

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT
CIVIL APPEAL STATEMENT**



Please TYPE. Attach additional pages if necessary.

11th Circuit Docket Number: 12-15147-FF

<p>Caption:</p> <p>CAMBRIDGE UNIVERSITY PRESS; OXFORD UNIVERSITY PRESS, INC.; and SAGE PUBLICATIONS, INC.</p> <p align="right">Appellants,</p> <p>v.</p> <p>MARK P. BECKER, et al.</p> <p align="right">Appellees</p>	<p>District and Division: USDC Northern Dist. Ga.; Atlanta</p> <p>Name of Judge: Orinda D. Evans</p> <p>Nature of Suit: Copyright Infringement</p> <hr/> <p>Date Complaint Filed: April 15, 2008</p> <p>District Court Docket Number: 1:08-CV-1425-ODE</p> <hr/> <p>Date Notice of Appeal Filed: September 10, 2012</p> <p><input type="checkbox"/> Cross Appeal <input type="checkbox"/> Class Action</p> <hr/> <p>Has this matter previously been before this court?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes, provide</p> <p>(a) Caption: Cambridge Univ. Press v. Becker</p> <p>(b) Citation:</p> <p>(c) Docket Number: No. 12-14676-FF</p>
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Attorney Name	Mailing Address	Telephone, Fax, and Email
For Appellant: See attached Exhibit A		
<input type="checkbox"/> Plaintiff		
<input type="checkbox"/> Defendant		
<input type="checkbox"/> Other (Specify)		
For Appellee: See attached Exhibit A		
<input type="checkbox"/> Plaintiff		
<input type="checkbox"/> Defendant		
<input type="checkbox"/> Other (Specify)		

Please CIRCLE/CHECK/COMPLETE the items below and on page 2 that apply.

Jurisdiction	Nature of Judgment	Type of Order	Relief
<input checked="" type="checkbox"/> Federal Question	<input checked="" type="checkbox"/> Final Judgment, 28 USC 1291	<input type="checkbox"/> Dismissal/Jurisdiction	Amount Sought by Plaintiff: \$ _____
<input type="checkbox"/> Diversity	<input type="checkbox"/> Interlocutory Order, 28 USC 1292(a)(1)	<input type="checkbox"/> Default Judgment	Amount Sought by Defendant: \$ _____
<input type="checkbox"/> US Plaintiff	<input type="checkbox"/> Interlocutory Order Certified, 28 USC 1292(b)	<input type="checkbox"/> Summary Judgment	Awarded: \$ _____ to _____
<input type="checkbox"/> US Defendant	<input type="checkbox"/> Interlocutory Order, Qualified Immunity	<input checked="" type="checkbox"/> Judgment/Bench Trial	Injunctions:
	<input type="checkbox"/> Final Agency Action (Review)	<input type="checkbox"/> Judgment/Jury Verdict	<input type="checkbox"/> TRO
	<input type="checkbox"/> 54(b)	<input type="checkbox"/> Judgment/Directed Verdict/NOV	<input type="checkbox"/> Preliminary <input checked="" type="checkbox"/> Granted
		<input type="checkbox"/> Injunction	<input checked="" type="checkbox"/> Permanent <input type="checkbox"/> Denied
		<input type="checkbox"/> Other _____	

Based on your present knowledge:

(1) Does this appeal involve a question of First Impression? Yes No
What is the issue you claim is one of First Impression?

(2) Will the determination of this appeal turn on the interpretation or application of a particular case or statute? Yes No

If Yes, provide

- (a) Case Name/Statute 17 U.S.C. sec. 505
- (b) Citation
- (c) Docket Number if unreported

(3) Is there any case now pending or about to be brought before this court or any other court or administrative agency that

- (a) Arises from substantially the same case or controversy as this appeal? Yes No
- (b) Involves an issue that is substantially the same, similar, or related to an issue in this appeal? Yes No

If Yes, provide

- (a) Case Name Cambridge University Press, et al. v. Becker, et al.
- (b) Citation
- (c) Docket Number if unreported No. 12-14676-FF
- (d) Court or Agency United States Court of Appeals for the Eleventh Circuit

(4) Will this appeal involve a conflict of law

- (a) Within the Eleventh Circuit? Yes No
- (b) Among circuits? Yes No

If Yes, explain briefly:

(5) Issues proposed to be raised on appeal, including jurisdictional challenges:

Whether the district court erred in awarding Defendants-Appellees \$2,861,348.71 in attorney's fees and \$85,746.39 in costs pursuant to 17 U.S.C. § 505.

In addition to assessing attorney's fees and costs, the district court incorporated prior rulings on the merits from an earlier order that is at issue in the companion appeal, Case No. 14676-FF. Appellees have moved to dismiss the earlier appeal for lack of jurisdiction, contending that the merits rulings became final only in the order underlying this second appeal. Appellants have opposed that motion, maintaining that the prior order was final and appealable in its own right, because it resolved the merits in their entirety, leaving only attorney's fees and costs to be assessed. Should, however, the Court determine that it lacks jurisdiction over the prior appeal, Appellants will present each of the issues identified in their Civil Appeal Statement in Case No. 14676-FF (attached hereto) in this appeal.

I CERTIFY THAT I SERVED THIS CIVIL APPEAL STATEMENT ON THE CLERK OF THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT AND

SERVED A COPY ON EACH PARTY OR THEIR COUNSEL OF RECORD, THIS 25th DAY OF October, 2012

JOHN RAINS

NAME OF COUNSEL (Print)

[Signature]

SIGNATURE OF COUNSEL

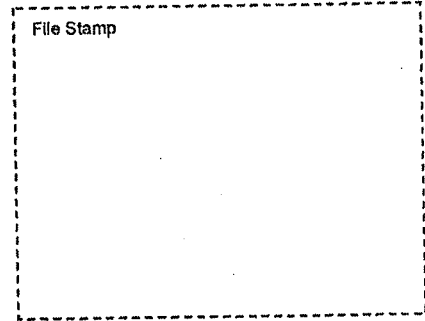
Please ATTACH portion of district court, tax court, or agency record described in 11th Cir. R. 33-1(b): (a) judgments and orders appealed from or sought to be reviewed; (b) any supporting opinion, findings of fact, and conclusions of law filed by the court or the agency, board, commission, or officer; (c) any report and recommendation adopted by an order; (d) findings and conclusions of an administrative law judge when appealing a court order reviewing an agency determination; (e) any agency docket sheet or record index.

DUPLICATE

Rev. 2/11



UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT CIVIL APPEAL STATEMENT



12-14676

Please TYPE. Attach additional pages if necessary.

11th Circuit Docket Number:

Caption: CAMBRIDGE UNIVERSITY PRESS; OXFORD UNIVERSITY PRESS, INC.; and SAGE PUBLICATIONS, INC. Appellants, v. MARK P. BECKER, et al. Appellees	District and Division: USDC Northern Dist. Ga.; Atlanta Name of Judge: Orinda D. Evans Nature of Suit: Copyright Infringement
	Date Complaint Filed: April 15, 2008 District Court Docket Number: 1:08-CV-1425-ODE
	Date Notice of Appeal Filed: September 10, 2012 <input type="checkbox"/> Cross Appeal <input type="checkbox"/> Class Action
	Has this matter previously been before this court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, provide: (a) Caption: (b) Citation: (c) Docket Number:

Attorney Name	Mailing Address	Telephone, Fax, and Email
For Appellant: See attached Exhibit A		
<input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (Specify)		
For Appellee: See attached Exhibit A		
<input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (Specify)		

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Based on your present knowledge:

- (1) Does this appeal involve a question of First Impression? Yes No
What is the issue you claim is one of First Impression?
- (2) Will the determination of this appeal turn on the interpretation or application of a particular case or statute? Yes No
If Yes, provide
(a) Case Name/Statute 17 U.S.C. sec. 107
(b) Citation
(c) Docket Number if unreported
- (3) Is there any case now pending or about to be brought before this court or any other court or administrative agency that
(a) Arises from substantially the same case or controversy as this appeal? Yes No
(b) Involves an issue that is substantially the same, similar, or related to an issue in this appeal? Yes No
If Yes, provide
(a) Case Name
(b) Citation
(c) Docket Number if unreported
(d) Court or Agency
- (4) Will this appeal involve a conflict of law
(a) Within the Eleventh Circuit? Yes No
(b) Among circuits? Yes No

If Yes, explain briefly:

If affirmed, the district court's orders would bring this Circuit into conflict with the Sixth Circuit's decision in Princeton University Press v. Michigan Document Services, Inc., 99 F.3d 1381 (6th Cir. 1996) (en banc).

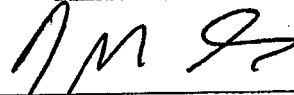
- (5) Issues proposed to be raised on appeal, including jurisdictional challenges:
1. The district court's clearly erroneous and legally incorrect rulings regarding the ownership of certain of Appellants' copyrights.
 2. The district court's misinterpretation and misapplication of the fair use doctrine.
 3. The district court's failure to recognize that copyright law is media neutral.
 4. The district court's exclusion of evidence relevant to the proper consideration of fair use.
 5. The district court's erroneous finding that "the 2009 copyright policy significantly reduced the unlicensed copying of Plaintiffs' works (and by inference, the works of other publishers)."
 6. The district court's failure to order appropriate injunctive relief.
 7. The district court's erroneous determination that Appellees were entitled to reasonable attorney's fees and costs.
 8. The district court's erroneous findings on contributory copyright liability.

I CERTIFY THAT I SERVED THIS CIVIL APPEAL STATEMENT ON THE CLERK OF THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT AND

SERVED A COPY ON EACH PARTY OR THEIR COUNSEL OF RECORD, THIS 26th DAY OF September, 2012.

JOHN RAINS

NAME OF COUNSEL (Print)



SIGNATURE OF COUNSEL

Please ATTACH portion of district court, tax court, or agency record described in 11th Cir. R. 33-1(b): (a) judgments and orders appealed from or sought to be reviewed; (b) any supporting opinion, findings of fact, and conclusions of law filed by the court or the agency, board, commission, or officer; (c) any report and recommendation adopted by an order; (d) findings and conclusions of an administrative law judge when appealing a court order reviewing an agency determination; (e) any agency docket sheet or record index.