

## **Court: No class-action status in Google book case (Update)**

July 1 2013, by Larry Neumeister

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Google Inc. got a friendly ruling Monday from a federal appeals panel that stripped a group representing authors of class-action status as the search engine defends itself against claims that its plan to create the world's largest digital library will violate copyrights.

The 2nd U.S. Circuit Court of Appeals said it was too early for authors to be considered as a group in a lawsuit brought against the Mountain View, Calif.-based company by the Authors Guild.

A three-judge panel of the Manhattan court said a judge presiding over the 8-year-old case must consider fair use issues before deciding whether to consider authors as a class. A judge last year granted class-action status to the Authors Guild, which is seeking \$750 in damages for each copyrighted book Google copied. Google has said such a payout would cost the company more than \$3 billion.

The appeals court said Google's argument that the Authors Guild and other plaintiffs cannot fairly represent the interests of hundreds of thousands of authors because some of the authors will benefit from Google's digital library "may carry some force."

It also said a consideration first by a trial-level judge of Google's claims that it can fairly use snippets of longer works without violating copyrights "will necessarily inform and perhaps moot our analysis of many class certification issues."

The court also said neither side will be harmed by a delay in deciding whether the Authors Guild can represent all writers.

So far, Google has copied more than 20 million books. The appeals panel that heard arguments earlier this year seemed reluctant to get in the way of the plans. One judge said it would be a "huge advantage" for many authors while another said it would have "enormous societal benefit."

A lawyer for the Authors Guild told the judges earlier this year that there was only a "very remote" possibility that the lawsuit would derail Google's library. He said the aim of the lawsuit was to make sure authors are properly compensated.

The appeals panel noted in its ruling Monday that any further appeal in the case should be assigned to the same appeals judges.

Lawyers on both sides did not immediately respond to messages seeking comment.

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