

University Committee on Copyright
Minutes
Friday, November 21, 2008
Undergraduate Library Conference Room

Present: Leah Dunn, Fletcher Fairey, Michael Hoefges, Cathy Innes, Sian Hunter, Robert Dalton, Virginia Neelon, Tyler Curtain, Mark Swails

1.) Review of Minutes:

The committee reviewed and corrected the minutes from the previous meeting. The use of student work for teaching purposes was again discussed. With two typographical changes, the committee approved the minutes.

2.) Discussion of Google settlement

Fletcher Fairey presented an overview of the Google settlement based on the ALA's guidelines for the settlement. After sketching the principles of the settlement, he discussed three ways UNC-CH might continue to access the Google books collection: (a) Public Access Service (PAS) terminals (b) Institutional Subscriptions and (c) the "Fully Participating Library" program. A hand-out summarizing his presentation is attached.

After Fletcher's presentation the committee discussed the implications of the settlement for the libraries at UNC-CH.

3.) Update – Copyright event, March 3, 2009 – Wilson Library, 5pm

Leah Dunn updated the committee on the copyright event currently scheduled for March 3, 2009. The event is scheduled to begin at 5:00 with the presentation beginning at 5:30. Mr. Falzone is also scheduled to speak on the evening of the 4th at Duke University. Michael Hoefges discussed the Media Law and Policy Center's publicity efforts for the event. He also discussed planning a smaller dinner after the presentation and agreed to investigate web casting for the event.

4.) Discussion of Upcoming Meetings

The committee discussed the next meeting scheduled for December 15, 2008 and elected to cancel the meeting because only a small numbers of member could attend. Leah Dunn will begin setting up a meeting schedule for the spring during December. The committee will reconvene in the spring.

Google Settlement

Discussion of UNC Copyright Committee November 21, 2008

Basic Facts:

- There is a pending class action suit against Google for copyright infringement in connection with its Book Search feature which currently permits any internet user to access snippets of in-copyright books.
- The classes of claimants include various authors, publishers, and other rightsholders.
- In October, Google, the Authors Guild and the Association of American Publishers announced a proposed settlement to the class action.
- Even if the court accepts the settlement (which will not occur before 5/5/09), implementation will take 1-5 years.

Fletcher's personal (and limited) assessment of the effects of the settlement, if approved as is:

- clear and risk-free guidelines to use books that Google has digitized (for a fee!)
- first step in establishing a commercial, digital marketplace for in-copyright books that are not commercially available
- no significant effect on availability of in-copyright books that are commercially available or of public domain works

* Settlement does not apply to books first published after January 5, 2009.

Following elements constitute primary features of the new marketplace:

1. Control of the new marketplace
 2. Status of the work (copyright and commercial availability)
 3. Status of user's institution
 4. Access to the book (search access, view, print, annotate)
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Control of the digital marketplace is given to Google and certain publishers and authors. The publishers and authors will exercise control through a new organization the Book Rights Registry (BRR). “Control” means: *classifying books and establishing fees*. The ability of Google and BRR to work together is essential to the program functioning. If BRR successful, it could become a powerful player in the new digital marketplace.

Classification of the kinds of works is fundamental to the settlement:

1. Public domain books
2. In-copyright books commercially available
3. In-copyright books not commercially available

Google Book Search currently contains approximately 7 million books

Public Domain Works	20% of Google database (?)
In-copyright books commercially available	10% of Google database (?)
In-copyright books not commercially available	<u>70%</u> of Google database (?)

Focus of the new marketplace is **in-copyright books not commercially available**.

- Public domain works will continue to be fully accessible by anyone
- Only bibliographic and front material for in-copyright books that are commercially available will be shown in search result unless rightsholders opt-in. Link to purchase.

University’s access through Google Book Search to in-copyright books depends on the level of University’s participation with the program. Note that the University may belong to more than one of the listed categories.

Public Access Service (PAS)

- Free to public libraries and not-for-profit higher education institutions
- Each institution allocated a limited number of PAS terminals (UNC: 7-8 terminals)
- View full text; print for a fee; no copy & paste; no annotation

Institutional Subscriptions

- Pricing to be set by Google and BRR
- Available to authorized users only (i.e., students, faculty, staff)
- View full text; print 20 pages; copy & paste 4 pages; annotate, including certain annotate & share rights; hyperlink for e-reserves and Blackboard

Fully Participating Libraries

- Institution must provide Google in-copyright books to scan
- Limited use of digitized books provided by the institution and, if the institution provided Google with 300,000 (or 650,000 if consortium of libraries, like TRLN) or 30% of institution's (or consortium's) books (whichever is lowest), limited use of digitized books from other fully participating libraries also permitted
- Restricted use includes: preservation, special access for disabled; finding tools; use up to 5 pages of books for scholarly use and classroom use (limited to specific class)
- Obligation to comply with 17 pages of Security Standards (access control, audit, etc.)

Research Corpus

Google and two new centers will be created to host all digital copies made by Google, and those copies will be made available for computational analysis on books ("non-consumptive research") like:

- de-skewing, OCR
- concordance development, collocation extraction, citation extraction
- linguistic analysis
- research on translation techniques
- indexing and search

Commercial use of information obtained from research at centers is not permitted. Also, copyright holder of commercially available book may withdraw such book from the corpus.

Short list of additional source of information:

Settlement Administration Website
<http://books.google.com/booksrightsholders/>

Guide to Settlement from ALA and ARL
<http://www.arl.org/pp/ppcopyright/google/>

Authors Guild v. Google Settlement Resources Page
<http://www.authorsguild.org/advocacy/articles/settlement-resources.html>

Libraries

Category	Access & Other Rights	Obligations	Assessment
Libraries that have not provided books to Google	Access Rights: Public Access Service (PAS), Subscription Service	Comply with access limitations and pay applicable fees	Net benefit because at minimum, such libraries can obtain PAS system; but likely to be 5 years to implement widely
Public Domain Libraries: those that have only provided public domain works to Google	Access Rights: PAS, Subscription Service Receive release for past infringements related to inadvertent provision of in-copyright works to Google	Comply with access limitations and pay applicable fees Destroy any in-copyright digital copies provided by Google	Almost identical to previous category except that have possession and limited use of their public domain works digitized by Google
Libraries that have provided books to Google but choose not to participate in settlement	Access Rights: PAS, Subscription Service	Comply with access limitations, and pay applicable fees	Free from constraints of settlement regarding use of digitized works they have received back from Google, but ongoing risk of infringement claims if they have any digitized in-copyright books
Cooperating Libraries: those that have provided in-copyright books to Google but do not retain digital copy of such books	Access Rights: PAS, Subscription Service Receive release for past infringements related to inadvertent provision of in-copyright works to Google Participate in choosing Research Corpus site and representative to enforce collective rights	Comply with access limitations and pay applicable fees	Almost identical to Public Domain Libraries except that right to participate in choosing Research Corpus site and representative to enforce collective rights
Fully Participating Libraries	Access Rights: PAS, Subscription Service, potential access to digital copies of public domain and orphan books from all other fully participating libraries for special uses Receive release for past infringements related to inadvertent provision of in-copyright works to Google Participate in choosing Research Corpus site and representative to enforce collective rights	Comply with access limitations and pay applicable fees Institute security obligations	Significant benefits (access rights and “seat at the table”) but will require investment of money and time, and ongoing security obligations

