Cambridge University Press et al v. Patton et al Doc. 221 Att. 6

EXHIBIT F

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February 5, 2009

VIA ELECTRONIC MAIL AND U.S. MAIL

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RE: ***Cambridge University Press, et al. v. Patton, et al.,***
United States District Court for the Northern District of Georgia
Case No. 1:08-CV-1425-ODE

Dear Edward:

We are in receipt of your letter dated February 4, 2009. To address your first concern, we are still prepared to provide access to the uLearn course sections for certain of the courses identified in the Complaint by Friday, February 6. However, because the courses named in the Complaint do not directly map to the names of course sections in uLearn, the IT Department of the Board of Regents must research each course listing in uLearn to map the courses appropriately. As such, we believe it will be more efficient to schedule your access for next week when we can make available the uLearn pages for all courses identified in the Complaint. After you have had a chance to review the uLearn pages for the courses in the Complaint, we will be happy to provide access to any additional reasonable course sections you identify.

Regarding the production of sample reports from the uLearn system, while the defendant Board Members are not obligated to produce documents in their possession, custody or control until February 16, 2009--when their responses to Plaintiffs' discovery requests are due--we are working to generate and produce these reports as soon as possible. As explained in our January 30th letter, we believe the most efficient way to identify appropriate search criteria is to first produce sample reports for your review. The sample file access report will show how many times a particular file posted on uLearn was accessed, and the sample usage report will show how many GSU students were active during a given time (usually an hour). After you have had

a chance to review the sample reports, you can then identify reasonable particular files for which you would like file access reports, and reasonable particular time periods for which you would like usage reports.

Additionally, regarding your suggestion that defendants have unreasonably delayed in providing access to the uLearn system, we note that plaintiffs' discovery requests did not require defendants to give plaintiffs live access to the uLearn system. Plaintiffs' discovery requests generally sought documents and things sufficient to show the course material available on uLearn and other "course management systems." As such, the defendant University Administrators produced all such material in their possession, custody, or control, including 320 CDs containing material posted on uLearn before maintenance of the system moved to the Board of Regents in Athens, Georgia. For efficiency, however, the defendant Board Members have agreed to accommodate your request for live access to uLearn (as opposed to producing all material on the uLearn server) and have been working diligently to provide such access. We have arranged for your review at GSU workstations for the convenience of the parties and so that defendants can produce any documents copied during plaintiffs' review of the system according to the terms of the protective order.

Finally, we would like to address your concerns regarding the ERes reports. As explained in our January 30th letter, on October 1, 2008, the defendant University Administrators made available for plaintiffs' inspection a tape containing all material on the ERes server, which we understood would have included any ERes reports. Defendants have also worked diligently to gather, review, and produce all responsive documents, using agreed-upon search terms on numerous custodians' PCs, in the most timely manner possible. We believe production of this material more than satisfied defendants' discovery obligations with respect to ERes.

Plaintiffs' document requests did not specifically seek live access to the ERes system or ERes reports for all conceivable time periods from April 2005 to the present. Nevertheless, since access to the tape containing all material on the ERes server proved difficult, defendants worked hard to wholly accommodate plaintiffs' request for live access to the system, even creating a technical workaround to provide plaintiffs with access to all course material and all reporting capabilities available on ERes. Your suggestion that defendants have done anything short of fully cooperating with plaintiffs during the discovery process is without basis.

Defendants also do not wish to engage in unproductive finger-pointing, and want to complete discovery in the most efficient manner possible. To date, defendants have produced thousands of pages of documents and are continuing to provide plaintiffs with live access to the ERes and uLearn systems, and all documents available on those systems. Given the extensive amount of information produced in this case, defendants are amenable to a two-month extension of discovery, and we will be glad to do so by consent.

We look forward to hearing from you regarding these matters.

Sincerely,

Kristen Swift /LG

Kristen A. Swift

cc: Cynthia V. Hall, Esq. (via email)
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