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

CAMBRIDGE UNIVERSITY PRESS,
et al,

Plaintiffs,

-vs.-

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

Defendants.

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

[PROPOSED] INJUNCTIVE RELIEF

This action having been tried by the Court without a jury, the Honorable
Orinda D. Evans, District Judge, presiding, on May 16, 2011 – _____, 2011, and
the Court having duly entered an opinion dated _____, 2011, with findings of
fact and conclusions of law, it is ORDERED AND ADJUDGED that:

I. As used in this Order:

- A. The term “GSU” includes each and every Defendant, and all their agents, servants, employees, representatives, and successors, all other persons acting under their direction, control, or supervision, including all part-time or full-time faculty employed by, and students enrolled at, GSU, and all those in active concert or participation with them.
- B. The term “Work” includes any work of authorship for which Plaintiffs hold or may hereafter hold a copyright, whether said work has been

heretofore published or shall, in the future, be published, and whether a registration of the copyright thereto has been heretofore granted or shall in the future be granted.

- II. Subject only to the provisions of Paragraph III hereof, GSU shall be and is permanently enjoined and restrained from creating, reproducing, transmitting, selling, or in any manner distributing, or assisting, participating in, soliciting, encouraging, or facilitating the creation, reproduction, download, display, sale, or distribution in any manner of, copies, whether in hard copy format, digital or electronic computer files, or any other format, of any and all Works without permission.
- III. Nothing in this Order shall be deemed to enjoin or restrain GSU from making or distributing copies of any Works or portions thereof, including, without limitation, by uploading, downloading and/or creating digital copies, where:
 - A. GSU or the individual faculty member or instructor has obtained permission or authorization to make and distribute such copies from the owner or owner's authorized agent (such as the Copyright Clearance Center, Inc.) of the appropriate rights of copyright; or
 - B. Notwithstanding the absence of permission or authorization pursuant to paragraph III.A hereof:
 - 1. The copies are made or distributed by, or at the request of, a faculty member or instructor who certifies that the copies to be made or distributed are in full compliance with the conditions of brevity and cumulative effect set forth in Paragraph II and the provisions of Paragraph III (A)-(C) of the March 19, 1976 "Agreement on Guidelines for Classroom Copying in Not-For-Profit Educational Institutions with Respect to Books and Periodicals," H.R. Rep. No. 94-1476, 94th Cong., 2nd Sess. 68-70, reprinted in [1976] U.S. Code Cong. & Ad. News 5659, 5682-83 (the "Guidelines for Educational Fair Use") (the relevant portions of which are annexed hereto as Exhibit A), it being understood that condition (iii) relating to cumulative effect and the provisions of Paragraph III (A)-(C) shall be

construed in conjunction with GSU's uses of other copyrighted works of authorship; and

2. The copies, whether in hard copy format, digital or electronic computer files, or any other format, that are made or distributed without permission or authorization do not, when combined with other copyrighted works of authorship, collectively comprise more than 10% of the total reading (whether assigned, required, suggested, supplemental, or otherwise) for a particular course.
 - C. All certifications required by Paragraph III.B.1 shall be in the form set forth in Exhibit B and shall be collected by designated GSU representatives before copies are made or distributed and stored by GSU for at least two years.
- IV. Unless otherwise agreed to by the parties or ordered by the Court, any copying, posting, uploading, downloading, or other distribution done on EReserves, uLearn, faculty websites, course websites, or any other system now in existence or hereinafter developed on any computer or system owned or controlled by GSU, whether in hard copy format, digital or electronic computer files, or any other format, and whether done by Defendants or by any other person, shall be attributed to and be considered done by GSU and shall be subject to the proscriptions herein and to the provisions of the copyright law.
- V. GSU shall promptly provide a copy of this Order and relevant portions of the Guidelines for Educational Fair Use to all faculty and instructors, as well as to all other administrative and technical personnel who have to date been, or may in the future be, involved in the development, operation, or maintenance of EReserves, uLearn, faculty websites, course websites, or any other system now in existence or hereinafter developed on any computer or system owned or controlled by GSU. In addition:
- A. Whether in conjunction with such communication or otherwise, GSU shall make clear the importance of compliance with the terms of the Order and that violations will be subject to disciplinary sanctions; and

- B. GSU shall post the Order and relevant portions of the Guidelines for Educational Fair Use on the GSU website in an appropriately prominent manner, including but not limited to causing the provisions of the Order to appear before a faculty member, library employee, or other GSU personnel is able to upload, post, or otherwise make available any copyrighted material via EReserves, uLearn, faculty webpages, course webpages, or any other system now in existence or hereinafter developed on any computer or system owned or controlled by GSU; and
 - C. GSU shall incorporate reference to this Order, including either by reproducing its text or otherwise providing advice on how the reader can easily locate it, in all university-wide handbooks or the like setting forth codes of faculty, student, or employee conduct.
- VI. GSU shall develop and promptly implement appropriate educational programs for the purpose of promoting compliance with the terms of the Order and shall designate one or more university personnel with appropriate training in copyright to be reasonably available to answer questions and to provide guidance about complying with the Order.
- VII. GSU shall take all appropriate steps either to ensure that existing copyright policies, including checklists, governing the activities of GSU comport with all aspects of this Order or to discontinue use of and reliance on such policies.
- VIII. Within forty-five (45) days of the entry of the Order, GSU shall certify to the Court, and shall serve on plaintiffs, a report detailing the measures it has taken to comply with the Order. Said report shall include a certification, signed by the president of GSU, that all Works that heretofore have been resident on one or more computer systems operated by GSU and that are subject to the other terms of the Order have been brought into compliance with this Order. In addition, for each academic term for three (3) years following the effective date of this Order, GSU's Provost shall certify to the Court, with a copy to plaintiffs' counsel, that based on diligent monitoring efforts, GSU is in compliance with the terms of the Order, including but not limited to, with respect to the ERes and uLearn systems or their equivalents.

- A. Such certification shall be accompanied by a standard ERes report (or the report from any equivalent system) listing all reading materials present on the ERes system during that semester, the course-reserves page for which the materials are listed, and the number of “hits” for each reading materials during that semester.
 - B. Upon request made no more frequently than once each semester, GSU shall provide such access to its computer systems, including the uLearn system (or its equivalent), and to the certifications referred to in Paragraph III(C) above to a designated representative of Plaintiffs as will enable Plaintiffs to ascertain GSU’s compliance with the terms of the Order. Access shall be afforded at reasonable times during GSU’s business hours upon fifteen (15) days’ advance notice.
- IX. The Court shall retain jurisdiction of this case and over judgment compliance issues and shall entertain such requests for modification of its terms as may be warranted based upon technological or other future developments.

SO ORDERED this ____ day of ____, 2011.

Hon. Orinda D. Evans
United States District Judge

EXHIBIT A

Agreement on Guidelines for Classroom Copying in Not-For-Profit Educational Institutions with Respect to Book and Periodicals[†]

I. Single Copying for Teachers

A single copy may be made of any of the following by or for a teacher at his or her individual request for his or her scholarly research or use in teaching or preparation to teach a class:

- A. A chapter from a book;
- B. An article from a periodical or newspaper;
- C. A short story, short essay or short poem, whether or not from a collective work;
- D. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper;

II. Multiple Copies for Classroom Use

Multiple copies (not to exceed in any event more than one copy per pupil in a course) may be made by or for the teacher giving the course for classroom use or discussion; provided that:

- A. The copying meets the tests of brevity and spontaneity as defined below; and,
- B. Meets the cumulative effect test as defined below; and,
- C. Each copy includes a notice of copyright

Definitions

Brevity

- (i) Poetry: (a) A complete poem if less than 250 words and if printed on not more than two pages or, (b) from a longer poem, an excerpt of not more than 250 words.

[†] H.R. Rep. No. 94-1476, 94th Cong., 2d Sess. 68-70, *reprinted* in 1976 U.S. Code Cong. & Ad. News 5659, 5682-83.

- (ii) Prose: (a) Either a complete article, story or essay of less than 2,500 words, or (b) an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words.

[Each of the numerical limits stated in "i" and "ii" above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.]

- (iii) Illustration: One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.
- (iv) "Special" works: Certain works in poetry, prose or in "poetic prose" which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety.

Paragraph "ii" above notwithstanding such "special works" may not be reproduced in their entirety; however, an excerpt comprising not more than two of the published pages of such special work and containing not more than 10% of the words found in the text thereof, may be reproduced.

Spontaneity

- (i) The copying is at the instance and inspiration of the individual teacher, and
- (ii) the inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

Cumulative Effect

- (i) The copying of the material is for only one course in the school in which the copies are made.
- (ii) Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.

- (iii) There shall not be more than nine instances of such multiple copying for one course during one class term.

[The limitations stated in "ii" and "iii" above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.]

III. Prohibitions as to I and II Above

Notwithstanding any of the above, the following shall be prohibited:

- (A) Copying shall not be used to create or to replace or substitute for anthologies, compilations or collective works. Such replacement or substitution may occur whether copies of various works or excerpts therefrom are accumulated or reproduced and used separately.
- (B) There shall be no copying of or from works intended to be "consumable" in the course of study or of teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable material.
- (C) Copying shall not:
- (a) substitute for the purchase of books, publishers' reprints or periodicals;
 - (b) be directed by higher authority;
 - (c) be repeated with respect to the same item by the same teacher from term to term.
- (D) No charge shall be made to the student beyond the actual cost of the photocopying.

EXHIBIT B

FACULTY/INSTRUCTOR CERTIFICATION CONCERNING ELECTRONIC COURSE MATERIAL

Name: _____

Date: _____

Course and Term: _____

Title of Copyrighted Work: _____

Author and Publisher: _____

Portion(s) to be used (e.g., pages, chapters): _____

Conditions of brevity and cumulative effect set forth in the "Agreement on Guidelines for Classroom Copying in Not-For-Profit Educational Institutions with Respect to Books and Periodicals":

Brevity

(i) Poetry: (a) A complete poem if less than 250 words and if printed on not more than two pages or, (b) from a longer poem, an excerpt of not more than 250 words.

(ii) Prose: (a) Either a complete article, story or essay of less than 2,500 words, or (b) an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words.

[Each of the numerical limits stated in "i" and "ii" above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.]

(iii) Illustration: One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.

(iv) "Special" works: Certain works in poetry, prose or in "poetic prose" which often combine language with illustrations and which are

intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety.

Paragraph "ii" above notwithstanding such "special works" may not be reproduced in their entirety; however, an excerpt comprising not more than two of the published pages of such special work and containing not more than 10% of the words found in the text thereof, may be reproduced.

Cumulative Effect

- (i) The copying of the material is for only one course in the school in which the copies are made.
- (ii) Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.
- (iii) There shall not be more than nine instances of such multiple copying for one course during one class term.

[The limitations stated in "ii" and "iii" above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.]

I hereby certify that, with respect to the work or portion(s) thereof described above:

- I have written permission or authorization from the owner of the appropriate copyright or the owner's authorized agent to make or distribute such copies (whether in print or in digital form).
[attach copy of written permission or authorization]
- I have reviewed the conditions of brevity and cumulative effect set forth above and the copies of the copyrighted work to be made or distributed in print or in digital form are in full compliance with both the condition of brevity and the condition of cumulative effect.

Signed: _____

Date: _____