

Publishers concerned that Google project violates copyright

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When people talk about digital piracy and digital copyright infringement, they typically are referring to music and movies. However, books also are subject to digital copyright infringement, and not just by members of the general public.

Not all copyright infringement is malicious, but malicious or not, it is damaging to the book's authors and to its publishers, as well. As an example, Google has undertaken a project that will allow people to search the content of books and other printed materials on the Web. However, there is great concern among publishers that one aspect of the project has crossed the line from public service to copyright infringement.

"Google is claiming that the Google Print Libraries Project is one of the largest leaps forward for human knowledge ever attempted, and quite arguably it is," said Tony Sanfilippo, marketing and sales director for Penn State University Press. "There is something very admirable about organizing the ideas of humankind to make them more accessible to everyone. But because they are doing it outside of the scope of traditional copyright protection, others argue that while it may serve an enormous public good, it is in fact the wrong way to go about it. Is any public good so great, so beneficial that it needn't concern it self with the ethical, legal or economic ramifications of its process?"

The issue that concerns Sanfilippo and others is that Google is making at least two digital copies of the books, using one to index for Internet

searching and giving one to the libraries that supply the books to be indexed as "payment" for access to the books.

"Google is claiming that their use of this content falls within the guidelines of fair use because they won't show users the whole book. While displaying only a snippet of content may qualify as fair use, using an unauthorized full copy as a payment is clearly a copyright infringement," Sanfilippo said.

He's not alone in his concerns. According to The Association of American Publishers (AAP), a lawsuit was filed Oct. 19 against Google over its plans to digitally copy and distribute copyrighted works without permission of the copyright owners. The AAP said the suit, which seeks a declaration by the court that Google commits infringement when it scans entire books covered by copyright and a court order preventing it from doing so without permission of the copyright owner, was filed on behalf of five of its major publisher members: The McGraw-Hill Cos., Pearson Education, Penguin Group (USA), Simon & Schuster and John Wiley & Sons. The suit, which is being coordinated and funded by AAP, has the strong backing of the publishing industry and was filed following an overwhelming vote of support by the 20-member AAP Board which is elected by, and represents, the association's more than 300 member publishing houses.

"The publishing industry is united behind this lawsuit against Google and united in the fight to defend their rights," said Patricia Schroeder, AAP president and former Colorado congresswoman. "While authors and publishers know how useful Google's search engine can be and think the Print Library could be an excellent resource, the bottom line is that under its current plan Google is seeking to make millions of dollars by freeloading on the talent and property of authors and publishers."

"Creating an easy-to-use index of books is fair use under copyright law

and supports the purpose of copyright: to increase the awareness and sales of books, directly benefiting copyright holders," David Drummond, Google's vice president of corporate development and general counsel, said in a statement. "This short-sighted attempt to block Google Print works counter to the interests of not just the world's readers, but also the world's authors and publishers," he said.

"While we share a mission with Google and the libraries involved, namely the dissemination of human knowledge, we are very concerned that what they are doing with our collective past may irrevocably hurt the production of knowledge in the future," Sanfilippo said. "My primary objection is that we will lose the opportunity to sell those digital files of our content ourselves. These libraries are among our best customers. Each of the libraries in question probably has 70 percent to 90 percent of what we've published over the past 50 years. The files of just our content that Google is giving each library are conservatively worth tens of thousands of dollars, if we had been allowed to sell them those files. The libraries involved have all bought or subscribed to our digital content in the past. Now they won't need to anymore. That loss of income means many new books won't get published. That means scholarship and the advancement of knowledge may suffer more than any advantage gained by the indices Google creates."

Google claims that publishers such as Penn State Press have been given the opportunity to opt-out by submitting a form listing what they would like to exclude from the project, something to which Sanfilippo objects.

"Since when do we request the potential victim of a crime to fill out a form to opt-out of that crime? The compilation of that list in and of itself would take a lot of resources. We've been publishing for 50 years, University of Pennsylvania has been publishing for more than 100 years, Johns Hopkins University Press has been publishing for more than 125 years. The amount of scholarship involved is enormous, involving

hundreds of thousands of books just from university presses. Why should it be the responsibility of the university press community to do that work? As a not-for-profit, we simply can't afford it. Those resources should be spent creating new scholarly content, not fending off the theft of our previously published content," he said.

Sanfilippo explained that when a publisher such as Penn State Press wants to use someone else's work in one of its publications, the publisher asks for permission and sometimes pays for that content.

"Google should do the same. The onus is on Google, not us. What Google is proposing is an admirable goal, but they need to do it with their own time and on their own dime, not by illegally exploiting the work of others, and not at the expense of tomorrow's scholarship."

Source: Penn State

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