

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA,  
ATLANTA DIVISION**

CAMBRIDGE UNIVERSITY PRESS,  
OXFORD UNIVERSITY PRESS, INC.,  
and SAGE PUBLICATIONS, INC.,

Plaintiffs,

- v. -

MARK P. BECKER, in his official  
capacity as Georgia State University  
President, et al.,

Defendants.

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

**PLAINTIFFS' SUPPLEMENTAL FILING IN RESPONSE TO THE  
COURT'S AUGUST 11, 2010 AND AUGUST 12, 2010 ORDERS**

Plaintiffs Cambridge University Press, Oxford University Press, Inc., and SAGE Publications, Inc. (collectively, "Plaintiffs"), hereby respond to the Court's August 11 and August 12 Orders requiring Plaintiffs to provide certain additional information concerning Defendants' infringement of copyrighted works owned or controlled by Plaintiffs.

1. Exhibit A contains the information that the Court directed Plaintiffs to file for the 2009 Maymester as fully and accurately as possible, organized by course and, within each course, by publisher.

2. Exhibit B contains the information that the Court directed Plaintiffs to file for the 2009 Summer term as fully and accurately as possible, organized by course and, within each course, by publisher.

3. Exhibit C contains the information that the Court directed Plaintiffs to file for the 2009 Fall term as fully and accurately as possible, organized by course and, within each course, by publisher.

4. Exhibit D contains the verifications that the Court directed Plaintiffs to file.

5. In analyzing the charts, note should be made of the following:

a. The information as to Defendants' use of Plaintiffs' works is drawn from the EReserves ("ERes") reports produced by Defendants.

b. The Fall 2009 ERes report does not cover the entire academic term.

The Fall 2009 term began on August 17 and presumably extended until December (commencement was December 14), but the report covers only up to September 15. Thus, Exhibit C may not list all of the works that were posted and distributed on the ERes system after

September 15. The same may be true of Exhibit B, as the last day of exams for the Summer 2009 term was July 28, and the ERes report reflects usage only through July 1.

- c. For some entries, the ERes reports do not specify the chapters or pages posted. Plaintiffs have indicated “unspecified” for these entries and were unable to calculate the licensing costs for these works.
- d. Except as otherwise indicated, the total number of pages listed for each infringed work excludes front matter (tables of contents, etc.) and back matter (indices, etc.).
- e. Plaintiffs have been unable to confirm that all of the courses listed on the 2009 Maymester report were offered during that time. Based on discussions with counsel for Defendants, it appears that entries on the 2009 Maymester report that specifically referenced a prior academic term and had only a single “hit” may have been the result of access by Defendants’ counsel during the course of discovery in conjunction with this litigation, rather than courses actually offered during Maymester. Accordingly, Plaintiffs have not included in Exhibit A entries that meet these criteria. In addition, with respect to several

entries on the 2009 Maymester report that were accessed multiple times, Plaintiffs have been unable to confirm that the listed course was indeed offered during the 2009 Maymester. These entries are included on Exhibit A, but identified with an asterisk.

- f. This submission reflects only those electronic uses of Plaintiffs' works as appear on ERes. As noted in Plaintiffs' summary judgment papers, Plaintiffs have no information regarding the distribution of their works at GSU on the uLearn system or by other means of electronic distribution and, accordingly, the listings for these three academic terms may understate the actual extent of unlicensed uses of Plaintiffs' works.
- g. The "Retail List Price" is the list price for the works if purchased new and does not account for the fact that some retailers charge less than the list price or the fact that students frequently purchase such works in the used book market.
- h. The "License Cost" is the cost per student of licensing the copyrighted excerpt through the Copyright Clearance Center for use in electronic reserves. The "Licensing Cost per 20 students" is the cost for a 20-person class (including a \$3.00 transaction fee).

Respectfully submitted this 20th day of August, 2010.

/s/ John H. Rains IV

Edward B. Krugman

Georgia Bar No. 429927

John H. Rains IV

Georgia Bar No. 556052

BONDURANT, MIXSON & ELMORE, LLP

3900 One Atlantic Center

1201 West Peachtree Street NW

Atlanta, GA 30309

Telephone: (404) 881-4100

Facsimile: (404) 881-4111

krugman@bmelaw.com

rains@bmelaw.com

R. Bruce Rich (*pro hac vice*)

Randi Singer (*pro hac vice*)

Jonathan Bloom (*pro hac vice*)

Todd D. Larson (*pro hac vice*)

WEIL, GOTSHAL & MANGES LLP

767 Fifth Avenue

New York, New York 10153

Telephone: (212) 310-8000

Facsimile: (212) 310-8007

r.bruce.rich@weil.com

randi.singer@weil.com

jonathan.bloom@weil.com

todd.larson@weil.com

*Attorneys for Plaintiffs*

## **CERTIFICATE OF COMPLIANCE**

Pursuant to Local Rule 7.1(D), I hereby certify that this document complies with the font and point selections set forth in Local Rule 5.1. This document was prepared in Times New Roman 14 point font.

/s/ John H. Rains IV  
John H. Rains IV

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day filed the foregoing **PLAINTIFFS'**  
**SUPPLEMENTAL FILING IN RESPONSE TO THE COURT'S AUGUST 11,**  
**2010 AND AUGUST 12, 2010 ORDERS** with the Clerk of Court using the  
CM/ECF filing system which will automatically send e-mail notification of such  
filing to the following attorneys of record:

Anthony B. Askew, Esq.  
Stephen M. Schaetzel, Esq.  
Katrina M. Quicker, Esq.  
John P. Sheesley, Esq.  
Kristen A. Swift, Esq.  
C. Suzanne Johnson, Esq.  
King & Spalding  
1180 Peachtree Street  
Atlanta, Georgia 30309

Mary Jo Volkert, Esq.  
Assistant S. Attorney General  
40 Capitol Square  
Atlanta, Georgia 30334

This 20th day of August, 2010.

/s/ John H. Rains IV  
John H. Rains IV