

**Rubin v. Bos. Magazine Co.,  
645 F.2d 80 (1st Cir. 1981)**

Year	1981
Court	United States Court of Appeals for the First Circuit
Key Facts	Plaintiff Issac Rubin, a college professor, wrote a dissertation entitled <i>The Social Society of Romantic Love</i> . The dissertation is based on a “love scale” and a “liking scale” that consist of twenty-six questions designed to determine one’s feelings about another person. Plaintiff also published his love and liking scales in an article and a book. Defendants Boston Magazine Co. and D. Herbert Lipson published plaintiff’s scales in an issue of the magazine <i>Boston</i> as part of an article titled <i>How’s Your Love Life: Who Turns You On and Why?</i> Plaintiff’s love and liking scales were set forth verbatim in a large box entitled <i>The Test of Love. How to Tell If It’s Really Real</i> . Defendant appealed the lower court ruling that they infringed plaintiff’s copyright.
Issue	Whether defendants’ unauthorized copying and publication of plaintiff’s “love scale” and “liking scale,” comprising twenty-six questions, in a popular magazine article about love, constituted fair use.
Holding	The court held that defendants’ publication of plaintiff’s work was not fair use. The court noted that the publication was commercial and was not for purposes of criticism, comment, news reporting, teaching, scholarship or research. Instead the material was used “as a quiz to entertain readers of a magazine of general circulation.” The court also noted that the material copied was an essential part of plaintiff’s work. The court further found that defendants’ use clearly affected the potential market for the work because, before the use, another publication had shown interest in licensing the scales, and it could be reasonably “inferred that after defendants’ use ... other publications would be less inclined to pay the plaintiff for use of his material in a popular magazine.”
Tags	First Circuit; Textual work
Outcome	Fair use not found

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