

Google Library Project Settlement Amended

By: Cheri Michel, Paralegal

Several years ago, Google, Inc. started the ambitious project of creating a digital library by scanning books at several partner universities and public libraries. Google's "Library Project" allowed users to browse the full text of books in the public domain. Books protected by copyright law would display only a few sentences surrounding a user's search terms; users were not able to view full pages of a copyrighted book. Still, it did not take long for lawsuits to be filed on behalf of authors and publishers.

The issues were complex and primarily revolved around Google's reproduction of entire books as part of its Library Project without the consent of the copyright owners, as well as Google's ability to profit from the sale of associated advertisements.

A settlement was negotiated with the authors and publishers in October 2008, and amended in November 2009. Below are selected points from the amended settlement:

- A \$125 million settlement is to be paid by Google, of which \$45 million will be used to pay copyright holders whose copyrights have been infringed.
- A Book Rights Registry is to be created as part of the settlement mentioned above; it will collect revenue from Google and dispense that revenue to copyright owners.
- A Google book settlement web site (www.googlebooksettlement.com) is to be established so copyright holders can claim their books and locate additional information.
- The settlement includes all copyrighted books and partial works (or "inserts") registered or published by January 5, 2009. Inserts are defined as text, tables, charts, or graphs that are contained in a book.
- Payment can be made to copyright owners whose books were digitized by Google prior to May 5, 2009 without the copyright owner's permission. There is a one-time payment of \$60 per book or \$5-15 for inserts, and 63% of all revenues associated with the book or insert. Copyright owners must make their claim by March 31, 2011.
- Google is not granted an exclusive license to the books.
- Copyright owners must keep their registrations current with current ownership changes and contact information.
- Congress will retain its exclusive right to determine copyright law and policies.
- Copyright holders may opt-out of the project.
- Books in the public domain will remain in the project.
- The settlement is for books that are in print prior to January 5, 2009.
- Books not covered are periodicals, personal papers, sheet music and government works not protected by copyright law.

The settlement terms above have not been finalized and the court will hold a Fairness Hearing on February 18, 2010 to determine if the Amended Settlement is sufficient, equitable and reasonable.



Google Library Project Settlement Amended

It should be noted that the court's approval of the amended settlement will not affect U.S. copyright laws. The settlement circumvents the U.S. Copyright Office, which determines and regulates copyright laws and polices.

Copyright 2010 Hahn Loeser & Parks LLP

Cheri Michel is a paralegal and Certified Legal Assistant in the Akron office of Hahn Loeser & Parks LLP. She works in the firm's Intellectual Property Practice Area.