

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

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

Plaintiffs,

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

-v.-

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

Defendants.

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Videotaped deposition of  
DENIS CHARLES GAINTY, Ph.D., taken on behalf of the  
defendants, pursuant to the stipulations contained  
herein, before Carole E. Poss, RDR, CRR, Certified  
Court Reporter, at 1180 Peachtree Street, NE, Atlanta,  
Georgia, on the 20th day of April, 2011, commencing at  
the hour of 10:13 a.m.

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SHUGART & BISHOP  
Certified Court Reporters  
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Suite 140  
Atlanta, Georgia 30329  
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## 1 INDEX TO EXAMINATIONS

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## Examination

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Direct Examination by Ms. Moffitt

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Cross-Examination by Mr. Bloom

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Redirect Examination by Ms. Moffitt

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## INDEX TO EXHIBITS

## Defendants' Exhibit

## Gainty TX

1 Syllabus, Cross-Cultural Encounters in  
World History

11

2 Fair use checklist

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## Plaintiffs' Exhibit

## Gainty PX

1 Policy on the Use of Copyrighted Works in  
Education and Research

44

2 Excerpt from The Cambridge History of China,  
volume 8, part 2

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3 Portion of e-reserve report relating to  
Dr. Gainty's HIST 4820 course

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1 APPEARANCES OF COUNSEL:

2 On behalf of the Plaintiffs:

3 JONATHAN BLOOM, ESQ.  
4 Weil, Gotshal & Manges LLP  
5 767 Fifth Avenue  
6 New York, New York 10153-0119

7 On behalf of the Defendants:

8 NATASHA H. MOFFITT, ESQ.  
9 King & Spalding LLP  
10 1180 Peachtree Street, NE  
11 Atlanta, Georgia 30309-3521

12 Also Present:

13 Elizabeth Kemp, Videographer

14 - - -

15 THE VIDEOGRAPHER: We're now on the video  
16 record. This is the beginning of tape number 1.  
17 This is the videotaped deposition of Denis Gainty  
18 taken by the defendants in the matter of Cambridge  
19 University Press, Oxford University Press,  
20 Incorporated, and Sage Publications, Incorporated,  
21 versus Mark P. Becker, in his official capacity as  
22 Georgia State University president, et al.

23 Madam Court Reporter, would you please swear  
24 in the witness.

25 (Witness sworn.)

MR. BLOOM: I'd like to make an objection on

1 that particular work?

2 A Yes.

3 Q What informs you on this checklist that this  
4 checklist, in particular, relates to that particular  
5 work?

6 A I can read my name, the name of the course,  
7 the author and publisher and portions to be used, the  
8 page numbers. All of those match the work in question.

9 Q When -- did you fill out this checklist?

10 A I did.

11 Q When did you fill out this fair use  
12 checklist?

13 A I filled out this fair use checklist in the  
14 last few months.

15 Q Now, in the upper right-hand corner it's  
16 dated August 1, 2009. Do you see that?

17 A Yes.

18 Q What does that date reflect?

19 A I tried, as best I could, to the best of my  
20 ability, to recreate the fair use checklist that I  
21 would have filled out and I believe I did fill out for  
22 the fall 2009 semester.

23 Q You stated that you recreated the checklist.  
24 Can you explain why you recreated the checklist?

25 A I did not have any longer a copy of the fair

1 use checklist that I completed for 2009.

2 Q And why not? Why did you no longer have a  
3 copy of that checklist?

4 A I discarded it.

5 Q Why?

6 A I believed that because the course was  
7 canceled after one class meeting, it was not necessary  
8 to retain the fair use checklist.

9 Q And can you explain why you went about  
10 recreating this checklist?

11 A I was informed that there was a lawsuit and  
12 asked by the Office of Legal Affairs at Georgia State  
13 to recreate this checklist.

14 Q And when you recreated the checklist, did you  
15 make an effort to fill it out in the same way that you  
16 filled it out in the office -- or in the 2009 time  
17 frame before the course started?

18 A Yes.

19 Q When you originally filled this particular  
20 checklist out in the 2009 time frame, did you make a  
21 good faith effort to conduct a fair use analysis in  
22 accordance with the checklist?

23 A Yes.

24 Q And this particular checklist, Gainty TX 2,  
25 relates to which pages of the "Sino-Korean Tributary