

EXHIBIT K

>>>> Date: Thu, 06 Feb 2003 20:51:47 -0800
>>>> To: Tina Bennett <TBENNETT@janklow.com>
>>>> From: carol shloss <cshloss@stanford.edu>
>>>> Subject: RE: Lucia Biography

>>>> Dear Tina,

>>>> Larry Lessig is in Europe until Monday, so I can't begin to
>>>> represent his thinking about this case, but I'll try to explain what I do
>>>> know. What he proposes to do is called a (something) relief action. It's
>>>> not a preemptive strike; it's a response to explicit threats of lawsuit,
>>>> of which there are many, as you know. His and my interest coincide in one
>>>> distinct way. His philosophy of law holds that the public domain, the
>>>> world of art and creativity, is hindered or harmed by the copyright
>>>> extension act. As you know, he argued his case before the Supreme Court
>>>> last week and lost. This loss does not in any way lessen his belief that
>>>> absolute copyright of the kind Stephen Joyce holds harms the public good.
>>>> I could not agree more. When I began writing the Lucia biography, all the
>>>> materials I use were in the public domain (they returned to public domain
>>>> in 1991--50 years after Joyce's death). In mid stream, in 1998, all the
>>>> rules of the game changed. I was once again thrust back into the
>>>> nightmare of Joyce permissions. Looking back, knowing what I do about
>>>> Stephen Joyce's malignant attitudes, I am not certain that I would have
>>>> undertaken this book at this time. As it was, by 1998, I already had
>>>> almost ten years invested in research, travel grants, national
>>>> scholarship competition grants, university fellowships, foreign language
>>>> acquisition, exhaustive work. I could only press forward, in the hope of
>>>> finding an intelligent way to complete my work and see it into
>> publication.

>>>> Since your wonderful reading of the manuscript, your belief in
>>>> the book, your splendid vision of how to market it, and Elisabeth's
>>>> equally stunning contribution to it, I've worked ceaselessly to
>>>> accomplish the legal groundwork that will allow this to happen. As you
>>>> know, Stanford's Office of Risk Management set up a legal fund for me. I
>>>> got to work with Ed Black at Ropes and Gray. I can think of no better
>>>> intellectual property rights advice available in the U.S. when I'd
>>>> reached the limits of that fund, Ed Black took me on as a pro bono case.
>>>> As a result, I have every other permission I need for publication, and I
>>>> had the permissions before Stephen Joyce even knew I was writing for
>>>> them. Had I not been advised to proceed in this way--keeping SJJ in the
>>>> dark for as long as possible--I would be in a much more vulnerable
>>>> position than I am now, for SJJ did not stop at refusing me his

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>>>> permission, he has since tried to get every literary estate that he knows
>>>> about also to refuse. Had I not written first to the Paul Leon Estate,
>>>> the Beckett Estate, the Maria Jolas Estate, and so forth, lord knows what
>>>> further damage might have been done. As it is, I can prove that he tried
>>>> to get the Harriet Weaver Estate and the Samuel Beckett Estate to revoke
>>>> the permission that they did give. I suspect that he is trying to do the
>>>> same thing with the Paul Leon Estate. This, in itself, is a violation of
>>>> contract law.

>>>> There are several irreconcilable differences between me and
>>>> Farrar, Straus right now. The first is simply that I don't want my book
>>>> stripped of the quoted material. Elisabeth says two things about these
>>>> deletions. The first is obviously about needing to stay within the bounds
>>>> of Fair Use. The second is that she thinks the book is better with this
>>>> second editing. I don't. I experience this second round of editing as
>>>> nothing but a violation, and I don't think she is entirely disingenuous
>>>> in this claim. Had she considered that the book would benefit from
>>>> deleting quotes, she had the manuscript in hand for almost six months
>>>> last year, with every opportunity to do so. She didn't. She only began
>>>> re-editing after SJJ's threats began to arrive at FSG. I also believe
>>>> that I should have been asked to make the cuts myself. All I'm being
>>>> given now is the right of veto, and this in very short order. She wants
>>>> to get the book into production asap.

>>>> The second difference between me and FSG is in the calculation of
>>>> risk. Elisabeth thinks that SJJ is full of idle threats. I do not. I
>>>> think there will be a law suit, and the suit could be against me
>>>> personally. She writes, "But if we play by the rules, and if we make
>>>> sure that no proofs, bound or loose, are circulated (which he might use
>>>> to enjoin our publication before we have even started), and if we publish
>>>> efficiently, then--well then, once your book is out and the publicity
>>>> machine is working, it will be very very difficult for him to bring a
>>>> suit, and if he does, FSG and Shloss are sure to win, I believe..." To
>>>> me this seems cavalier. Rob and I are scholars, we do not have the
>>>> financial resources even to defend ourselves in a law suit. It's not a
>>>> matter of winning or not. The suit itself would ruin us. When I spoke to
>>>> Tom Fenner in the General Counsel Office here at Stanford--I've wanted to
>>>> be put on the university's media perils insurance policy--he told me that
>>>> even if the university agreed to it, the deductible was \$500,000. I'm
>>>> quite certain (perhaps you could double check this for me) that my
>>>> contract with FSG says that I have to pay for half the deductible should
>>>> there be a lawsuit. My husband wants to retire in the next several years.
>>>> He's worked at Stanford for 40 years. I can't jeopardize his life savings.

>>>> Tina, as I write all of this, I have to tell you that I've been
>>>> trying to keep the big picture in mind. This is one book--it's a huge
>>>> book in my life--but I realize that your career is in the New York
>>>> publishing world and that one book for you is a small fraction--you want
>>>> to keep on good terms with FSG and with all of your business associates.
>>>> For this reason, I've tried to keep you on the periphery and to negotiate
>>>> directly with FSG as much as possible. But you need to know that Ed Black
>>>> advises me to proceed with Larry Lessig and that I intend to talk with
>>>> him more when he returns from Europe. I'll keep in close touch with you.
>>>> very best, Carol