

EXHIBIT A

UNITED STATES DISTRICT COURT

for the

Southern District of New York

Cambridge University Press, et al.

Plaintiff

v.

Mark P. Becker, et al.

Defendant

Civil Action No. 1:08-CV-1425-ODE

(If the action is pending in another district, state where:

Northern District of Georgia

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES

To: Kenneth D. Crews, 507D Butler Library, Columbia University, 535 W. 114th St., New York, NY 10027

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: See Schedule A

Place: Weil, Gotshal & Manges, LLP, 767 5th Ave., New York, NY 10153; Date and Time: 07/15/2009 5:00 pm

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: ; Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 07/06/2009

CLERK OF COURT

OR

Todd Larson (handwritten signature)

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Cambridge University Press, et al. Plaintiffs, who issues or requests this subpoena, are:

Todd D. Larson, Weil, Gotshal & Manges LLP, 767 5th Ave., New York, NY 10153 (212) 310-8238

Civil Action No. 1:08-CV-1425-ODE

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the subpoena on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the subpoena at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the subpoena to *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because _____ ; or

other *(specify)*:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

(c) Protecting a Person Subject to a Subpoena.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney’s fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party’s officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party’s officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert’s opinion or information that does not describe specific occurrences in dispute and results from the expert’s study that was not requested by a party; or

(iii) a person who is neither a party nor a party’s officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) *Contempt.* The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty’s failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

DEFINITIONS

1. “All” and “each” shall be construed as all and each.
2. “And” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of a discovery request all responses that might otherwise be construed to be outside its scope.
3. “Any” shall mean any and all.
4. “GSU” means Georgia State University, including its attorneys, agents, advisors, employees, representatives, all persons or entities acting or purporting to act on its behalf or in concert with it, and all persons or entities in its control.
5. “Board of Regents” means the Board of Regents of the University System of Georgia, including its attorneys, agents, advisors, employees, representatives, all persons or entities acting or purporting to act on its behalf or in concert with it, and all persons or entities in its control.
6. “Communication” shall mean and refer to any transmittal of information (in the form of facts, ideas, inquiries or otherwise) by any means.
7. “Concerning” means relating to, referring to, describing, evidencing or constituting.

8. “Document(s)” shall be defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a), and, for clarity, shall include any written, recorded, graphic, or other matter, whether sent or received or made or used internally, however produced or reproduced and whatever the medium on which it was produced or reproduced (whether on or in paper, cards, charts, files, printouts, tapes, discs, belts, video tapes, audiotapes, tape recordings, cassette, or other types of voice recording or transcription, computer tapes, databases, e-mails, pictures, photographs, slides, films, microfilms, motion pictures or any other medium), and any other tangible item or thing of readable, recorded, or visual material of whatever nature including originals, drafts, and all non-identical copies of each document (which, by reason of any variation, such as the presence or absence of hand-written notes or underlining, represents a distinct version). By way of example, the term “document(s)” as used herein shall include, without limitation: correspondence; memoranda; notes; diaries; letters; telegraphs; telegrams; telexes; e-mails; minutes; agendas; contracts; reports; studies; checks; statements; receipts; returns; summaries; pamphlets; circulars; press releases; advertisements; books; prospectuses; inter-office and intra-office communications; handwritten or typewritten notes; notations or summaries of telephone conversations, meetings, or conferences; bulletins; computer printouts; databases; teletypes; telefax; invoices;

worksheets; constitutions; by-laws; charters; resolutions; photographs; tape recordings; and all other tangible items of readable, recorded, or visual material of any kind.

9. “Expert Report” shall mean the Expert Report of Kenneth D. Crews, J.D., Ph.D., provided to Plaintiffs in *Cambridge University Press, et al. v. Mark P. Becker, et al.*, Civil Action No. 1:08-CV-1425-ODE (N.D. Ga.) on June 1, 2009 (“the Litigation”).

10. “ERes” shall mean the GSU Library electronic course reserves system, which is accessible at the GSU Library Internet home page.

11. “You” or “Your” refers to Kenneth Crews and any research assistant or other person employed or otherwise retained to assist or work on behalf of Kenneth Crews with respect to any work for GSU, the Board of Regents, or counsel for GSU and/or the Board of Regents, whether or not that person was employed, retained, or paid by Kenneth Crews directly or by GSU, the Board of Regents, or counsel for GSU and/or the Board of Regents.

INSTRUCTIONS

1. You are requested to produce all documents described below which are in Your possession or custody, subject to Your control, or otherwise known or available to You, including documents in the possession, custody, or

control of Your attorneys, agents, employees, accountants, consultants, or representatives.

2. If any document or communication requested herein is withheld on the ground that it is privileged or upon any other ground that it is not subject to discovery, indicate in writing, with respect to each such document or communication: (a) the factual and legal bases for claiming the privilege or other ground relied upon; (b) the name and position of each person who prepared the document or communication and each person (if any) who signed it; (c) the name and position of each person to whom the document or communication was directed, circulated, or distributed; (d) the date of the document or communication; and (e) the subject matter of the document or communication.

3. If any document cannot be produced in full, produce it to the extent possible, specifying Your reasons for Your inability to produce the remainder and stating whatever information, knowledge, or belief You have concerning the unproduced portion. Any purportedly privileged document containing non-privileged matter shall be produced with the purportedly privileged portion excised. You shall identify the specific location on each page where any purportedly privileged matter has been excised.

4. If and to the extent any request is objected to, state with specificity all grounds for the objection.

5. Each request herein for a document or documents to be produced contemplates production of the document in its entirety without abbreviation or expurgation. Each and every non-identical copy of a document (whether different from the original because of stamps, indications of receipt, handwritten notes, marks, attachment to different documents or any other reason) is a separate document to be produced.

6. To the extent You contend that any of the documents requested contains confidential information, such documents shall not be withheld on that basis, but You shall be entitled to designate such documents or information contained therein as “confidential” or “restricted” under the terms of the enclosed protective order governing this proceeding.

7. All documents should be produced as they are kept in the ordinary course of business, or shall be organized and labeled to correspond to the specific paragraph(s) to which they are responsive. If producing the documents requested as they are kept in the ordinary course of business, the integrity and internal sequence of the requested documents within each file or folder shall not be disturbed nor shall the contents of any file or folder be commingled with the contents of another file or folder.

8. Each document request is a continuing one. If, after producing documents, You obtain or become aware of any further documents responsive to these requests, You are requested to produce such additional documents.

9. Unless otherwise specified herein, the period of time covered by these requests is April 1, 2007, to the present (the "Period").

DOCUMENT REQUESTS

1. All documents, including written correspondence and emails, exchanged between You and GSU, the Board of Regents, and/or counsel for GSU and/or the Board of Regents.

2. All documents that You reviewed, analyzed, collected or relied upon in forming the conclusions expressed the Expert Report, including those documents that did not support Your conclusions.

3. All work files, memoranda or other documents prepared by You concerning the Expert Report.

4. Any and all drafts of the Expert Report, including those exchanged between You and GSU, the Board of Regents, or counsel for GSU and/or the Board of Regents at any time.

5. All notes taken by You during any telephone conference or in person meetings concerning GSU, the Board of Regents, ERes, the Expert Report, the University System of Georgia Copyright Policy (including all drafts thereof),

the depositions of William Gray Potter, Nancy Seamans, Laura Burdle, James Palmour, Diane Belcher, Jodi Kaufmann and/or otherwise related to this litigation.

6. All documents concerning college and university Copyright, Fair Use and E-Reserve policies (or similar policies however identified) that You reviewed, analyzed, collected or relied upon in forming the conclusions expressed in the Expert Report, including those policies that You viewed or otherwise considered in any way but did not include or discuss in the Expert Report.

7. All engagement letters or retention agreements between You and GSU and/or the Board of Regents, including agreements between You and counsel for GSU and/or the Board of Regents, whether for consulting work, the preparation of an expert report, or any other work.

8. All billing statements, invoices, or time records concerning any work done by You for GSU, the Board of Regents, or counsel for GSU and/or the Board of Regents.

9. The DVD of Your presentation/panel discussion at Georgetown University in November 2008, as described in a December 7, 2008 email from You to Steven Schaezel of King & Spalding, as well as any notes or script prepared by You for the presentation.

10. All documents concerning the Litigation and/or the distribution of course material at GSU, whether or not created or reviewed in conjunction with the Expert Report.

11. All documents concerning the development of or implementation of the Board of Regents copyright policy issued on February 17, 2009, including but not limited to all drafts of the copyright policy and all communications between You and GSU, the Board of Regents, any member of the Board of Regents Select Committee on Copyright, or counsel for GSU, the Board of Regents, or the Select Committee.