

US judge weighs Google book copyright case

September 23 2013, by John Biers



A woman chooses the Google web search engine front page on her tablet in the French western city of Rennes, May 13, 2013.

A federal judge Monday pointedly questioned attorneys for the Authors Guild in a long-running case on whether Google's book-scanning project violates copyright law.

The two sides presented [oral arguments](#) in a hearing on whether the case should be dismissed, or whether the authors can maintain their challenge to the massive [digitization project](#).

US District Judge Denny Chin said a core question in determining the case is whether there is "benefit to society" in helping users find information from books, facilitating inter-library loans or permitting data mining. All of these functions have been cited by proponents of Google's "Library Project" in legal briefs, Chin said.

An attorney for the guild said that while some uses may benefit society in some instances, it should not override authors' rights to control the content they created.

"Then there's a question of whether Google has to pay for it," Edward Rosenthal, an attorney representing the Authors Guild, told the court.

The back-and-forth between Rosenthal and Chin dominated a 45-minute hearing on the eight-year old proceeding.

Google has asked the court for summary judgement, a ruling that would gut the heart of the guild's case. The authors' group, in turn, has asked the court to deny Google's defense that the copying is a "fair use" that allows a deviation from normal copyright protections.

Google has scanned more than 20 million books so far in the project. Books in the public domain—without current copyrights—are made available online to the public for free. For copyrighted books Google offers a searchable database that displays snippets of text.

The guild has argued that [content creators](#) should control their work and that Google's display of the excerpts violates copyright norms.

The guild argues further that Google's objectives are purely commercial since Google's main goal in the endeavor is to boost use of its search engine, which generates [advertising revenue](#). While some users of Google's project may have worthy aims, Google's use of the material are

not fair use, the guild argues.

Google counters that its book-scanning program provides a valuable societal benefit that can provide much sought-after information to users, permit innovative ways to analyze texts and generally enhance knowledge. Google argues its use of the material is only "indirectly commercial."

Chin focused most of his questions on the guild's contentions about Google's objectives. Chin said Google's use of the material can be fair use, even if there are commercial benefits to the company.

Another question Chin fixated on was the guild's argument that the Google service harms authors by diverting business away from Amazon and other booksellers once consumers realize they can find excerpts on the Google site for free.

Chin conceded that it is possible that a reader might decide to abandon a possible purchase because of the Google site, but questioned whether such an outcome was a "reasonable" possibility.

Rosenthal told the court readers will stop buying books on Amazon because of the Google site. Excerpts available on Amazon's site differ from the Google snippets because authors get to decide, he said.

"Authors have a right to decide whether they want their books not only displayed, but also stored," Rosenthal said.

Google meanwhile contends that there is no evidence the service harms book sales.

Daralyn Durie, an attorney representing the tech giant, said there was only the tiniest of chances of a user could cobble together enough

content from the snippets to avoid buying a book.

"There's no reason to think Google Books is being used for a purpose other than what it was designed for," Durie said.

The two sides reached a tentative \$125 million settlement in the case in 2008, but Chin rejected the agreement in a March 2011 ruling, concluding it was not "fair, adequate and reasonable." That opened up the litigation to a new phase, culminating in Monday's one-day hearing.

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