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September 10, 2009

VIA ELECTRONIC MAIL

Stephen M. Schaetzel, Esq.
King & Spalding LLP
1180 Peachtree Street NE
Atlanta, GA 30309-3521

Re: *Cambridge University Press, et al. v. Mark P. Becker, et al.*
United States District Court, Northern District of Georgia
Civil Action File No. 1:08-CV-1425-ODE

Dear Steve:

I write in response to your voicemail regarding Plaintiffs' request that GSU produce an ERes report reflecting the course reading materials being used at GSU during the Fall 2009 semester. Defendants are obligated to produce such a report pursuant to Federal Rule of Civil Procedure 26(e), which requires a party to supplement previous disclosures that are "incomplete or incorrect." In light of Judge Evans' statement in her recent order that GSU's "February 2009 policy and its implementation is at the heart of this case," it is clear that Defendants' previously produced ERes reports, which detailed activity on the ERes system only through mid-summer 2009, present an "incomplete" picture of how the new copyright policy is being implemented. Indeed, the Fall 2009 semester is the first full, non-summer semester under the new policy. Moreover, having generated several ERes reports myself during the discovery process, it is also clear that producing this report would not impose any meaningful burden on Defendants. Indeed, usage reports take only a few moments to prepare.

If Defendants are not inclined to produce a Fall 2009 ERes report, please let us know immediately. We would prefer to resolve this issue without seeking the Court's intervention.

Sincerely,



John H. Rains IV

cc: Edward B. Krugman, Esq.
R. Bruce Rich, Esq.

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