

**Merkos L'Inyonei Chinuch, Inc. v. Otsar Sifrei Lubavitch, Inc.,
312 F.3d 94 (2d Cir. 2002)**

Year	2002
Court	United States Court of Appeals for the Second Circuit
Key Facts	Plaintiff Merkos L'Inyonei Chinuch, Inc. published an English translation of the Hebrew prayerbook <i>Siddur Tehillat Hashem</i> . Defendant Otsar Sifrei Lubavitch, Inc. published a new version of the prayerbook that copied verbatim from plaintiff's translation. Defendant appealed the district court's ruling in plaintiff's favor, enjoining defendant from disseminating its version of the book.
Issue	Whether defendant's verbatim copying of plaintiff's English translation of a Hebrew prayerbook constituted fair use.
Holding	The court held that defendant's use was not a fair use. Though defendant's version of the prayerbook added user-friendly instructions to the translation and used a different layout, the court found that the factors did not favor a finding of fair use. Focusing in particular on the third and fourth fair use factors, the amount and substantiality of the portion used and the effect on the potential market, the court determined that defendant had copied the entire translation and had used it for a purpose identical to plaintiff's, all of which weighed against a finding of fair use.
Tags	Second Circuit; Textual Work
Outcome	Fair use not found

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