

# 12-4547-cv

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**United States Court of Appeals**  
*for the*  
**Second Circuit**

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AUTHORS GUILD, INC., AUSTRALIAN SOCIETY OF AUTHORS  
LIMITED, UNION DES ECRIVAINES ET DES ECRIVAINS QUEBECOIS,  
ANGELO LOUKAKIS, ROXANA ROBINSON, ANDRE ROY, JAMES  
SHAPIRO, DANIELE SIMPSON, T.J. STILES, FAY WELDON,  
AUTHORS LEAGUE FUND, INC., AUTHORS' LICENSING AND  
COLLECTING SOCIETY, SVERIGES FORFATTARFORBUND, NORSK  
FAGLITTERAER FORFATTERO OG OVERSETTERFORENING,  
WRITERS' UNION OF CANADA, PAT CUMMINGS, ERIK GRUNDSTROM,  
HELGE RONNING, JACK R. SALAMANCA,

*Plaintiffs-Appellants,*

*(For Continuation of Caption See Inside Cover)*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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**JOINT DEFERRED APPENDIX**  
**Volume 1 of 5 (Pages A-1 to A-277)**

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v.

HATHITRUST, CORNELL UNIVERSITY, MARY SUE COLEMAN, President,  
University of Michigan, MARK G. YUDOF, President, University of California,  
KEVIN REILLY, President, University of Wisconsin System,  
MICHAEL MCROBBIE, President, Indiana University,

*Defendants-Appellees,*

NATIONAL FEDERATION OF THE BLIND, GEORGINA KLEEGER,  
BLAIR SEIDLITZ, COURTNEY WHEELER,

*Intervenor Defendants-Appellees.*

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<sup>1</sup> The Transcript from the Deposition of T.J. Stiles, dated May 31, 2012 is attached as Exhibit 3 to the Rosenthal Declaration and the Transcript from the Deposition of Pat Cummings, dated May 22, 2012 is attached as Exhibit 1 to the Rosenthal Declaration.

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**U.S. District Court  
Southern District of New York (Foley Square)  
CIVIL DOCKET FOR CASE #: 1:11-cv-06351-HB**

The Authors Guild, Inc. et al v. Hathitrust et al  
Assigned to: Judge Harold Baer  
Cause: 17:101 Copyright Infringement

Date Filed: 09/12/2011  
Date Terminated: 10/12/2012  
Jury Demand: None  
Nature of Suit: 820 Copyright  
Jurisdiction: Federal Question

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**Plaintiff**

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**Plaintiff**

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**Plaintiff**

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**Plaintiff**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Joseph E. Petersen**

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Case: 1:11-cv-6351 As of: 02/13/2013 03:16 PM EST 24 of 65

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Intervenor Defendant**

**The National Federation of the Blind**

represented by **Daniel Frank Goldstein**  
(See above for address)  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**Jessica P. Weber**  
(See above for address)  
*PRO HAC VICE*

*ATTORNEY TO BE NOTICED*

**Laura G. Abelson**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Intervenor Defendant**

**Georgina Kleege**

represented by **Daniel Frank Goldstein**  
(See above for address)  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**Jessica P. Weber**  
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**Laura G. Abelson**  
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**Intervenor Defendant**

**Blair Seidlitz**

represented by **Daniel Frank Goldstein**  
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*ATTORNEY TO BE NOTICED*

**Jessica P. Weber**  
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**Laura G. Abelson**  
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**Intervenor Defendant**

**Courtney Wheeler**

represented by **Daniel Frank Goldstein**  
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**ADR Provider**

**Blair Seidlitz**

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Case: 1:11-cv-6351 As of: 02/13/2013 03:16 PM EST 35 of 65

**Laura G. Abelson**  
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**ADR Provider**

**Courtney Wheeler**

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*ATTORNEY TO BE NOTICED*

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**ADR Provider**

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**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
09/12/2011	<u>1</u>	COMPLAINT against Cornell University, Hathitrust, The Board Of Regents Of The University Of Wisconsin System, The Regents Of The University Of Michigan, The Regents of the University of California, The Trustees Of Indiana University. (Filing Fee \$ 350.00, Receipt Number xxxx) Document filed by Union Des Ecrivaines Et Des Ecrivains Quebecois, James Shapiro, The Authors Guild, Inc., Angelo Loukakis, Roxana Robinson, Daniele Simpson, T.J. Stiles, The Australian Society Of Authors Limited, Andre Roy, Pat Cummins, Fay Weldon.(ama) (Entered: 09/13/2011)
09/12/2011		SUMMONS ISSUED as to Cornell University, Hathitrust, The Board Of Regents Of The University Of Wisconsin System, The Regents Of The University Of Michigan, The Regents of the University of California, The Trustees Of Indiana University. (ama) (Entered: 09/13/2011)
09/12/2011		CASE REFERRED TO Judge Denny Chin as possibly related to 1:05-cv-8136. (ama) (Entered: 09/13/2011)
09/12/2011		Case Designated ECF. (ama) (Entered: 09/13/2011)
09/12/2011	<u>2</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Pat Cummins, Angelo Loukakis, Roxana Robinson, Andre Roy, James Shapiro, Daniele Simpson, T.J. Stiles, The Australian Society Of Authors Limited, The Authors Guild, Inc., Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon.(ama) (Entered: 09/13/2011)

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09/12/2011		Mailed notice to Register of Copyrights to report the filing of this action. (ama) (Entered: 09/13/2011)
09/16/2011		CASE DECLINED AS NOT RELATED. Case referred as related to 05-cv-8136 and declined by Judge Denny Chin and returned to wheel for assignment. (sjo) (Entered: 09/16/2011)
09/16/2011	<u>3</u>	NOTICE OF CASE ASSIGNMENT to Judge Harold Baer. Judge Unassigned is no longer assigned to the case. (sjo) (Entered: 09/16/2011)
09/16/2011		Magistrate Judge James L. Cott is so designated. (sjo) (Entered: 09/16/2011)
10/06/2011	<u>4</u>	FIRST AMENDED COMPLAINT amending <u>1</u> Complaint., against Jeffrey Bartell, MaryEllen Kiley Bishop, Richard C. Blum, Mark J. Bradley, William R. Cast, Bruce Cole, Cornell University, Judith V. Crain, David Crane, Julia Donovan Darlow, William De La Pena, Laurence B. Deitch, John Drew, Philip N. Eskew, Jr, Tony Evers, Michael J Falbo, Russell Gould, Cora J Griffin, Hathitrust, Denise Ilitch, Eddie Island, Odessa Johnson, George Kieffer, Sherry L. Lansing, Monica Lozano, Hadi Makarechian, Edmund Manydeeds, George M. Marcus, Olivia P. Maynard, Alfredo Mireles, Jr, Andrea Fischer Newman, Norman J. Pattiz, Katherine Pointer, Charles Pruitt, Thomas E. Reilly, Jr, Bonnie Reiss, Derica W. Rice, Andrew C. Richner, Fred Ruiz, Leslie Tang Schilling, Troy Sherven, Patrick A. Shoulders, Brent Smith, Michael J. Spector, William H. Strong, S. Martin Taylor, The Board Of Regents Of The University Of Wisconsin System, The Regents Of The University Of Michigan, The Regents of the University of California, The Trustees Of Indiana University, S. Mark Tyler, Bruce D. Varner, Jose F. Vazquez, Paul Wachter, David G. Walsh, Katherine E. White, Charlene Zettel. Document filed by Helge Ronning, Union Des Ecrivaines Et Des Ecrivains Quebecois, Jack R. Salamanca, Roxana Robinson, the Writers' Union of Canada, Pat Cummins, Fay Weldon, Sveriges Forfattarforbund, Norsk Faglitteer ForfatterOOG Oversetterforening, Andre Roy, The Authors Guild, Inc., Pat Cummings, Daniele Simpson, T.J. Stiles, James Shapiro, Authors' Licensing and Collecting Society, Danielle Simpson, Angelo Loukakis, The Authors League Fund, Inc, The Australian Society Of Authors Limited, Erik Grundstrom. Related document: <u>1</u> Complaint., filed by Pat Cummins, Fay Weldon, Roxana Robinson, Union Des Ecrivaines Et Des Ecrivains Quebecois, Andre Roy, The Australian Society Of Authors Limited, Angelo Loukakis, T.J. Stiles, The Authors Guild, Inc., Daniele Simpson, James Shapiro.(mro) (Entered: 10/12/2011)
10/18/2011	<u>5</u>	MOTION for Alex S. Fonoroff to Appear Pro Hac Vice. Document filed by Jeffrey Bartell, MaryEllen Kiley Bishop, Richard C. Blum, Mark J. Bradley, William R. Cast, Bruce Cole, Cornell University, Judith V. Crain, David Crane, Julia Donovan Darlow, William De La Pena, Laurence B. Deitch, John Drew, Philip N. Eskew, Jr, Tony Evers, Michael J Falbo, Russell Gould, Cora J Griffin, Hathitrust, Denise Ilitch, Eddie Island, Odessa Johnson, George Kieffer, Sherry L. Lansing, Monica Lozano, Hadi Makarechian, Edmund Manydeeds, George M. Marcus, Olivia P. Maynard, Alfredo Mireles, Jr, Andrea Fischer Newman, Norman J. Pattiz, Katherine Pointer, Charles Pruitt, Thomas E. Reilly, Jr, Bonnie Reiss, Derica W. Rice, Andrew C. Richner, Fred Ruiz, Leslie Tang Schilling, Troy Sherven, Patrick A. Shoulders, Brent Smith, Michael J. Spector, William H. Strong, S. Martin Taylor, The Board Of Regents Of The University Of Wisconsin System, The Regents Of The University Of Michigan, The Regents of the University of California, The Trustees Of Indiana University, S. Mark Tyler, Bruce D. Varner, Jose F. Vazquez, Paul Wachter, David G. Walsh, Katherine E. White, Charlene Zettel.(bcu) (pgu). (Entered: 10/19/2011)
10/18/2011	<u>6</u>	MOTION for W. Andrew Pequignot to Appear Pro Hac Vice. Document filed by Jeffrey Bartell, MaryEllen Kiley Bishop, Richard C. Blum, Mark J. Bradley, William R. Cast, Bruce Cole, Cornell University, Judith V. Crain, David Crane, Julia Donovan Darlow, William De La Pena, Laurence B. Deitch, John Drew, Philip N. Eskew, Jr, Tony Evers, Michael J Falbo, Russell Gould, Cora J Griffin, Hathitrust, Denise Ilitch, Eddie Island, Odessa Johnson, George Kieffer, Sherry L. Lansing, Angelo Loukakis, Monica Lozano, Hadi Makarechian, Edmund Manydeeds, George M. Marcus, Olivia P. Maynard, Alfredo Mireles, Jr, Andrea Fischer Newman, Norman J. Pattiz, Katherine Pointer, Charles Pruitt, Thomas E. Reilly, Jr, Bonnie Reiss, Derica W. Rice, Andrew C. Richner, Fred Ruiz, Leslie



		Tang Schilling, Troy Sherven, Patrick A. Shoulders, Brent Smith, Michael J. Spector, William H. Strong, S. Martin Taylor, The Board Of Regents Of The University Of Wisconsin System, The Regents Of The University Of Michigan, The Regents of the University of California, The Trustees Of Indiana University, S. Mark Tyler, Bruce D. Varner, Jose F. Vazquez, Paul Wachter, David G. Walsh, Katherine E. White, Charlene Zettel.(bcu) (pgu). (Entered: 10/19/2011)
10/18/2011	<u>7</u>	MOTION for Allison Scott Roach to Appear Pro Hac Vice. Document filed by Jeffrey Bartell, MaryEllen Kiley Bishop, Richard C. Blum, Mark J. Bradley, William R. Cast, Bruce Cole, Cornell University, Judith V. Crain, David Crane, Julia Donovan Darlow, William De La Pena, Laurence B. Deitch, John Drew, Philip N. Eskew, Jr, Tony Evers, Michael J Falbo, Russell Gould, Cora J Griffin, Hathitrust, Denise Ilitch, Eddie Island, Odessa Johnson, George Kieffer, Sherry L. Lansing, Monica Lozano, Hadi Makarechian, Edmund Manydeeds, George M. Marcus, Olivia P. Maynard, Alfredo Mireles, Jr, Andrea Fischer Newman, Norman J. Pattiz, Katherine Pointer, Charles Pruitt, Thomas E. Reilly, Jr, Bonnie Reiss, Derica W. Rice, Andrew C. Richner, Fred Ruiz, Leslie Tang Schilling, Troy Sherven, Patrick A. Shoulders, Brent Smith, Michael J. Spector, William H. Strong, S. Martin Taylor, The Board Of Regents Of The University Of Wisconsin System, The Regents Of The University Of Michigan, The Regents of the University of California, The Trustees Of Indiana University, S. Mark Tyler, Bruce D. Varner, Jose F. Vazquez, Paul Wachter, David G. Walsh, Katherine E. White, Charlene Zettel.(bcu) (pgu). (Entered: 10/19/2011)
10/18/2011	<u>8</u>	MOTION for Joseph M. Beck to Appear Pro Hac Vice. Document filed by Jeffrey Bartell, MaryEllen Kiley Bishop, Richard C. Blum, Mark J. Bradley, William R. Cast, Bruce Cole, Cornell University, Judith V. Crain, David Crane, Julia Donovan Darlow, William De La Pena, Laurence B. Deitch, John Drew, Philip N. Eskew, Jr, Tony Evers, Michael J Falbo, Russell Gould, Cora J Griffin, Hathitrust, Denise Ilitch, Eddie Island, Odessa Johnson, George Kieffer, Sherry L. Lansing, Monica Lozano, Hadi Makarechian, Edmund Manydeeds, George M. Marcus, Olivia P. Maynard, Alfredo Mireles, Jr, Andrea Fischer Newman, Norman J. Pattiz, Katherine Pointer, Charles Pruitt, Thomas E. Reilly, Jr, Bonnie Reiss, Derica W. Rice, Andrew C. Richner, Fred Ruiz, Leslie Tang Schilling, Troy Sherven, Patrick A. Shoulders, Brent Smith, Michael J. Spector, William H. Strong, S. Martin Taylor, The Board Of Regents Of The University Of Wisconsin System, The Regents Of The University Of Michigan, The Regents of the University of California, The Trustees Of Indiana University, S. Mark Tyler, Bruce D. Varner, Jose F. Vazquez, Paul Wachter, David G. Walsh, Katherine E. White, Charlene Zettel.(bcu) (pgu). (Entered: 10/19/2011)
10/19/2011		NOTICE of Conference: Pretrial Conference set for 11/17/2011 at 12:00 PM, in Chambers, Room 2230, before Judge Harold Baer. (cd) (Entered: 10/20/2011)
10/20/2011	<u>9</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>8</u> Motion for Joseph M. Beck to Appear Pro Hac Vice. Application for Pro Hac Vice GRANTED. The Clerk is instructed to close this motion. (Signed by Judge Harold Baer on 10/19/2011) (ft) (Entered: 10/20/2011)
10/20/2011	<u>10</u>	ORDER FOR ADMISSION PRO HAC VICE ON WRITTEN MOTION granting <u>5</u> Motion for Alex S. Fonoroff to Appear Pro Hac Vice. Application for Pro Hac Vice GRANTED. The Clerk is instructed to close this motion. (Signed by Judge Harold Baer on 10/19/2011) (ft) (Entered: 10/20/2011)
10/20/2011	<u>11</u>	ORDER FOR ADMISSION PRO HAC VICE ON WRITTEN MOTION granting <u>6</u> Motion for W. Andrew Pequignot to Appear Pro Hac Vice. Application for Pro Hac Vice GRANTED. The Clerk is instructed to close this motion. (Signed by Judge Harold Baer on 10/19/2011) (ft) (Entered: 10/20/2011)
10/20/2011	<u>12</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>7</u> Motion for Allison Scott Roach to Appear Pro Hac Vice. Application for Pro Hac Vice GRANTED. The Clerk is instructed to close this motion. (Signed by Judge Harold Baer on 10/20/2011) (ft) (Entered: 10/20/2011)
10/20/2011		CASHIERS OFFICE REMARK on <u>8</u> Motion to Appear Pro Hac Vice,,,, <u>5</u> Motion to Appear Pro Hac Vice,,,, <u>6</u> Motion to Appear Pro Hac Vice,,,, <u>7</u> Motion to Appear Pro Hac Vice,,,, in the amount of \$800.00, paid on 10/18/2011, Receipt

		Number 1019471,1019472,1019473,1019475. (jd) (Entered: 10/20/2011)
10/28/2011	<u>13</u>	STIPULATION: that the time for Defendants to answer, move, or otherwise respond to the First Amended Complaint be and is hereby extended to and including December 2, 2011. (Signed by Judge Harold Baer on 10/28/2011) (pl) Modified on 10/28/2011 (pl). (Entered: 10/28/2011)
10/31/2011	<u>14</u>	NOTICE OF APPEARANCE by Nelson E. Roth on behalf of Cornell University (Roth, Nelson) (Entered: 10/31/2011)
11/01/2011	<u>15</u>	NOTICE OF APPEARANCE by Joseph E. Petersen on behalf of Jeffrey Bartell, MaryEllen Kiley Bishop, Richard C. Blum, Mark J. Bradley, William R. Cast, Bruce Cole, Cornell University, Judith V. Crain, David Crane, Julia Donovan Darlow, William De La Pena, Laurence B. Deitch, John Drew, Philip N. Eskew, Jr, Tony Evers, Michael J Falbo, Russell Gould, Cora J Griffin, Hathitrust, Denise Ilitch, Eddie Island, Odessa Johnson, George Kieffer, Sherry L. Lansing, Monica Lozano, Hadi Makarechian, Edmund Manydeeds, George M. Marcus, Olivia P. Maynard, Alfredo Mireles, Jr, Andrea Fischer Newman, Norman J. Pattiz, Katherine Pointer, Charles Pruitt, Thomas E. Reilly, Jr, Bonnie Reiss, Derica W. Rice, Andrew C. Richner, Fred Ruiz, Leslie Tang Schilling, Patrick A. Shoulders, Brent Smith, Michael J. Spector, William H. Strong, S. Martin Taylor, The Board Of Regents Of The University Of Wisconsin System, The Regents Of The University Of Michigan (Petersen, Joseph) (Entered: 11/01/2011)
11/01/2011	17	Letter addressed to Edward Rosenthal from Linda Eckhouse, Judicial Assistant to the Honorable Harold Baer, Jr. dated 11/1/2011 re: The Pre-Trial Conference (PTC) on the above case has been rescheduled. The new date and time is Friday, November 18, 2011, at 11:30 A.M. Please notify your adversary.(lmb) (Entered: 11/08/2011)
11/01/2011		Set/Reset Hearings: Pretrial Conference set for 11/18/2011 at 11:30 AM before Judge Harold Baer. (lmb) (Entered: 11/08/2011)
11/07/2011	<u>16</u>	MOTION for Ronald L. Raider to Appear Pro Hac Vice. Document filed by Jeffrey Bartell, MaryEllen Kiley Bishop, Richard C. Blum, Mark J. Bradley, William R. Cast, Bruce Cole, Cornell University, Judith V. Crain, David Crane, Julia Donovan Darlow, William De La Pena, Laurence B. Deitch, John Drew, Philip N. Eskew, Jr, Tony Evers, Michael J Falbo, Russell Gould, Cora J Griffin, Hathitrust, Denise Ilitch, Eddie Island, Odessa Johnson, George Kieffer, Sherry L. Lansing, Monica Lozano, Hadi Makarechian, Edmund Manydeeds, George M. Marcus, Olivia P. Maynard, Alfredo Mireles, Jr, Andrea Fischer Newman, Norman J. Pattiz, Katherine Pointer, Charles Pruitt, Thomas E. Reilly, Jr, Bonnie Reiss, Derica W. Rice, Andrew C. Richner, Fred Ruiz, Leslie Tang Schilling, Troy Sherven, Patrick A. Shoulders, Brent Smith, Michael J. Spector, William H. Strong, S. Martin Taylor, The Board Of Regents Of The University Of Wisconsin System, The Regents Of The University Of Michigan, The Regents of the University of California, The Trustees Of Indiana University, S. Mark Tyler, Bruce D. Varner, Jose F. Vazquez, Paul Wachter, David G. Walsh, Katherine E. White, Charlene Zettel.(wb) (pgu). (Entered: 11/08/2011)
11/08/2011		CASHIERS OFFICE REMARK on <u>16</u> Motion to Appear Pro Hac Vice,,, in the amount of \$200.00, paid on 11/07/2011, Receipt Number 1021190. (jd) (Entered: 11/08/2011)
11/14/2011	<u>18</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>16</u> Motion for Ronald L. Raider to Appear Pro Hac Vice. It is hereby Ordered that Ronald L. Raider is admitted pro hac vice to appear for all purposes as counsel for the defendants. ENDORSEMENT: Application for Pro Hac Vice GRANTED. The Clerk is instructed to close this motion. (Signed by Judge Harold Baer on 11/14/2011) (mro) Modified on 11/14/2011 (mro). (Entered: 11/14/2011)
11/18/2011		Minute Entry for proceedings held before Judge Harold Baer: Initial Pretrial Conference held on 11/18/2011. (pl) (Entered: 11/22/2011)
11/21/2011	<u>20</u>	PRETRIAL SCHEDULING ORDER: The parties do not consent to proceed before a United States Magistrate for all purposes. Case added to the November trailing Trial Calendar. Non jury 4 day trial. Amended Pleadings due by 1/1/2012. Joinder

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		of Parties due by 1/1/2012. Motions due by 7/20/2012. Discovery due by 5/20/2012. (Signed by Judge Harold Baer on 11/19/2011) (cd) (Entered: 11/23/2011)
11/21/2011	<u>21</u>	PRETRIAL SCHEDULING ORDER:The parties do not consent to proceed before a United States Magistrate for all purposes, pursuant to 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73. This case is added to the Nov. Trailing Trial Calendar. Non-jury. Estimated number of trial days is 4. Amended Pleadings due by 1/1/2012. Joinder of Parties due by 1/1/2012. Motions due by 7/20/2012. Responses due by 7/20/2012. Replies due by 7/20/2012. Discovery due by 5/20/2012. (Signed by Judge Harold Baer on 11/19/2011) (lmb) (Entered: 11/23/2011)
11/21/2011	<u>22</u>	SCHEDULING ORDER: This case is added to the Nov. Tralling trial calendar. Non jury. Estimated number of trial days is 4. no additional causes of action or defenses may be asserted after January 1, 2012. the parties consent to proceed before a United States magistrate for all purposes, pursuant to 28 U.S.C 636(c) and Fed. R.Civ. P. 73? should be asserted. A joint pretrial order may be requested when your trial date is set, and will typically need to be submitted to Chambers from 10 days to 2 weeks prior to trial. Sec my Individual Practices for details. the law Clerk assigned to this case is Jackie Joinder of Parties due by 1/1/2012. Motions due by 7/20/2012. Discovery due by 5/20/2012. (Signed by Judge Harold Baer on 11/19/2011) (js) (Entered: 11/29/2011)
11/22/2011	<u>19</u>	STIPULATION AND ORDER: NOW THEREFORE. IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiffs and Defendants, that notwithstanding the numerical limitations of Federal Rule of Civil Procedure 33(a)(1) and the subject matter limitations of Rule 33.3(8) of the Local Rules for the United Stats District Courts of the Southern and Eastern Districts of New York, Plaintiffs (collectively) and Defendants (collectively) may serve such interrogatories as the serving party deems appropriate, with neither Plaintiffs (collectively) nor Defendants (collectively) serving more than thirty (30) interrogatories on the other. (Signed by Judge Harold Baer on 11/22/2011) (djc) (Entered: 11/22/2011)
12/02/2011	<u>23</u>	ANSWER to <u>4</u> Amended Complaint,,,,,, Document filed by Jeffrey Bartell, MaryEllen Kiley Bishop, Richard C. Blum, Mark J. Bradley, William R. Cast, Bruce Cole, Cornell University, Judith V. Crain, David Crane, Julia Donovan Darlow, William De La Pena, Laurence B. Deitch, John Drew, Philip N. Eskew, Jr, Tony Evers, Michael J Falbo, Russell Gould, Cora J Griffin, Hathitrust, Denise Ilitch, Eddie Island, Odessa Johnson, George Kieffer, Sherry L. Lansing, Monica Lozano, Hadi Makarechian, Edmund Manydeeds, George M. Marcus, Olivia P. Maynard, Alfredo Mireles, Jr, Andrea Fischer Newman, Norman J. Pattiz, Katherine Pointer, Charles Pruitt, Thomas E. Reilly, Jr, Bonnie Reiss, Derica W. Rice, Andrew C. Richner, Fred Ruiz, Leslie Tang Schilling, Troy Sherven, Patrick A. Shoulders, Brent Smith, Michael J. Spector, William H. Strong, S. Martin Taylor, The Board Of Regents Of The University Of Wisconsin System, The Regents Of The University Of Michigan, The Regents of the University of California, The Trustees Of Indiana University, S. Mark Tyler, Bruce D. Varner, Jose F. Vazquez, Paul Wachter, David G. Walsh, Katherine E. White, Charlene Zettel.(Petersen, Joseph) (Entered: 12/02/2011)
12/09/2011	<u>24</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MOTION to Intervene As <i>Defendants</i> . Document filed by National Federation of the Blind, Blair Seidlitz, Courtney Wheeler, Georgina Kleege. (Attachments: # <u>1</u> Exhibit Exhibit A – Declaration of Dr. Marc Mauer, # <u>2</u> Exhibit Exhibit B – Declaration of Blair Seidlitz, # <u>3</u> Exhibit Exhibit C – Declaration of Courtney Wheeler, # <u>4</u> Exhibit Exhibit D – Declaration of Georgina Kleege, # <u>5</u> Exhibit Exhibit E – Declaration of Daniel F. Goldstein, # <u>6</u> Exhibit Exhibit F – Proposed Joint Answer and Defenses of Defendant Intervenor)(Bernstein, Robert) Modified on 12/23/2011 (kco). (Entered: 12/09/2011)
12/09/2011	<u>25</u>	MEMORANDUM OF LAW in Support re: <u>24</u> MOTION to Intervene As <i>Defendants</i> . Filed By National Federation of the Blind, Blair Seidlitz, Courtney Wheeler and Georgina Kleege. Document filed by Georgina Kleege. (Bernstein, Robert) (Entered: 12/09/2011)

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12/11/2011	<u>26</u>	FILING ERROR – WRONG PDF ASSOCIATED WITH DOCKET ENTRY – DECLARATION of Daniel F. Goldstein in Support re: <u>24</u> MOTION to Intervene <i>As Defendants</i> . Document filed by National Federation of the Blind. (Attachments: # <u>1</u> Exhibit Exhibit E to Motion to Intervene as Defendants of National Federation of the Blind, Blair Seidlitz, Courtney Wheeler and Georgina Kleege)(Bernstein, Robert) Modified on 12/12/2011 (db). (Entered: 12/11/2011)
12/11/2011		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT – PDF ERROR. Note to Attorney Robert Jay Bernstein to RE-FILE Document <u>26</u> Declaration in Support of Motion. Re-File and Attach Declaration in Support of Motion PDF. (db) (Entered: 12/12/2011)
12/12/2011	<u>27</u>	MOTION to Intervene <i>As Defendants</i> . Document filed by National Federation of the Blind. (Attachments: # <u>1</u> Exhibit Declaration of Dr. Marc Mauer, # <u>2</u> Exhibit Declaration of Blair Seidlitz, # <u>3</u> Exhibit Courtney Wheeler, # <u>4</u> Exhibit Declaration of Georgina Kleege, # <u>5</u> Exhibit Declaration of Daniel F. Goldstein, # <u>6</u> Exhibit Defendant Intervenors' Joint Answer and Defenses)(Bernstein, Robert) (Entered: 12/12/2011)
12/12/2011	<u>28</u>	MOTION for Peter Jaszi to Appear Pro Hac Vice. Document filed by Georgina Kleege, National Federation of the Blind, Blair Seidlitz, Courtney Wheeler.(bwa) (bwa). (Entered: 12/15/2011)
12/12/2011	<u>29</u>	MOTION for Laura G. Abelson to Appear Pro Hac Vice. Document filed by Georgina Kleege, National Federation of the Blind, Blair Seidlitz, Courtney Wheeler.(bwa) (bwa). (Entered: 12/15/2011)
12/12/2011	<u>30</u>	MOTION for Daniel F. Goldstein to Appear Pro Hac Vice. Document filed by Georgina Kleege, National Federation of the Blind, Blair Seidlitz, Courtney Wheeler.(bwa) (bwa). (Entered: 12/15/2011)
12/16/2011	<u>31</u>	FILING ERROR – ELECTRONIC FILING FOR NON-ECF DOCUMENT – MOTION to Substitute Party. Old Party: New Party: <i>STIPULATION AND ORDER TO SUBSTITUTE PARTIES</i> . Document filed by Hathitrust.(Petersen, Joseph) Modified on 12/19/2011 (ldi). (Entered: 12/16/2011)
12/16/2011		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT – NON-ECF DOCUMENT ERROR. Note to Attorney Joseph E. Petersen to E-MAIL Document No. <u>31</u> Stipulation to Judgments@nysd.uscourts.gov. This document is not filed via ECF. (ldi) (Entered: 12/19/2011)
12/21/2011	<u>32</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Cornell University.(Petersen, Joseph) (Entered: 12/21/2011)
12/21/2011		CASHIERS OFFICE REMARK on <u>29</u> Motion to Appear Pro Hac Vice, <u>28</u> Motion to Appear Pro Hac Vice, <u>30</u> Motion to Appear Pro Hac Vice in the amount of \$600.00, paid on 12/12/2011, Receipt Number 1024124,1024125,1024126. (jd) (Entered: 12/21/2011)
12/21/2011	<u>33</u>	STIPULATION: NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between plaintiffs and defendants as follows:The Individual Defendants are hereby dismissed from the Action with prejudice. The caption in the Amended Complaint is deemed amended to reflect the substitution of the Substituted Defendants in the place and stead of the Individual Defendants. It as agreed among the parties that the operative complaint in the Action is the AmendedComplaint and that the operative answer is the Answer and that the parties shall not be obligated to, nor shall they, serve an amended complaint or answer reflecting the dismissal of the Individual Defendants and/or the substitution of the Substituted Defendants. SO ORDERED. (Signed by Judge Harold Baer on 12/21/2011) (ama) (Entered: 12/21/2011)
12/21/2011		***DELETED DOCUMENT. Deleted document number 34 Stipulation. The document was filed as a duplicate of entry #33 in this case. (djc) (Entered: 12/29/2011)
12/28/2011	<u>35</u>	FILING ERROR – WRONG EVENT TYPE SELECTED FROM MENU – MOTION for Judgment on the Pleadings. Document filed by Hathitrust.(Petersen, Joseph) Modified on 12/29/2011 (ldi). (Entered: 12/28/2011)



12/28/2011	<u>36</u>	FILING ERROR – WRONG EVENT TYPE SELECTED FROM MENU – MOTION for Declaratory Judgment. Document filed by Hathitrust.(Petersen, Joseph) Modified on 12/29/2011 (ldi). (Entered: 12/28/2011)
12/28/2011	<u>37</u>	MOTION for Judgment on the Pleadings. Document filed by Hathitrust.(Petersen, Joseph) (Entered: 12/28/2011)
12/28/2011		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT – EVENT TYPE ERROR. Note to Attorney Joseph E. Petersen to RE-FILE Document <u>35</u> MOTION for Judgment on the Pleadings. Use the event type Memorandum of Law in Support of Motion found under the event list Replies, Opposition and Supporting Documents. Re-File and link ONLY to document # <u>37</u> Motion. (ldi) (Entered: 12/29/2011)
12/28/2011		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT – EVENT TYPE ERROR. Note to Attorney Joseph E. Petersen to RE-FILE Document <u>36</u> MOTION for Declaratory Judgment. Use the event type Declaration in Support of Motion found under the event list Replies, Opposition and Supporting Documents. Re-File and link ONLY to document # <u>37</u> Motion. (ldi) (Entered: 12/29/2011)
12/29/2011	<u>38</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MEMORANDUM OF LAW in Support re: <u>35</u> MOTION for Judgment on the Pleadings. Document filed by Hathitrust. (Petersen, Joseph) Modified on 12/30/2011 (ldi). (Entered: 12/29/2011)
12/29/2011	<u>39</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – DECLARATION of Joseph Petersen in Support re: <u>36</u> MOTION for Declaratory Judgment. Document filed by Hathitrust. (Petersen, Joseph) Modified on 12/30/2011 (ldi). (Entered: 12/29/2011)
12/29/2011	<u>40</u>	ORDER FOR PRO HAC VICE ADMISSION OF PETER JASZI granting <u>28</u> Motion for Peter Jaszi to Appear Pro Hac Vice. Application for Pro Hac Vice GRANTED. The Clerk is instructed to close this motion. (Signed by Judge Harold Baer on 12/29/2011) (lmb) Modified on 12/29/2011 (lmb). (Entered: 12/29/2011)
12/29/2011	<u>41</u>	ORDER FOR PRO HAC VICE ADMISSION OF DANIEL F. GOLDSTEIN granting <u>30</u> Motion for Daniel F. Goldstein to Appear Pro Hac Vice. Application for Pro Hac Vice GRANTED. The Clerk is instructed to close this motion. (Signed by Judge Harold Baer on 12/29/2011) (lmb) (Entered: 12/29/2011)
12/29/2011	<u>42</u>	ORDER FOR PRO HAC VICE ADMISSION OF LAURA G. ABELSON granting <u>29</u> Motion for Laura G. Abelson to Appear Pro Hac Vice. Application for Pro Hac Vice GRANTED. The Clerk is instructed to close this motion. (Signed by Judge Harold Baer on 12/29/2011) (lmb) (Entered: 12/29/2011)
12/29/2011		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT – DEFICIENT DOCKET ENTRY ERROR. Note to Attorney Joseph E. Petersen to RE-FILE Document <u>38</u> Memorandum of Law in Support of Motion, <u>39</u> Declaration in Support of Motion. ERROR(S): Documents linked to filing error. Re-File and link ONLY to document # <u>37</u> Motion. (ldi) (Entered: 12/30/2011)
12/30/2011	<u>43</u>	MEMORANDUM OF LAW in Support re: <u>37</u> MOTION for Judgment on the Pleadings.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 12/30/2011)
12/30/2011	<u>44</u>	DECLARATION of Joseph Petersen in Support re: <u>37</u> MOTION for Judgment on the Pleadings.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 12/30/2011)
01/02/2012	<u>45</u>	ENDORSED LETTER addressed to Judge Harold Baer, Jr. from Joseph Petersen dated 12/29/2011 re: We are attorneys for the defendants in the above-referenced action. We submit this letter pursuant to Rule 5A of Your Honor's Individual Rules of Practice to inform the Court that last night the defendants filed a motion for judgment on the pleadings seeking dismissal of certain of Plaintiffs' claims for lack of subject matter jurisdiction. ENDORSEMENT: If all parties to the M/D are in accord I can hear arguments the first 10 days of March and I will be in touch as to your most convenient date – otherwise the motion will be decided without oral argument – let me know on or before Friday 1/6/12. (Signed by Judge Harold Baer on 1/2/2012) (rjm) (Entered: 01/03/2012)

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01/10/2012	<u>46</u>	STIPULATION AND ORDER: IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for the parties below, that the time for Plaintiffs to respond to the motion by Defendants for Judgment on the Pleadings Based Upon Lack of Subject Matter Jurisdiction is hereby extended to January 31, 2012; and IT IS FURTHER STIPULATED AND AGREED, that the Defendants will serve any reply papers with respect to such motion on or before February 17, 2012; and IT IS FURTHER STIPULATED AND AGREED, consistent with the Court's January 2, 2012 "so ordered" endorsement of defendants' counsel's December 29, 2011 letter to the Court, that oral argument be held on March 2, 2012 at such time as is convenient to the Court. ( Responses due by 1/31/2012.) (Signed by Judge Harold Baer on 1/10/2012) (lmb) (Entered: 01/10/2012)
01/24/2012	<u>47</u>	STIPULATION AND PROTECTIVE ORDER...regarding procedures to be followed that shall govern the handling of confidential material... (Signed by Judge Harold Baer on 1/24/2012) (mro) (Entered: 01/24/2012)
01/24/2012	<u>48</u>	MEMO ENDORSEMENT granting <u>27</u> Motion to Intervene. ENDORSEMENT: Motion granted on consent. The clerk is directed to close the motion to intervene. (Signed by Judge Harold Baer on 1/24/2012) (mro) (Entered: 01/24/2012)
01/31/2012	<u>49</u>	DECLARATION of Edward H. Rosenthal in Opposition re: <u>37</u> MOTION for Judgment on the Pleadings.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Pat Cummins, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, Danielle Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F)(Rosenthal, Edward) (Entered: 01/31/2012)
01/31/2012	<u>50</u>	MEMORANDUM OF LAW in Opposition re: <u>37</u> MOTION for Judgment on the Pleadings.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Pat Cummins, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, Danielle Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 01/31/2012)
02/17/2012	<u>51</u>	REPLY MEMORANDUM OF LAW in Support re: <u>37</u> MOTION for Judgment on the Pleadings.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 02/17/2012)
02/17/2012	<u>52</u>	DECLARATION of Joseph Petersen in Support re: <u>37</u> MOTION for Judgment on the Pleadings.. Document filed by Hathitrust. (Attachments: # <u>1</u> Exhibit A – Objections and Responses to Requests for Admission, # <u>2</u> Exhibit B – Objections and Responses to Request for Production, # <u>3</u> Exhibit C – Objections and Responses to Requests for Admissions, # <u>4</u> Exhibit D – Objections and Responses of Plaintiff SFF, # <u>5</u> Exhibit E – Objections and Responses of Plaintiff NFFO, # <u>6</u> Exhibit F – Objections and Responses of Plaintiff Authors Licensing and Collecting)(Petersen, Joseph) (Entered: 02/17/2012)
02/24/2012	<u>53</u>	NOTICE OF CHANGE OF ADDRESS by Joseph E. Petersen on behalf of All Defendants. New Address: 1114 Avenue of the Americas, 21st Floor, New York, NY, 10036,. (Petersen, Joseph) (Entered: 02/24/2012)
02/28/2012	<u>54</u>	MOTION for Judgment on the Pleadings <i>Motion for Partial Judgment on the Pleadings</i> . Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Pat Cummins, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, Danielle Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada.(Rosenthal, Edward) (Entered: 02/28/2012)

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02/28/2012	<u>55</u>	MEMORANDUM OF LAW in Support re: <u>54</u> MOTION for Judgment on the Pleadings <i>Motion for Partial Judgment on the Pleadings</i> .. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Pat Cummins, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter00G Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, Danielle Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 02/28/2012)
03/20/2012	<u>56</u>	NOTICE OF APPEARANCE by Robert Nathan Potter on behalf of Hathitrust (Potter, Robert) (Entered: 03/20/2012)
03/21/2012	<u>57</u>	STIPULATION: IT IS HEREBY STIPULATED AND AGREED, that the time for Defendants and Intervenor Defendants to respond to the February 28, 2012 motion by Plaintiffs for Partial Judgment on the Pleadings is hereby extended to April 20, 2012. IT IS FURTHER STIPULATED AND AGREED, that the Plaintiffs will serve any reply papers with respect to such motion on or before May 11, 2012. IT IS FURTHER STIPULATED AND AGREED, that no party shall file any further dispositive motions of any type prior to May 20, 2012. Set Deadlines/Hearing as to <u>54</u> MOTION for Judgment on the Pleadings <i>Motion for Partial Judgment on the Pleadings</i> . : ( Responses due by 4/20/2012) (Signed by Judge Harold Baer on 3/21/2012) (jfe) (Entered: 03/21/2012)
04/10/2012	<u>59</u>	MOTION for Jonathan Band to Appear Pro Hac Vice. Document filed by American Library Association, Association of College and Research Libraries, Association of Research Libraries.(bwa) (arc). (Entered: 04/16/2012)
04/12/2012	<u>58</u>	ANSWER to <u>4</u> Amended Complaint,,,,,,. Document filed by Georgina Kleege, Georgina Kleege, Blair Seidlitz, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler, Courtney Wheeler. (Attachments: # <u>1</u> Rule 7.1 Disclosure)(Abelson, Laura) (Entered: 04/12/2012)
04/20/2012	<u>60</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>59</u> Motion for Jonathan Band to Appear Pro Hac Vice. It is hereby Ordered that Jonathan Band be admitted Pro Hac Vice to appear for all purposes for counsel for amici American Library Association, Association of College and Research Libraries, and Association of Research Libraries. ENDORSEMENT: Application for Pro Hac Vice granted. The Clerk is instructed to close this motion. (Signed by Judge Harold Baer on 4/19/2012) (mro) Modified on 4/20/2012 (mro). (Entered: 04/20/2012)
04/20/2012	<u>61</u>	RESPONSE in Opposition re: <u>54</u> MOTION for Judgment on the Pleadings <i>Motion for Partial Judgment on the Pleadings. Of Defendants Intervenors'</i> . Document filed by Georgina Kleege, Georgina Kleege, National Federation of the Blind, Blair Seidlitz, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler, Courtney Wheeler. (Goldstein, Daniel) (Entered: 04/20/2012)
04/20/2012	<u>62</u>	MOTION for Leave to File Brief Amici Curiae. Document filed by American Library Association, Association of College and Research Libraries, Association of Research Libraries.(Band, Jonathan) (Entered: 04/20/2012)
04/20/2012	<u>63</u>	BRIEF <i>Amici Curiae in Opposition of Plaintiffs' Motion for Partial Judgment on the Pleadings</i> . Document filed by American Library Association, Association of College and Research Libraries, Association of Research Libraries.(Band, Jonathan) (Entered: 04/20/2012)
04/20/2012	<u>64</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by American Library Association, Association of College and Research Libraries, Association of Research Libraries.(Band, Jonathan) (Entered: 04/20/2012)
04/20/2012	<u>65</u>	MEMORANDUM OF LAW in Opposition re: <u>54</u> MOTION for Judgment on the Pleadings <i>Motion for Partial Judgment on the Pleadings</i> .. Document filed by Hathitrust. (Potter, Robert) (Entered: 04/20/2012)
04/24/2012		CASHIERS OFFICE REMARK on <u>59</u> Motion to Appear Pro Hac Vice in the amount of \$200.00, paid on 04/11/2012, Receipt Number 1035078. (jd) (Entered: 04/24/2012)

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		04/24/2012)
05/07/2012	<u>66</u>	ENDORSED LETTER addressed to Judge Harold Baer Jr. from Edward H. Rosenthal dated 5/1/12 re: Counsel for the plaintiffs requests permission for the plaintiffs to file a 15–page reply brief in connection with plaintiffs' motion for partial judgment on the pleadings. ENDORSEMENT: So ordered. (Signed by Judge Harold Baer on 5/7/2012) (mro) (Entered: 05/07/2012)
05/11/2012	<u>67</u>	REPLY MEMORANDUM OF LAW in Support re: <u>54</u> MOTION for Judgment on the Pleadings <i>Motion for Partial Judgment on the Pleadings</i> .. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Pat Cummins, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, Danielle Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 05/11/2012)
05/14/2012	<u>68</u>	ENDORSED LETTER addressed to Judge Harold Baer from Joseph Petersen dated 5/10/2012 re: Discovery dispute and to request direction from the Court on scheduling as it relates to the parties' filing of summary judgment motions. ENDORSEMENT: This problem should have been brought to my attention earlier and certainly not on the eve of the discovery cutoff and I trust it will not happen again. (1) I'd like a list of all depositions–name and role and schedule, (2) the three who are "too busy" will appear in NY wit hin the next ten (10) days at their convenience and I'd like a note from Mr. Salamanca's doctor as to his ability or lack thereof to participate at his bedside or wherever in an hour (1) of questions and answers. (Signed by Judge Harold Baer on 5/14/2012) (cd) (Entered: 05/14/2012)
05/17/2012		Minute Entry for proceedings held before Judge Harold Baer: Oral Argument held on 5/17/2012 re: <u>62</u> MOTION for Leave to File Brief Amici Curiae. filed by American Library Association, Association of Research Libraries, Association of College and Research Libraries, <u>54</u> MOTION for Judgment on the Pleadings <i>Motion for Partial Judgment on the Pleadings</i> . filed by Norsk Faglitteraer Forfatter0OG Oversetterforening, Pat Cummins, Fay Weldon, Roxana Robinson, Sveriges Forfattarforbund, The Authors League Fund, Inc, Pat Cummings, the Writers' Union of Canada, Jack R. Salamanca, T.J. Stiles, Daniele Simpson, James Shapiro, Union Des Ecrivaines Et Des Ecrivains Quebecois, Danielle Simpson, Andre Roy, Helge Ronning, The Australian Society Of Authors Limited, Angelo Loukakis, Erik Grundstrom, The Authors Guild, Inc., Authors' Licensing and Collecting Society. (js) (Entered: 06/05/2012)
05/29/2012	<u>69</u>	TRANSCRIPT of Proceedings re: MOTIONS held on 5/17/2012 before Judge Harold Baer. Court Reporter/Transcriber: William Richards, (212) 805–0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 6/22/2012. Redacted Transcript Deadline set for 7/2/2012. Release of Transcript Restriction set for 8/30/2012.(McGuirk, Kelly) (Entered: 05/29/2012)
05/29/2012	<u>70</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a MOTION proceeding held on 5/17/12 has been filed by the court reporter/transcriber in the above–captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(McGuirk, Kelly) (Entered: 05/29/2012)
06/06/2012	<u>71</u>	ENDORSED LETTER addressed to Judge Harold Baer, Jr. from Edward H. Rosenthal dated 5/29/12 re: Counsel for the plaintiffs requests that the last day for fully briefed motions be served and filed be extended for one week to 7/27/12. Counsel proposes the following schedule: moving papers by 6/29; opposition by 7/20 and reply by 7/27. ENDORSEMENT: Fine. ( Motions due by 6/29/2012., Responses due by 7/20/2012, Replies due by 7/27/2012.) (Signed by Judge Harold



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		Baer on 6/6/2012) (mro) Modified on 6/7/2012 (mro). (Entered: 06/06/2012)
06/19/2012	<u>72</u>	ORDER granting <u>62</u> Motion for Leave to File Document. It is hereby ORDERED that the unopposed Motion for Leave to File Brief Amici Curiae filed by the American Library Association, the Association of College and Research Libraries, and the Association of Research Libraries is GRANTED. The Clerk of Court is directed to close the motion and remove it from my docket. (Signed by Judge Harold Baer on 6/18/2012) (lmb) (Entered: 06/19/2012)
06/29/2012	<u>73</u>	ENDORSED LETTER addressed to Judge Harold Baer Jr. from Edward R. Rosenthal dated 6/28/12 re: Counsel writes on behalf of the parties to request that they be permitted to serve redacted versions of their papers and to submit an unredacted set of the papers for filing under seal. The parties also request that they be permitted to serve a memorandum of law not longer than thirty pages. ENDORSEMENT: 30 pages is OK no further extensions by any party redacted and unredacted versions will be submitted. (Signed by Judge Harold Baer on 6/28/2012) (mro) (Entered: 06/29/2012)
06/29/2012	<u>74</u>	MOTION for Summary Judgment. Document filed by Georgina Kleege, National Federation of the Blind, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler. Responses due by 7/20/2012(Goldstein, Daniel) (Entered: 06/29/2012)
06/29/2012	<u>75</u>	MEMORANDUM OF LAW in Support re: <u>74</u> MOTION for Summary Judgment.. Document filed by Georgina Kleege, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler. (Goldstein, Daniel) (Entered: 06/29/2012)
06/29/2012	<u>76</u>	RULE 56.1 STATEMENT. Document filed by Georgina Kleege, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler. (Goldstein, Daniel) (Entered: 06/29/2012)
06/29/2012	<u>77</u>	DECLARATION of LAURA ABELSON in Support re: <u>74</u> MOTION for Summary Judgment.. Document filed by Georgina Kleege, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler. (Attachments: # <u>1</u> Exhibit A – CCB Depo, # <u>2</u> Exhibit B – Google Clancy, # <u>3</u> Exhibit C – interrogatories, # <u>4</u> Exhibit D – Kleege, # <u>5</u> Exhibit E – Seidlitz, # <u>6</u> Exhibit F – Wheeler)(Goldstein, Daniel) (Entered: 06/29/2012)
06/29/2012	<u>78</u>	DECLARATION of DR. MARC MAURER in Support re: <u>74</u> MOTION for Summary Judgment.. Document filed by Georgina Kleege, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler. (Goldstein, Daniel) (Entered: 06/29/2012)
06/29/2012	<u>79</u>	DECLARATION of GEORGE KERSCHER in Support re: <u>74</u> MOTION for Summary Judgment.. Document filed by Georgina Kleege, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler. (Goldstein, Daniel) (Entered: 06/29/2012)
06/29/2012	<u>80</u>	DECLARATION of JAMES FRUCHTERMAN in Support re: <u>74</u> MOTION for Summary Judgment.. Document filed by Georgina Kleege, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler. (Goldstein, Daniel) (Entered: 06/29/2012)
06/29/2012	<u>81</u>	MOTION for Summary Judgment. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Pat Cummins, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, Danielle Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada.(Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>82</u>	DECLARATION of Paul Aiken in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges

		Forfatterforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D (part 1), # <u>5</u> Exhibit D (part 2), # <u>6</u> Exhibit D (part 3))(Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>83</u>	DECLARATION of T.J. Stiles in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfatterforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>84</u>	DECLARATION of Trond Andreassen in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfatterforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>85</u>	DECLARATION of Owen Atkinson in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfatterforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>86</u>	DECLARATION of Pat Cummings in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfatterforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>87</u>	DECLARATION of Kelly Duffin in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfatterforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>88</u>	DECLARATION of Francis Farley–Chevrier in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norman J. Pattiz, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfatterforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)

06/29/2012	<u>89</u>	DECLARATION of Erik Grundstrom in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>90</u>	DECLARATION of Louise Hedberg in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Fred Ruiz, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>91</u>	DECLARATION of Jan Terje Helmlı in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>92</u>	DECLARATION of Isabel Howe in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>93</u>	DECLARATION of Isabel Howe in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E)(Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>94</u>	DECLARATION of Roxana Robinson in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>95</u>	DECLARATION of Helge Ronning in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges

		Forfatterforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>96</u>	DECLARATION of Andre Roy in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfatterforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>97</u>	DECLARATION of James Shapiro in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Sherry L. Lansing, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfatterforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>98</u>	DECLARATION of Daniele Simpson in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfatterforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>99</u>	DECLARATION of Fay Weldon in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, S. Martin Taylor, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B (part 1), # <u>3</u> Exhibit B (part 2), # <u>4</u> Exhibit B (part 3))(Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>100</u>	MOTION for Summary Judgment. Document filed by Hathitrust. Responses due by 7/20/2012(Petersen, Joseph) (Entered: 06/29/2012)
06/29/2012	<u>101</u>	DECLARATION of John White in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfatterforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>102</u>	DECLARATION of Stanley Katz in Support re: <u>100</u> MOTION for Summary Judgment.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 06/29/2012)
06/29/2012	<u>103</u>	DECLARATION of Margret Leary in Support re: <u>100</u> MOTION for Summary Judgment.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 06/29/2012)



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06/29/2012	<u>104</u>	DECLARATION of Neil R. Smalheiser in Support re: <u>100</u> MOTION for Summary Judgment.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 06/29/2012)
06/29/2012	<u>105</u>	MEMORANDUM OF LAW in Support re: <u>74</u> MOTION for Summary Judgment. <i>CORRECTED</i> . Document filed by Georgina Kleege, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler. (Goldstein, Daniel) (Entered: 06/29/2012)
06/29/2012	<u>107</u>	DECLARATION of Faith C. Hensrud in Support re: <u>100</u> MOTION for Summary Judgment.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 06/29/2012)
06/29/2012	<u>108</u>	DECLARATION of Joel Waldfogel, Ph.D. in Support re: <u>100</u> MOTION for Summary Judgment.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 06/29/2012)
06/29/2012	<u>109</u>	DECLARATION of Professor Daniel Gervais in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>110</u>	DECLARATION of John Wilkin in Support re: <u>100</u> MOTION for Summary Judgment.. Document filed by Hathitrust. (Attachments: # <u>1</u> Exhibit A (Part 1 of 2), # <u>2</u> Exhibit A (Part 2 of 2), # <u>3</u> Exhibit B–C)(Petersen, Joseph) (Entered: 06/29/2012)
06/29/2012	<u>111</u>	AFFIRMATION of Joseph Petersen in Support re: <u>100</u> MOTION for Summary Judgment.. Document filed by Hathitrust. (Attachments: # <u>1</u> Exhibit A–W)(Petersen, Joseph) (Entered: 06/29/2012)
06/29/2012	<u>112</u>	MEMORANDUM OF LAW in Support re: <u>100</u> MOTION for Summary Judgment.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 06/29/2012)
06/29/2012	<u>113</u>	RULE 56.1 STATEMENT. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 06/29/2012)
06/29/2012	<u>114</u>	DECLARATION of Edward H. Rosenthal (redacted) in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5 (Redacted), # <u>6</u> Exhibit 6 (Redacted), # <u>7</u> Exhibit 7 (Redacted), # <u>8</u> Exhibit 8 (Redacted), # <u>9</u> Exhibit 9 (Redacted), # <u>10</u> Exhibit 10, # <u>11</u> Exhibit 11, # <u>12</u> Exhibit 12, # <u>13</u> Exhibit 13, # <u>14</u> Exhibit 14, # <u>15</u> Exhibit 15, # <u>16</u> Exhibit 16, # <u>17</u> Exhibit 17, # <u>18</u> Exhibit 18, # <u>19</u> Exhibit 19, # <u>20</u> Exhibit 20, # <u>21</u> Exhibit 21, # <u>22</u> Exhibit 22, # <u>23</u> Exhibit 23, # <u>24</u> Exhibit 24, # <u>25</u> Exhibit 25, # <u>26</u> Exhibit 26, # <u>27</u> Exhibit 27, # <u>28</u> Exhibit 28, # <u>29</u> Exhibit 29, # <u>30</u> Exhibit 30, # <u>31</u> Exhibit 31, # <u>32</u> Exhibit 32, # <u>33</u> Exhibit 33, # <u>34</u> Exhibit 34, # <u>35</u> Exhibit 35, # <u>36</u> Exhibit 36, # <u>37</u> Exhibit 37, # <u>38</u> Exhibit 38, # <u>39</u> Exhibit 39, # <u>40</u> Exhibit 40, # <u>41</u> Exhibit 41, # <u>42</u> Exhibit 42, # <u>43</u> Exhibit 43, # <u>44</u> Exhibit 44, # <u>45</u> Exhibit 45, # <u>46</u> Exhibit 46, # <u>47</u> Exhibit 47, # <u>48</u> Exhibit 48, # <u>49</u> Exhibit 49, # <u>50</u> Exhibit 50, # <u>51</u> Exhibit 51, # <u>52</u> Exhibit 52, # <u>53</u> Exhibit 53, # <u>54</u> Exhibit 54, # <u>55</u> Exhibit 55, # <u>56</u> Exhibit 56, # <u>57</u> Exhibit 57, # <u>58</u> Exhibit 58, # <u>59</u> Exhibit 59, # <u>60</u> Exhibit 60, # <u>61</u> Exhibit 61, # <u>62</u> Exhibit 62, # <u>63</u> Exhibit 63, # <u>64</u> Exhibit 64, # <u>65</u> Exhibit 65, # <u>66</u> Exhibit 66, # <u>67</u> Exhibit 67, # <u>68</u> Exhibit 68, # <u>69</u> Exhibit 69, # <u>70</u> Exhibit 70, # <u>71</u> Exhibit 71, # <u>72</u> Exhibit 72, # <u>73</u> Exhibit 73, # <u>74</u> Exhibit 74, # <u>75</u> Exhibit 75, # <u>76</u> Exhibit 76, # <u>77</u> Exhibit 77, # <u>78</u> Exhibit 78, # <u>79</u> Exhibit 79, # <u>80</u> Exhibit 80 (Redacted), # <u>81</u> Exhibit 81 (Redacted), # <u>82</u> Exhibit 82 (Redacted), # <u>83</u> Exhibit 83 (Redacted), # <u>84</u> Exhibit 84 (Redacted), # <u>85</u> Exhibit 85 (Redacted), # <u>86</u> Exhibit 86, # <u>87</u> Exhibit 87 (Redacted), # <u>88</u> Exhibit 88 (Redacted), # <u>89</u> Exhibit 89 (Redacted), # <u>90</u> Exhibit

		90, # <u>91</u> Exhibit 91, # 92 Exhibit 92 (Redacted), # 93 Exhibit 93 (Redacted), # <u>94</u> Exhibit 94, # <u>95</u> Exhibit 95, # <u>96</u> Exhibit 96, # <u>97</u> Exhibit 97, # <u>98</u> Exhibit 98, # <u>99</u> Exhibit 99, # <u>100</u> Exhibit 100, # <u>101</u> Exhibit 101, # <u>102</u> Exhibit 102 (Part A), # <u>103</u> Exhibit 102 (Part B), # <u>104</u> Exhibit 103, # <u>105</u> Exhibit 104, # <u>106</u> Exhibit 105)(Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>115</u>	MEMORANDUM OF LAW in Support re: <u>81</u> MOTION for Summary Judgment. ( <i>redacted</i> ). Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)
06/29/2012	<u>116</u>	RULE 56.1 STATEMENT. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 06/29/2012)
07/02/2012	<u>117</u>	DECLARATION of George Kerscher in Support re: <u>74</u> MOTION for Summary Judgment.. Document filed by National Federation of the Blind. (Attachments: # <u>1</u> Exhibit Exhiit A to Declaration of George Kerscher)(Bernstein, Robert) (Entered: 07/02/2012)
07/02/2012	<u>118</u>	DECLARATION of James Fruchterman in Support re: <u>74</u> MOTION for Summary Judgment.. Document filed by National Federation of the Blind. (Attachments: # <u>1</u> Exhibit Exhibit A – Curriculum Vitae of James Fruchterman)(Bernstein, Robert) (Entered: 07/02/2012)
07/03/2012	<u>119</u>	DECLARATION of Joel Waldfogel, Ph.D. (redacted) in Support re: <u>100</u> MOTION for Summary Judgment.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 07/03/2012)
07/06/2012	<u>120</u>	MOTION to File Amicus Brief. Document filed by American Library Association, Association of College and Research Libraries, Association of Research Libraries.(Band, Jonathan) (Entered: 07/06/2012)
07/06/2012	<u>121</u>	BRIEF re: <u>120</u> MOTION to File Amicus Brief. <i>in Support of Defendant's Motion for Summary Judgment</i> . Document filed by American Library Association, Association of College and Research Libraries, Association of Research Libraries.(Band, Jonathan) (Entered: 07/06/2012)
07/07/2012	<u>122</u>	FIRST MOTION for Leave to File. Document filed by DIGITAL HUMANITIES AND LAW SCHOLARS.(Colman, Charles) (Entered: 07/07/2012)
07/07/2012	<u>123</u>	FIRST MEMORANDUM OF LAW in Support re: <u>100</u> MOTION for Summary Judgment.. Document filed by DIGITAL HUMANITIES AND LAW SCHOLARS. (Colman, Charles) (Entered: 07/07/2012)
07/11/2012	<u>124</u>	DECLARATION of Benjamin Edelman (redacted) (CORRECTED VERSION) in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 07/11/2012)
07/11/2012	<u>125</u>	DECLARATION of Edward H. Rosenthal (redacted) (CORRECTED VERSION) in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, David Crane, Pat Cummings, Erik Grundstrom,

		Angelo Loukakis, Norsk Faglitteraer Forfatter00G Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Attachments: # <u>1</u> Exhibit 5 (redacted) (CORRECTED VERSION), # <u>2</u> Exhibit 6 (redacted) (CORRECTED VERSION), # <u>3</u> Exhibit 7 (redacted) (CORRECTED VERSION), # <u>4</u> Exhibit 8 (redacted) (CORRECTED VERSION), # <u>5</u> Exhibit 9 (redacted) (CORRECTED VERSION), # <u>6</u> Exhibit 10 (redacted) (CORRECTED VERSION), # <u>7</u> Exhibit 80 (redacted) (CORRECTED), # <u>8</u> Exhibit 81 (redacted) (CORRECTED VERSION), # <u>9</u> Exhibit 82 (redacted) (CORRECTED VERSION), # <u>10</u> Exhibit 83 (redacted) (CORRECTED VERSION), # <u>11</u> Exhibit 84 (redacted) (CORRECTED VERSION), # <u>12</u> Exhibit 85 (redacted) (CORRECTED VERSION), # <u>13</u> Exhibit 87 (redacted) (CORRECTED VERSION), # <u>14</u> Exhibit 88 (redacted) (CORRECTED VERSION), # <u>15</u> Exhibit 89 (redacted) (CORRECTED VERSION), # <u>16</u> Exhibit 92 (redacted) (CORRECTED VERSION), # <u>17</u> Exhibit 93 (redacted) (CORRECTED VERSION))(Rosenthal, Edward) (Entered: 07/11/2012)
07/13/2012	<u>126</u>	SEALED DOCUMENT placed in vault.(nm) (Entered: 07/13/2012)
07/19/2012	<u>127</u>	ORDER: With the consent of all parties, that the Non-conforming documents be deleted and access thereto permanently removed. (Signed by Judge Harold Baer on 7/19/2012) (jar) (Entered: 07/19/2012)
07/20/2012	<u>128</u>	RESPONSE in Opposition re: <u>81</u> MOTION for Summary Judgment.. Document filed by Georgina Kleege, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler. (Goldstein, Daniel) (Entered: 07/20/2012)
07/20/2012	<u>129</u>	DECLARATION of James Fruchterman in Opposition re: <u>81</u> MOTION for Summary Judgment.. Document filed by Georgina Kleege, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler. (Goldstein, Daniel) (Entered: 07/20/2012)
07/20/2012	<u>130</u>	COUNTER STATEMENT TO <u>116</u> Rule 56.1 Statement,,, RULE 56.1 STATEMENT. Document filed by Georgina Kleege, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler. (Goldstein, Daniel) (Entered: 07/20/2012)
07/20/2012	<u>131</u>	DECLARATION of Paul Aiken (Second) in Opposition re: <u>74</u> MOTION for Summary Judgment., <u>100</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter00G Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 07/20/2012)
07/20/2012	<u>132</u>	DECLARATION of Jeremy S. Goldman (redacted) in Opposition re: <u>100</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter00G Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 07/20/2012)
07/20/2012	<u>133</u>	COUNTER STATEMENT TO <u>113</u> Rule 56.1 Statement. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Pat Cummins, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter00G Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois. (Rosenthal, Edward) (Entered: 07/20/2012)

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07/20/2012	<u>134</u>	COUNTER STATEMENT TO <u>76</u> Rule 56.1 Statement. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 07/20/2012)
07/20/2012	<u>135</u>	MEMORANDUM OF LAW in Opposition re: <u>74</u> MOTION for Summary Judgment., <u>100</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 07/20/2012)
07/20/2012	<u>136</u>	DECLARATION of Bernt Hugenholtz in Opposition re: <u>81</u> MOTION for Summary Judgment.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 07/20/2012)
07/20/2012	<u>137</u>	DECLARATION of (REDACTED) Cory Snavely in Opposition re: <u>81</u> MOTION for Summary Judgment.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 07/20/2012)
07/20/2012	<u>138</u>	DECLARATION of (REDACTED) Joseph Petersen in Opposition re: <u>81</u> MOTION for Summary Judgment.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 07/20/2012)
07/20/2012	<u>139</u>	COUNTER STATEMENT TO <u>116</u> Rule 56.1 Statement.,. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 07/20/2012)
07/20/2012	<u>140</u>	MEMORANDUM OF LAW in Opposition re: <u>81</u> MOTION for Summary Judgment. (REDACTED). Document filed by Hathitrust. (Petersen, Joseph) (Entered: 07/20/2012)
07/25/2012	<u>141</u>	SEALED DOCUMENT placed in vault.(mps) (Entered: 07/25/2012)
07/27/2012	<u>142</u>	DECLARATION of Jeremy S. Goldman in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Pat Cummins, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, Danielle Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 07/27/2012)
07/27/2012	<u>143</u>	REPLY MEMORANDUM OF LAW in Support re: <u>81</u> MOTION for Summary Judgment.. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Pat Cummins, Erik Grundstrom, Angelo Loukakis, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, Danielle Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 07/27/2012)
07/27/2012	<u>144</u>	DECLARATION of John Wilkin in Support re: <u>100</u> MOTION for Summary Judgment.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 07/27/2012)
07/27/2012	<u>145</u>	DECLARATION of Joseph Petersen (redacted) in Support re: <u>100</u> MOTION for Summary Judgment.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 07/27/2012)
07/27/2012	<u>146</u>	REPLY MEMORANDUM OF LAW in Support re: <u>100</u> MOTION for Summary Judgment.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 07/27/2012)



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07/27/2012	<u>147</u>	DECLARATION of James Fruchterman in Support re: <u>74</u> MOTION for Summary Judgment.. Document filed by Georgina Kleege, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler. (Goldstein, Daniel) (Entered: 07/27/2012)
07/27/2012	<u>148</u>	DECLARATION of Fredric Schroeder in Support re: <u>74</u> MOTION for Summary Judgment.. Document filed by Georgina Kleege, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler. (Goldstein, Daniel) (Entered: 07/27/2012)
07/27/2012	<u>149</u>	REPLY MEMORANDUM OF LAW in Support re: <u>74</u> MOTION for Summary Judgment.. Document filed by Georgina Kleege, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler. (Goldstein, Daniel) (Entered: 07/27/2012)
08/03/2012	<u>150</u>	<b>FILING ERROR – DEFICIENT DOCKET ENTRY –</b> MOTION for Jessica P. Weber to Appear Pro Hac Vice. Filing fee \$ 200.00, receipt number 0208–7702049. <b>Motion and supporting papers to be reviewed by Clerk's Office staff.</b> Document filed by Georgina Kleege, Georgina Kleege, National Federation of the Blind, Blair Seidlitz, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler, Courtney Wheeler. (Attachments: # <u>1</u> Exhibit Certificate of Good Standing NY, # <u>2</u> Exhibit Certificate of Good Standing MD, # <u>3</u> Text of Proposed Order)(Weber, Jessica) Modified on 8/3/2012 (wb). (Entered: 08/03/2012)
08/03/2012		<b>&gt;&gt;&gt;NOTICE REGARDING DEFICIENT MOTION TO APPEAR PRO HAC VICE. Notice regarding Document No. <u>150</u> MOTION for Jessica P. Weber to Appear Pro Hac Vice. Filing fee \$ 200.00, receipt number 0208–7702049. Motion and supporting papers to be reviewed by Clerk's Office staff.. The Order has to Contain all the Attorney's Information. (wb)</b> (Entered: 08/03/2012)
08/03/2012	<u>151</u>	MOTION for Jessica P. Weber to Appear Pro Hac Vice <i>CORRECTED</i> . <b>Motion and supporting papers to be reviewed by Clerk's Office staff.</b> Document filed by Georgina Kleege, Georgina Kleege, National Federation of the Blind, Blair Seidlitz, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler, Courtney Wheeler. (Attachments: # <u>1</u> Exhibit Certificate of Good Standing New York, # <u>2</u> Exhibit Certificate of Good Standing Maryland, # <u>3</u> Text of Proposed Order)(Weber, Jessica) (Entered: 08/03/2012)
08/03/2012		<b>&gt;&gt;&gt;NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>151</u> MOTION for Jessica P. Weber to Appear Pro Hac Vice <i>CORRECTED</i>. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (bcu)</b> (Entered: 08/03/2012)
08/06/2012		Minute Entry for proceedings held before Judge Harold Baer: Oral Argument held on 8/6/2012 re: <u>74</u> MOTION for Summary Judgment. filed by Courtney Wheeler, National Federation of the Blind, The National Federation of the Blind, Blair Seidlitz, Georgina Kleege, <u>120</u> MOTION to File Amicus Brief. filed by American Library Association, Association of Research Libraries, Association of College and Research Libraries, <u>122</u> FIRST MOTION for Leave to File. filed by DIGITAL HUMANITIES AND LAW SCHOLARS, <u>81</u> MOTION for Summary Judgment. filed by Norsk Faglitteraer ForfatterOOG Oversetterforening, Pat Cummins, Fay Weldon, Roxana Robinson, Sveriges Forfattarforbund, The Authors League Fund, Inc, Pat Cummings, the Writers' Union of Canada, Jack R. Salamanca, T.J. Stiles, Daniele Simpson, James Shapiro, Union Des Ecrivains Et Des Ecrivains Quebecois, Danielle Simpson, Andre Roy, Helge Ronning, The Australian Society Of Authors Limited, Angelo Loukakis, Erik Grundstrom, The Authors Guild, Inc., Authors' Licensing and Collecting Society. (js) (Entered: 08/20/2012)
08/16/2012	<u>152</u>	SEALED DOCUMENT placed in vault.(mps) (Entered: 08/16/2012)
08/22/2012	<u>153</u>	TRANSCRIPT of Proceedings re: CONFERNCE held on 8/6/2012 before Judge Harold Baer. Court Reporter/Transcriber: Alena Lynch, (212) 805–0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript

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		Restriction. After that date it may be obtained through PACER. Redaction Request due 9/17/2012. Redacted Transcript Deadline set for 9/27/2012. Release of Transcript Restriction set for 11/26/2012.(McGuirk, Kelly) (Entered: 08/22/2012)
08/22/2012	<u>154</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERNCE proceeding held on 8/6/12 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(McGuirk, Kelly) (Entered: 08/22/2012)
09/28/2012	<u>155</u>	ENDORSED LETTER addressed to Judge Harold Baer, Jr. from Jessica P. Weber dated 9/28/12 re: Counsel writes to request that the fee accompanying her motion for admission pro hac vice be applied to her petition for admission to the United States District Court for the Southern District of New York. ENDORSEMENT: Please apply the fee to Ms. Weber's petition for admission to the SDNY Court. (Signed by Judge Harold Baer on 9/28/2012) (mro) (Entered: 09/28/2012)
10/10/2012	<u>156</u>	OPINION & ORDER # 102471re: <u>74</u> MOTION for Summary Judgment filed by Courtney Wheeler, National Federation of the Blind, The National Federation of the Blind, Blair Seidlitz, Georgina Kleege, <u>120</u> MOTION to File Amicus Brief filed by American Library Association, Association of Research Libraries, Association of College and Research Libraries, <u>37</u> MOTION for Judgment on the Pleadings. filed by Hathitrust, <u>54</u> MOTION for Judgment on the Pleadings <i>Motion for Partial Judgment on the Pleadings</i> filed by Norsk Faglitteraer ForfatterOOG Oversetterforening, Pat Cummins, Fay Weldon, Roxana Robinson, Sveriges Forfattarforbund, The Authors League Fund, Inc, Pat Cummings, the Writers' Union of Canada, Jack R. Salamanca, T.J. Stiles, Daniele Simpson, James Shapiro, Union Des Ecrivaines Et Des Ecrivains Quebecois, Danielle Simpson, Andre Roy, Helge Ronning, The Australian Society Of Authors Limited, Angelo Loukakis, Erik Grundstrom, The Authors Guild, Inc., Authors' Licensing and Collecting Society, <u>122</u> FIRST MOTION for Leave to File filed by DIGITAL HUMANITIES AND LAW SCHOLARS, <u>81</u> MOTION for Summary Judgment filed by Norsk Faglitteraer ForfatterOOG Oversetterforening, Pat Cummins, Fay Weldon, Roxana Robinson, Sveriges Forfattarforbund, The Authors League Fund, Inc, Pat Cummings, the Writers' Union of Canada, Jack R. Salamanca, T.J. Stiles, Daniele Simpson, James Shapiro, Union Des Ecrivaines Et Des Ecrivains Quebecois, Danielle Simpson, Andre Roy, Helge Ronning, The Australian Society Of Authors Limited, Angelo Loukakis, Erik Grundstrom, The Authors Guild, Inc., Authors' Licensing and Collecting Society, <u>100</u> MOTION for Summary Judgment filed by Hathitrust. I have considered the parties' remaining arguments and find them to be without merit. For the foregoing reasons, Plaintiffs' motions are DENIED. Defendants' motion for judgment on the pleadings is GRANTED in part and DENIED in part: the Associational Plaintiffs have Article III standing; the U.S. Associational Plaintiffs lack statutory standing; and Plaintiffs' OWP claims are not ripe. Defendants' and Defendant Intervenors' motions for summary judgment are GRANTED: their participation in the MDP and the present application of the HDL are protected under fair use. The two unopposed motions for leave to file briefs as amici are GRANTED. The Clerk of the Court is instructed to close the seven open motions, close the case, and remove it from my docket. (Signed by Judge Harold Baer on 10/10/2012) (lmb) Modified on 10/16/2012 (ft). (Entered: 10/10/2012)
10/10/2012		Transmission to Judgments and Orders Clerk. Transmitted re: <u>156</u> Memorandum & Opinion to the Judgments and Orders Clerk. (lmb) (Entered: 10/10/2012)
10/12/2012	<u>157</u>	CLERK'S JUDGMENT That for the reasons stated in the Court's Opinion and Order dated October 10, 2012, Plaintiffs' motions are denied; Defendants' motion for judgment on the pleadings is granted in part and denied in part: the Associational Plaintiffs have Article III standing; the U.S. Associational Plaintiffs lack statutory standing; and Plaintiffs' OWP claims are not ripe; Defendants and Defendant Intervenors' motions for summary judgment are granted: their participation in the MDP and the present application of the HDL are protected under fair use; and the two unopposed motions for leave to file briefs as amici are granted; accordingly, the case is closed. (Signed by Clerk of Court Ruby Krajick on 10/12/12) (Attachments: # <u>1</u> NOTICE OF RIGHT TO APPEAL)(ml) (Entered: 10/12/2012)

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		10/12/2012)
10/26/2012	<u>158</u>	MOTION for Attorney Fees. Document filed by Hathitrust.(Petersen, Joseph) (Entered: 10/26/2012)
10/26/2012	<u>159</u>	MEMORANDUM OF LAW in Support re: <u>158</u> MOTION for Attorney Fees.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 10/26/2012)
10/26/2012	<u>160</u>	DECLARATION of Roger L. Zissu in Support re: <u>158</u> MOTION for Attorney Fees.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 10/26/2012)
10/26/2012	<u>161</u>	DECLARATION of Raymond J. Dowd in Support re: <u>158</u> MOTION for Attorney Fees.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 10/26/2012)
10/26/2012	<u>162</u>	DECLARATION of Joseph Petersen in Support re: <u>158</u> MOTION for Attorney Fees.. Document filed by Hathitrust. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Errata B, # <u>3</u> Exhibit C (Part 1 of 4), # <u>4</u> Exhibit C (Part 2 of 4), # <u>5</u> Exhibit C (Part 3 of 4), # <u>6</u> Exhibit C (Part 4 of 4))(Petersen, Joseph) (Entered: 10/26/2012)
11/01/2012	<u>163</u>	MOTION for Attorney Fees of <i>Defendant Intervenors</i> . Document filed by Georgina Kleege, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler.(Goldstein, Daniel) (Entered: 11/01/2012)
11/01/2012	<u>164</u>	MEMORANDUM OF LAW in Support re: <u>163</u> MOTION for Attorney Fees of <i>Defendant Intervenors</i> .. Document filed by Georgina Kleege, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler. (Goldstein, Daniel) (Entered: 11/01/2012)
11/01/2012	<u>165</u>	DECLARATION of Daniel F. Goldstein in Support re: <u>163</u> MOTION for Attorney Fees of <i>Defendant Intervenors</i> .. Document filed by Georgina Kleege, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B-1, # <u>3</u> Exhibit B-2, # <u>4</u> Exhibit B-3, # <u>5</u> Exhibit B-4, # <u>6</u> Exhibit B-5, # <u>7</u> Exhibit B-6, # <u>8</u> Exhibit B-7, # <u>9</u> Exhibit B-8, # <u>10</u> Exhibit B-9, # <u>11</u> Exhibit B-10, # <u>12</u> Exhibit B-11, # <u>13</u> Exhibit B-12)(Goldstein, Daniel) (Entered: 11/01/2012)
11/08/2012	<u>166</u>	ENDORSED LETTER addressed to Judge Harold Baer, Jr. from Edward H. Rosenthal dated 11/6/2012 re: Counsel for plaintiff writes that the parties have agreed, subject to the Court's approval, that plaintiffs' opposition to the motion will be served on or before November 20, 2012 and any reply by defendants will be filed on or before December 6, 2012. ENDORSEMENT: granted.. ( Replies due by 12/6/2012.) (Signed by Judge Harold Baer on 11/7/2012) (pl) (Entered: 11/08/2012)
11/08/2012	<u>167</u>	NOTICE OF APPEAL from <u>157</u> Clerk's Judgment,,, <u>156</u> Memorandum & Opinion,,,,,,. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Erik Grundstrom, Angelo Loukakis, Norsk Fagliteraer Forfatter0OG Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. Filing fee \$ 455.00, receipt number 0208-7961302. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit. (Rosenthal, Edward) (Entered: 11/08/2012)
11/08/2012		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>167</u> Notice of Appeal,, (nd) (Entered: 11/08/2012)
11/08/2012		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for <u>125</u> Declaration in Support of Motion,,,, filed by Norsk Fagliteraer Forfatter0OG Oversetterforening, Fay Weldon, Roxana Robinson, Sveriges Forfattarforbund, The Authors League Fund, Inc, Pat Cummings, the Writers' Union of Canada, Jack R. Salamanca, T.J. Stiles, Daniele Simpson, David Crane, James Shapiro, Union Des Ecrivaines Et Des Ecrivains Quebecois, Andre Roy, Helge Ronning, The Australian Society Of Authors Limited, Angelo Loukakis, Erik Grundstrom, The Authors Guild, Inc., Authors' Licensing and Collecting Society, <u>59</u> MOTION for Jonathan Band to Appear Pro Hac Vice. filed by American Library Association, Association of Research

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11/20/2012	<u>168</u>	<p>ENDORSED LETTER addressed to Judge Harold Baer from Edward H. Rosenthal dated 11/16/2012 re: We are writing with the consent of counsel for Defendant-Intervenors National Federation of the Blind, et al. with respect to the briefing schedule for NFB's motion for costs and attorneys fees. The parties have agreed, subject to the Court's approval, that Plaintiffs' opposition to the motion will be served on or before 11/20/2012 and any reply by Defendants will be filed on or before 12/6/2012. This would result in both Defendants' and the NFB's motions for costs and attorneys' fees being on the same schedule and fully briefed by 12/6/2012. ENDORSEMENT: Same schedule seem appropriate – granted. (Signed by Judge Harold Baer on 11/20/2012) (mt) (Entered: 11/20/2012)</p>

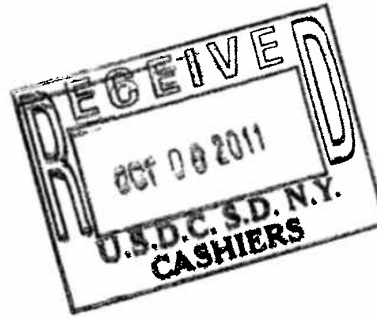
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11/20/2012		Set/Reset Deadlines: Opposition to motion due by 11/20/2012. Reply by defendants due by 12/6/2012. (mt) (Entered: 11/20/2012)
11/20/2012	<u>169</u>	DECLARATION of Edward H. Rosenthal in Opposition re: <u>158</u> MOTION for Attorney Fees., <u>163</u> MOTION for Attorney Fees <i>of Defendant Intervenors</i> .. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Pat Cummins, Erik Grundstrom, Norsk Faglitteraer Forfatter00G Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, Danielle Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Union Des Ecrivaines Et Des Ecrivains Quebecois, Fay Weldon, the Writers' Union of Canada. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Rosenthal, Edward) (Entered: 11/20/2012)
11/20/2012	<u>170</u>	MEMORANDUM OF LAW in Opposition re: <u>158</u> MOTION for Attorney Fees., <u>163</u> MOTION for Attorney Fees <i>of Defendant Intervenors</i> .. Document filed by Authors' Licensing and Collecting Society, Pat Cummings, Pat Cummins, Erik Grundstrom, Angelo Loukakis, Norsk Faglitteraer Forfatter00G Oversetterforening, Roxana Robinson, Helge Ronning, Andre Roy, Jack R. Salamanca, James Shapiro, Daniele Simpson, Danielle Simpson, T.J. Stiles, Sveriges Forfattarforbund, The Australian Society Of Authors Limited, The Authors Guild, Inc., The Authors League Fund, Inc, Fay Weldon, the Writers' Union of Canada. (Rosenthal, Edward) (Entered: 11/20/2012)
12/06/2012	<u>171</u>	REPLY MEMORANDUM OF LAW in Support re: <u>163</u> MOTION for Attorney Fees <i>of Defendant Intervenors</i> .. Document filed by Georgina Kleege, Blair Seidlitz, The National Federation of the Blind, Courtney Wheeler. (Goldstein, Daniel) (Entered: 12/06/2012)
12/06/2012	<u>172</u>	REPLY MEMORANDUM OF LAW in Support re: <u>158</u> MOTION for Attorney Fees.. Document filed by Hathitrust. (Petersen, Joseph) (Entered: 12/06/2012)

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*Attorneys for Plaintiffs*

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK



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 THE AUTHORS GUILD, INC., THE AUTHORS  
 LEAGUE FUND, INC., THE AUSTRALIAN SOCIETY  
 OF AUTHORS LIMITED, UNION DES ÉCRIVAINES  
 ET DES ÉCRIVAINS QUÉBÉCOIS, AUTHORS'  
 LICENSING AND COLLECTING SOCIETY,  
 SVERIGES FÖRFATTARFÖRBUND, NORSK  
 FAGLITTERÆR FORFATTER- OG  
 OVERSETTERFORENING, THE WRITERS' UNION  
 OF CANADA, TROND ANDREASSEN, PAT  
 CUMMINGS, ERIK GRUNDSTRÖM, ANGELO  
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 ROBINSON, ANDRÉ ROY, JACK R. SALAMANCA,  
 JAMES SHAPIRO, DANIELE SIMPSON, T.J. STILES  
 AND FAY WELDON,

Plaintiffs,

- against -

HATHITRUST; JULIA DONOVAN DARLOW,  
 LAURENCE B. DEITCH, DENISE ILITCH, OLIVIA  
 P. MAYNARD, ANDREA FISCHER NEWMAN,  
 ANDREW C. RICHNER, S. MARTIN TAYLOR and  
 KATHERINE E. WHITE, in their official capacities as  
 The Regents of The University of Michigan; RICHARD  
 C. BLUM, DAVID CRANE, WILLIAM DE LA PEÑA,  
 RUSSELL GOULD, EDDIE ISLAND, ODESSA  
 JOHNSON, GEORGE KIEFFER, SHERRY L.  
 LANSING, MONICA LOZANO, HADI  
 MAKARECHIAN, GEORGE M. MARCUS,

Index No. 11 Civ. 6351 (HB)

**FIRST AMENDED COMPLAINT**

ALFREDO MIRELES, JR., NORMAN J. PATTIZ,  
 BONNIE REISS, FRED RUIZ, LESLIE TANG  
 SCHILLING, BRUCE D. VARNER, PAUL  
 WACHTER and CHARLENE ZETTEL, in their official  
 capacities as The Regents of The University of  
 California; JEFFREY BARTELL, MARK J.  
 BRADLEY, JUDITH V. CRAIN, JOHN DREW,  
 TONY EVERS, MICHAEL J. FALBO, EDMUND  
 MANYDEEDS, KATHERINE POINTER, CHARLES  
 PRUITT, TROY SHERVEN, BRENT SMITH,  
 MICHAEL J. SPECTOR, S. MARK TYLER, JOSÉ F.  
 VÁSQUEZ and DAVID G. WALSH, in their official  
 capacities as The Board of Regents of The University of  
 Wisconsin System; WILLIAM R. CAST, PATRICK A.  
 SHOULDERS, MARYELLEN KILEY BISHOP,  
 BRUCE COLE, PHILIP N. ESKEW, JR., CORA J.  
 GRIFFIN, THOMAS E. REILLY, JR., DERICA W.  
 RICE and WILLIAM H. STRONG, in their official  
 capacities as The Trustees of Indiana University; and  
 CORNELL UNIVERSITY,

Defendants.

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Plaintiffs The Authors Guild, Inc., The Authors League Fund, Inc., The Australian  
 Society of Authors Limited, UNEQ (Union Des Écrivaines et des Écrivains Québécois),  
 Authors' Licensing and Collecting Society, Sveriges Författarförbund, Norsk Faglitterær  
 Forfatter- Og Oversetterforening, The Writers' Union of Canada, Trond Andreassen, Pat  
 Cummings, Erik Grundström, Angelo Loukakis, Roxana Robinson, Helge Rønning, André Roy,  
 Jack R. Salamanca, James Shapiro, Danièle Simpson, T.J. Stiles and Fay Weldon (collectively,  
 "Plaintiffs"), by and through their attorneys, Frankfurt Kurnit Klein & Selz, P.C., for their First  
 Amended Complaint against defendants HathiTrust; Julia Donovan Darlow, Laurence B. Deitch,  
 Denise Ilitch, Olivia P. Maynard, Andrea Fischer Newman, Andrew C. Richner, S. Martin  
 Taylor and Katherine E. White, in their official capacities as the Regents of the University of

Michigan (collectively, the “UM Regents”); Richard C. Blum, David Crane, William De La Peña, Russell Gould, Eddie Island, Odessa Johnson, George Kieffer, Sherry L. Lansing, Monica Lozano, Hadi Makarechian, George M. Marcus, Alfredo Mireles, Jr., Norman J. Pattiz, Bonnie Reiss, Fred Ruiz, Leslie Tang Schilling, Bruce D. Varner, Paul Wachter and Charlene Zettel, in their official capacities as the Regents of the University of California (collectively, the “UC Regents”); Jeffrey Bartell, Mark J. Bradley, Judith V. Crain, John Drew, Tony Evers, Michael J. Falbo, Edmund Manydeeds, Katherine Pointer, Charles Pruitt, Troy Sherven, Brent Smith, Michael J. Spector, S. Mark Tyler, José F. Vásquez and David G. Walsh, in their official capacities as the Board of Regents of the University of Wisconsin System (collectively, the “UW Regents”); William R. Cast, Patrick A. Shoulders, MaryEllen Kiley Bishop, Bruce Cole, Philip N. Eskew, Jr., Cora J. Griffin, Thomas E. Reilly, Jr., Derica W. Rice and William H. Strong, in their official capacities as the Trustees of Indiana University (collectively, the “IU Trustees”); and Cornell University (collectively, “Defendants”) allege as follows:

### **NATURE OF THE ACTION**

1. This is an action for prospective injunctive and declaratory relief arising from the systematic, concerted, widespread and unauthorized reproduction and distribution of millions of copyrighted books and other works, including books whose copyrights are held by Plaintiffs, by five universities (each, a “University” and collectively, the “Universities”) and HathiTrust, a partnership between the Universities and other institutions. Through cooperation agreements entered into with Google Inc. (“Google”), Defendants have engaged in an unprecedented effort to “digitize” – or to create digital copies of – all or a significant portion of the works in their libraries without the permission of their authors or other copyright holders.

2. In exchange for allowing Google to create, take and commercially exploit millions of digital copies of books and other materials in their university libraries, Google has



agreed to provide and has already provided the Universities with digital copies of Plaintiffs' and millions of others' books for the Universities to exploit. Led by the University of Michigan, the Universities created and joined HathiTrust, a partnership of more than fifty research institutions and libraries that have already begun to and, unless enjoined by this Court, will continue to combine their digital libraries to create a shared digital repository that already contains almost 10 million digital volumes, approximately 73% of which are protected by copyright. This so-called HathiTrust Digital Library ("HDL") is responsible for creating and distributing additional unauthorized digital copies of millions of copyrighted works, including works owned by Plaintiffs, and risking the potentially catastrophic, widespread dissemination of those millions of works in derogation of the statutorily-defined framework governing library books.

3. Most recently, four of the Universities (all but Indiana University) announced their participation in HathiTrust's "Orphan Works Project," an initiative to identify and make available online to University students, faculty and library patrons full copies of so-called "orphan works" – works that are protected by copyright but whose rights holders theoretically cannot be located by procedures established by HathiTrust (the "HathiTrust Orphans"). Unless enjoined by this Court, Defendants will start to make the copyright-protected HathiTrust Orphans digitally available in full text.

4. The Universities have publicly defended their unauthorized digitization activities by claiming their conduct benefits society and is permissible under the fair use doctrine set forth in Section 107 of the United States Copyright Act (the "Copyright Act"). This position is without legal support. Section 108 of the Copyright Act explicitly regulates the extent to which libraries may lawfully reproduce copyrighted works without authorization, the circumstances under which digital copies may be created and displayed to library patrons and when copies of orphan works may be released to the public. In short, the systematic digital copying and



distribution of copyrighted works by the University and HathiTrust libraries far exceeds the express limitations of Section 108, which cannot be excused by fair use under Section 107.

5. In deciding to proceed with the HathiTrust Orphan Works Project, the Universities have taken copyright law into their own hands, ignoring proposed legislative solutions to address the issues as well as the Court's rejection of a privately-negotiated agreement between Google and the Guild (among other parties) in a separate case. That proposed settlement, if approved, would have created a legal framework to display out-of-print books, including so-called orphan works, to the public through a procedure approved by court order after due process of law, with commercial-grade security guarantees. The Court concluded, however, that it did not have the power to create such prospective licenses to use orphan works.

6. Rather than heeding the Court's words, and allowing Congress, acting in the interest of all communities, to determine the requirements and safeguards that will govern the use of digital libraries and orphan works, Defendants have instead proceeded on their own authority, ignoring the interests of copyright holders.

7. By digitizing, archiving, copying and now publishing the copyrighted works without the authorization of those works' rights holders, the Universities are engaging in one of the largest copyright infringements in history. The Universities have directly caused millions of works that are protected by copyright to be scanned, stored in digital format, repeatedly copied and made available online for various uses. These actions not only violate the exclusive rights of copyright holders to authorize the reproduction and distribution of their works but, by creating at least two databases connected to the Internet that store millions of digital copies of copyrighted books, the Universities risk the widespread, unauthorized and irreparable dissemination of those works.

### **JURISDICTION AND VENUE**

8. This is a civil action seeking injunctive relief for copyright infringement under the United States Copyright Act, 17 U.S.C. § 101 *et seq.* (the “Copyright Act”), as well as declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.

9. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 (federal question) and 1338(a) (copyright).

10. This Court has personal jurisdiction over Defendants because Defendants engaged, are engaging and threaten to engage in copyright infringement directed at and harming Plaintiffs, including Plaintiffs located in this District. Defendants should reasonably expect the digitization of copyrighted works, and the uploading and publication of copyrighted orphan works, to have consequences in this state. Defendants derive substantial revenue from interstate and international commerce.

11. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b).

### **THE PARTIES**

#### *Associational Plaintiffs*

12. Plaintiff The Authors Guild, Inc. (the “Guild”) is a not-for-profit corporation organized under New York law with its place of business located at 31 East 32nd Street, New York, New York. The Guild and its predecessor organization, the Authors League of America (the “League”), have been leading advocates for authors’ copyright and contractual interests since the League’s founding in 1912. With more than 8,500 published authors as members, the Guild is the largest advocacy group for book authors in the United States. The activities of the Guild include reviewing members’ publishing and agency contracts; intervening in disputes involving authors’ rights; providing advice to members regarding developments in the law and

publishing industry that affect their rights; and supporting legislation in matters affecting copyright, freedom of expression, taxation and other issues impacting professional writers.

13. Plaintiff the Authors League Fund, Inc., (the “Authors Fund”) is a not-for-profit corporation organized under New York law with its place of business located at 31 East 32<sup>nd</sup> Street, New York, New York. Since its founding in 1917, the Authors Fund, which provides assistance to professional writers and dramatists in severe financial need because of health problems, temporary loss of income or other misfortune, has drawn most of its support from authors, some of whom leave their literary estates to the Fund. The Authors Fund owns literary estate of Gladys Malvern, including the copyright in “Good Troupers All: The Story of Joseph Jefferson.” Defendant HathiTrust listed “Good Troupers All” as an “orphan work candidate” with a scheduled release date of October 13, 2011. The Authors Fund owns, among others, the copyright in the book specified in Exhibit A which was, upon information and belief, unlawfully reproduced, digitized and distributed by Defendants.

14. Plaintiff the Australian Society of Authors Limited (“Australian Society”) is a Public Company Limited By Guarantee organized in 1963 under the laws of the Commonwealth of Australia with its principal place of business is in Sydney, Australia. With more than 3,000 members, the Australian Society is the leading organization representing the professional rights and interests of Australia’s literary creators. The Australian Society sets minimum rates of pay and conditions for authors and illustrators; publishes books, contracts, discussion and policy papers, and information sheets for emerging and established authors; defends the rights of copyright holders; represents authors on inquiries and reviews, and lobbies governments at all levels in matters such as copyright, moral rights, and taxation.

15. Plaintiff the Authors' Licensing and Collecting Society ("ALCS") is a not-for-profit organization with its principal place of business in London, England. ALCS is the UK collecting society for authors of all genres of literary and dramatic copyright works. Since its founding in 1977, ALCS has paid more than £250 million to its writer-members for secondary uses of their works, including photocopying, scanning, and digital copying of its member's works. Among its more than 80,000 members, ALCS represents more than 50,000 book authors. ALCS research shows that about half of all books copied under its agreements are out of print. As a consequence, as part of its routine operations, ALCS identifies and pays authors of out-of-print works. Over a ten-year period, ALCS has found that it identifies, contacts and pays the contributors to more than 95% of the most commonly copied out-of-print books. On information and belief, Defendants have digitized without authority more than 35,000 books by ALCS members, including at least two books that Defendants had deemed "orphan works candidates."

16. Plaintiff UNEQ (Union des Écrivaines et des Écrivains Québécois) is a professional union of writers with its principal place of business located in Montreal, Québec. UNEQ's mission is to defend writers' socio-economic interests and promote Québec's literature. With a membership of 1,400 writers of fiction, poetry, drama, nonfiction, children's and other books, UNEQ is the primary representative for writers in Québec, a status recognized by a 1990 Québec Act (RSQ, chapter S-32.01), and for authors throughout Canada of original French language literary or dramatic works, as certified by the Canadian Artists and Producers Professional Relations Tribunal in 1996.

17. Plaintiff Sveriges Författarförbund ("SFF") is a non-profit organization with its principal place of business in Stockholm, Sweden. The SFF, first organized in 1893 as the Swedish Association of Authors, has more than 2,750 professional writers and translators as its members and is the leading organization for book authors in Sweden. In pursuit of its mission of

securing its members' rights to reasonable remuneration and working conditions, the SFF negotiates standard, minimum-terms agreements with book publishers, radio and television broadcasters, film producers and others on behalf of authors and translators. The SFF also defends freedom of expression and of the press by safeguarding the principles of the Swedish Freedom of the Press Act.

18. Plaintiff Norsk Faglitterær Forfatter- og Oversetterforening ("NFF") is a trade union founded in 1978 with its principal place of business in Oslo, Norway. The NFF is Norway's union for nonfiction writers, representing 5,400 authors and translators. It represents its members' professional interests by, among other activities, negotiating minimum-terms agreements with book publishers and others, negotiating conditions for copying books in schools, libraries and elsewhere, and providing legal assistance to its members in negotiations and conflicts regarding literary rights.

19. Plaintiff The Writers' Union of Canada ("TWUC") is a non-profit association incorporated under the Canada Corporations Act with its principal place of business in Toronto, Ontario. TWUC has approximately 2,000 members who earn their living from writing books. Since its inception in 1973, TWUC has been an advocate for effective copyright law, protection of freedom of expression, fair publishing contracts, and other issues that affect authors. TWUC's objects include uniting authors for the advancement of their common interests and fostering writing in Canada. Certified by the Canadian Artists and Producers Professional Relations Tribunal, TWUC is the national voice of professional book writers in Canada in the English language.

20. Plaintiffs the Guild, the Australian Society, UNEQ, ALCS, SFF, NFF and TWUC (collectively, the "Associations") have associational standing to pursue claims for declaratory and injunctive relief on behalf of their members. Members of the Associations would have

standing to sue in their own right as authors. Securing the copyrights and integrity of all copyrighted works – including so-called orphan works whose authors or owners cannot be readily found to speak for themselves – is fundamental to the Associations’ missions. Individual participation of each author is not required to determine whether the Universities’ systematic digitization of their libraries and planned dissemination of orphan works violates the Copyright Act or to grant injunctive relief for the benefit of all members of the Associations and other authors and owners of copyrighted works.

*Individual Plaintiffs*

21. The following individual plaintiffs are published, professional authors and the exclusive owners of the copyrights in their books identified in Exhibit A. None of the individual plaintiffs authorized the Universities or Google to digitize, reproduce, distribute or otherwise use his or her works.

22. Plaintiff Trond Andreassen, a resident of Oslo, Norway, has been Secretary General of plaintiff NFF since 1986, except for 1995-1997 when he served as a publisher for the higher education department of University Press, a Norwegian academic publishing house. Mr. Andreassen owns the copyright in the book specified in Exhibit A that was, upon information and belief, unlawfully reproduced, digitized and distributed by Defendants.

23. Plaintiff Pat Cummings, a resident of Brooklyn, New York, is a published author and illustrator of numerous children’s books. Ms. Cummings won the American Library Association’s Coretta Scott King Award for *My Mama Needs Me* and the Boston Globe-Horn Book Award for *Talking With Artists*. Ms. Cummings owns the copyrights in the books specified in Exhibit A that were, upon information and belief, unlawfully reproduced, digitized and distributed by Defendants.

24. Plaintiff Erik Grundström, a resident of Stockholm, Sweden, is a novelist, short-story writer, playwright and vice president of plaintiff SFF. Mr Grundström is the former principal of Skrivarakademin, Sweden's leading school for creative writing, and won the Arnold Röring literary prize in 1993. Mr. Grundström owns the copyright in the book specified in Exhibit A that was, upon information and belief, unlawfully reproduced, digitized and distributed by Defendants.

25. Plaintiff Angelo Loukakis, a resident of Sydney, Australia, is a novelist, short-story writer, the author of several non-fiction works, and the Executive Director of Plaintiff ASA. His short-story collection, *For the Patriarch*, won the New South Wales Premier's Literary Award and he has served on the Literature Board of the Australia Council. Mr. Loukakis owns the copyright in the book specified in Exhibit A that was, upon information and belief, unlawfully reproduced, digitized and distributed by Defendants.

26. Plaintiff Helge Rønning, a resident of Oslo, Norway, is a professor in the Department of Media and Communication at the University of Oslo, where he has twice served department chairhead. Mr. Rønning has published numerous articles on political, economic, and technological aspects of the media, and he has written extensively on copyright and freedom of expression. In 1987, he was a visiting scholar at defendant University of California, at its Santa Barbara campus. He has published numerous articles on political, economic, and technological aspects of the media, and on copyright and freedom of expression. Mr. Rønning owns the copyright in the books specified in Exhibit A that were, upon information and belief, unlawfully reproduced, digitized and distributed by Defendants.

27. Plaintiff Roxana Robinson, a resident of New York, New York, is a novelist, short story writer and biographer. Four of Ms. Robinson's works have been Notable Books of the Year by the New York Times, and her work has appeared often in *Best American Short*

*Stories*. Ms. Robinson owns the copyrights in the books specified in Exhibit A that were, upon information and belief, unlawfully reproduced, digitized and distributed by Defendants.

28. Plaintiff André Roy, a resident of Québec, Canada, is a poet, literary critic, film critic, and the Vice President of Plaintiff UNEQ. Mr. Roy won the Canada Council for the Arts Governor General's Poetry Award for *Action Writing*, and he has twice been a finalist for the award. Mr. Roy owns the copyrights in the books specified in Exhibit A that were, upon information and belief, unlawfully reproduced, digitized and distributed by Defendants.

29. Plaintiff Jack R. Salamanca, a resident of Potomac, Maryland, is Professor Emeritus of the English Department at the University of Maryland. He is the author of six novels, two of which became movies, and is represented by the John White Literary Agency of Cheshire, Connecticut. Defendant HathiTrust listed his first novel, "The Lost Country," as an "orphan work candidate" with a scheduled release date of November 8, 2011. Mr. Salamanca owns the copyright in the books specified in Exhibit A that were, upon information and belief, unlawfully reproduced, digitized and distributed by Defendants.

30. Plaintiff James Shapiro, a resident of New York, New York, is a Professor of English and Comparative Literature at Columbia University who specializes in Shakespeare and the Early Modern period. Professor Shapiro owns the copyright in the book specified in Exhibit A that, upon information and belief, was unlawfully reproduced, digitized and distributed by Defendants.

31. Plaintiff Danièle Simpson, a resident of Québec, Canada, is a children's book author, novelist, short story writer, poet, and the President of Plaintiff UNEQ. Ms. Simpson owns the copyrights in the books specified in Exhibit A that were, upon information and belief, unlawfully reproduced, digitized and distributed by Defendants.



32. Plaintiff T.J. Stiles, a resident of San Francisco, California, is the author of numerous books about American history. Mr. Stiles won a National Book Award and Pulitzer Prize for his most recent book, *The First Tycoon: The Epic Life of Cornelius Vanderbilt*. Mr. Stiles owns the copyrights in the book specified in Exhibit A that, upon information and belief, was unlawfully reproduced, digitized and distributed by Defendants.

33. Plaintiff Fay Weldon, a resident of Dorset, England, is an influential novelist, short-story writer, essayist and playwright. She is a professor of creative writing at Brunel University in London and has served as the Chair of Judges for the Booker Prize for Fiction. Ms. Weldon owns the copyrights in the books specified in Exhibit A that, upon information and belief, were unlawfully reproduced, digitized and distributed by Defendants.

*University Defendants*

34. Upon information and belief, defendants the UM Regents govern the University of Michigan ("UM"), a state university system comprising three campuses with its principal place of business in Ann Arbor, Michigan. UM owns, operates and controls the University of Michigan Library in Ann Arbor (the "MLibrary"), one of the largest university library systems in the United States, holding more than 8.5 million volumes and serving more than 3 million patrons per year. On or about December 14, 2004, the UM Regents and MLibrary entered into a Cooperative Agreement with Google to digitize MLibrary's collection. MLibrary is the co-founder, host and primary administrator of Defendant HathiTrust and is its largest contributor, having distributed almost 4.5 million digital volumes to the HDL. MLibrary launched and administers the HathiTrust Orphan Works Project and, unless enjoined by this Court, intends to be the first institution to grant MLibrary's patrons "full view" (as defined below) to digital copies of its orphan works.

35. Upon information and belief, defendants the UC Regents govern the University of California ("UC"), a state university system comprising ten campuses with its principal place of business in Oakland, California. UC owns, operates and controls the University of California library system, which includes more than 100 libraries on ten UC campuses and claims to be, collectively, the largest library in the world. On or about August 9, 2006, the UC Regents, on behalf of its California Digital Library ("CDL"), entered into a Cooperative Agreement with Google to digitize UC's library books. CDL is a co-founder of HathiTrust and is its second largest contributor, having distributed almost 3 million digital volumes to the HDL. UC announced its participation in the HathiTrust Orphan Works Project on August 24, 2011.

36. Upon information and belief, defendants the UW Regents govern the University of Wisconsin System, a state university system comprising twenty-six campuses, including the University of Wisconsin-Madison ("UW"), with its principal place of business in Madison, Wisconsin. UW owns, operates and controls the UW library system, which has the eleventh largest research library collection in North America with more than 8 million volumes. On or about October 12, 2006, the UW Regents entered into a Cooperative Agreement with Google to digitize UW's library books. UW is a co-founder of HathiTrust and is its third largest contributor, having distributed almost 500,000 digital volumes to the HDL. UW's participation in the HathiTrust Orphan Works Project became public in June 2011.

37. Upon information and belief, defendants the IU Trustees govern Indiana University ("IU"), a state university system comprising eight campuses with its principal place of business in Bloomington, Indiana. IU owns, operates and controls the IU library system, which includes over 7.8 million books in over 900 languages. IU is a member of the Committee on Institutional Cooperation (the "CIC"), a consortium of the Big Ten universities (including Defendants UM and UW) plus the University of Chicago. On or about June 6, 2007, the IU

Regents, acting through The Board of Trustees of the University of Illinois on behalf of the CIC, entered into a Cooperative Agreement with Google to digitize IU's library books. IU is HathiTrust's seventh largest contributor, having distributed almost 200,000 digital volumes to the HDL. A fully operational, synchronized and live "mirror site" of the HathiTrust Digital Library is located on IU's Indianapolis campus.

38. Upon information and belief, defendant Cornell University ("Cornell") is a corporation and private land-grant university with its principal place of business in Ithaca, New York. Cornell owns, operates and controls the Cornell University Library, one of the leading academic research libraries in the United States with a collection of almost 8 million volumes. Cornell has been a Google partner since October 2007 and is a member of HathiTrust. Cornell is HathiTrust's fourth largest contributor, having distributed almost 350,000 digital volumes to the HDL. Cornell announced its participation in the HathiTrust Orphan Works Project on August 24, 2011.

*Defendant HathiTrust*

39. Upon information and belief, defendant HathiTrust is a partnership of more than fifty universities, educational institutions and consortia collaborating to create an online repository of their partnering members' digital collections of books and other works. HathiTrust's principal place of business is in Ann Arbor, Michigan. As of October 5, 2011, HathiTrust claimed that its shared digital repository, the HDL, contained 9,709,348 total volumes, amounting to 435 terabytes (445,440 gigabytes) of data. HathiTrust admits that approximately 73% of its works (over 7 million volumes) are protected by copyright.