickets, other documents reflecting transaction of products and payment;
- Financial statements (reports delivered to tax office);
- Agreements reflecting facts of criminal activity (transportation of products, issuance of goods to distributors, storing products at some place in some amount, etc.)
- U.S. laws for trademarks and copyright

Online Copyright Infringement Liability Limitation Act

Sec. 512. Limitations on liability relating to material online

a) LIMITATION– Notwithstanding the provisions of section 106, a provider shall not be liable for—

(1) Direct infringement, based solely on the intermediate storage and transmission of material over that provider's system or network, if—

(A) The transmission was initiated by another person;
(B) The storage and transmission is carried out through an automatic technological process, without any selection of that material by the provider; and