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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**The NATIONAL FEDERATION OF THE
BLIND, The AMERICAN COUNCIL OF
THE BLIND, and DARRELL SHANDROW,

Plaintiffs,

vs.

The ARIZONA BOARD OF REGENTS and
ARIZONA STATE UNIVERSITY,

Defendants

Case No: 2:09-cv-01359-MHM

**PLAINTIFF'S FIRST REQUEST
FOR PRODUCTION OF
DOCUMENTS
TO DEFENDANTS**

Pursuant to Fed. R. Civ. P. 34, Plaintiffs, by their undersigned attorneys, request that Defendants respond to this Request within the time prescribed by the Federal Rules of Civil Procedure, and produce the original of each such document or types of documents requested and permit Plaintiffs and their agents and attorneys the opportunity to inspect and copy. The production and inspection of such documents shall be at the

offices of Bonnett, Fairbourn Friedman & Balint, P.C., 2901 N. Central Avenue, Suite #1000, Phoenix, AZ 85012, within 10 days of the date of service of this Request for Production of Documents.

DEFINITIONS AND INSTRUCTIONS

A. All requests for production, inspection, and copying of documents are continuing in nature so as to require you to produce and permit inspection and copying of any additional documents or other clarifying or corrected information that may come into your possession at any time before trial or hearing.

B. Unless the context requires otherwise, the terms "document" or "documents" mean any writing and any other tangible thing in the custody, possession or control of Defendant or any agent (including counsel) or employee of Defendant whether printed, recorded, reproduced, by any process, or written or produced by hand, including, but not limited to, letters, e-mails, reports, agreements, communications, correspondence, contracts, letter agreements, telegrams, memoranda, notices, summaries or records of personal conversations, diaries, forecasts, photographs, tape recordings, notes, statistical statements, graphs, surveys, notebooks, charts, plans, drawings, minutes or records of meetings or conferences expressions or statements of policy, lists of persons attending meetings or conferences, reports and/or summaries of interviews, reports and/or summaries of investigations, opinions or reports of consultants, reports and/or summaries of inspections, reports and/or summaries of negotiations, brochures, pamphlets, advertisements, circulars, trade letters, press releases, drafts of any document, revisions of drafts of any documents, purchase orders, receipts, original or preliminary notes, financial statements, accounting work papers, and other papers or matters similar to any of the foregoing, however denominated, whether received by Defendant or prepared by Defendant for his own use or transmittal. If a document has been prepared in several copies, or additional copies have been made, and the copies are not identical (or which, by reason of subsequent modification or notations, are no longer identical), each non-identical copy is a separate document which can be designated and/or located by the

use of reasonable diligence, whether located on premises owned by the Defendant or elsewhere.

C. If particular documents requested are not available or no longer exist, state the precise reasons for their unavailability or nonexistence. If particular documents requested are unavailable because they are not in your possession, identify their location and from whom they may be obtained.

D. “You” and “your” refer to the party to whom this Request for Production of Documents is addressed, as well as its agents, servants, employees, representatives, accountants, and, unless privileged, attorneys, as well as to any partnership, corporation, joint venture or other entity formed by, controlled by, or otherwise affiliated with Defendant.

E. The term “person” shall mean, in the plural as well as the singular, any natural person, firm, association, partnership, corporation, joint venture, or other business or legal entity, unless the context indicates otherwise.

F. Throughout this Request for Production of Documents, the plural shall include the singular and the singular shall include the plural.

G. Throughout this Request for Production of Documents, the terms “and” and “or” have both conjunctive and disjunctive meaning.

H. With regard to any document withheld on any claim of privilege, identify each such document in your response to this Request for Production of Documents, including the author of the document and the address(es), if any, of the person or persons to whom copies were furnished, the date and subject matter of the document, the person or persons who currently have possession of the original and/or any copies or drafts thereof, and the basis for your claim of privilege.

I. Documents shall be produced as they are kept in the usual course of business or organized and labeled to correspond with the categories in this request.

J. If you perceive any ambiguities in this request, set forth the matter deemed ambiguous and the construction used in responding.

K. “Plaintiff” means any Plaintiff in this action, including the National Federation of the Blind, the American Council of the Blind and/or Darrell Shandrow.

L. “Defendant” means Arizona State University (“ASU”) or the Arizona Board of Regents, including any employee, agent or assign.

M. “Kindle” means any self-contained, wireless reading device designed and sold by Amazon.com, Inc. for reading a variety of materials, including but not limited to electronic books and textbooks, magazines, newspapers, blogs and other printed materials. It includes but is not limited to the Kindle DX.

N. “Pilot Program” means the partnership announced on or about May 6, 2009, by Amazon.com, Inc. to test the use of the Kindle by students at six universities, including Arizona State University.

DOCUMENTS TO BE PRODUCED

All documents created since January 1, 2007 reflecting or related in any way to:

1. communications between or among Defendants and Amazon, Inc., concerning the Kindle and ASU’s anticipated pilot program using the Kindle;
2. communications between either or both Defendants and any third party concerning the Kindle and ASU’s anticipated pilot program using the Kindle;
3. plans, descriptions and goals for ASU’s anticipated pilot program, including but not limited to the courses in which the Kindle will be used and the criteria used to select such courses;
4. accessibility of the Kindle for use by blind students; and
5. inquiries to and responses from ASU’s Disability Resource Center concerning the Kindle and ASU’s anticipated pilot program using the Kindle.

RESPECTFULLY SUBMITTED this 25th day of June, 2009.

BONNETT, FAIRBOURN, FRIEDMAN
& BALINT, P.C.

/s/Andrew S. Friedman

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Attorneys for Plaintiffs

COPY of the foregoing hand-delivered
this 25th day of June, 2009 to:

Terry Goddard
Office of the Attorney General
1275 West Washington Street
Phoenix, Arizona 85007

/s/Nancy Varner

Nancy Varner