

REDACTED PUBLIC FILING

**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' PROPOSED FINDINGS OF FACT

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I. THE PLAINTIFFS

A. Cambridge University Press

1. *Plaintiff Cambridge University Press (“Cambridge”) is the not-for-profit publishing house of the University of Cambridge. It has 53 offices throughout the world, including in New York, which is the headquarters for the Americas branch. [Stipulated Facts ¶ 1.]**

2. *Cambridge has published scholarly works for the past 425 years and currently publishes academic books, textbooks, monographs, reference works, professional books, electronic products, and over 240 journals. [Stipulated Facts ¶ 2.]*

3. Cambridge’s mission is to publish works that further Cambridge University’s objective of advancing learning, knowledge and research worldwide. [Anticipated testimony of Frank Smith.]

4. Cambridge publishes over 1,000 new books each year in virtually every academic subject. [Anticipated testimony of Frank Smith.]

5. Cambridge books routinely garner critical acclaim and awards, including Nobel Prizes and the Bancroft Prize. [Anticipated testimony of Frank Smith.]

B. Oxford University Press

6. *Plaintiff Oxford University Press, Inc. (“Oxford” or “OUP”) is a not-for-profit corporation headquartered in New York and associated with Oxford University Press in Oxford, England, which is the oldest and largest continuously operating university press in the world. [Stipulated Facts ¶ 3.]*

* Facts stipulated by the parties in the joint pretrial order are included here verbatim, and displayed in italic type.

7. *Oxford publishes scholarly works including schoolbooks, textbooks, and reference books, as well as scholarly monographs and non-fiction books of interest to general readers in the humanities, social sciences, and the physical and life sciences and over 200 academic and research journals. [Stipulated Facts ¶ 4.]*

8. Oxford's mission is to publish works that further Oxford University's objectives of excellence in research, scholarship, and education. [Anticipated testimony of Niko Pfund.]

9. Oxford publishes approximately 1,000 new titles per year. [Anticipated testimony of Niko Pfund.]

10. Oxford works routinely receive National Book Awards, Pulitzer Prizes and the Bancroft Prize. [Anticipated testimony of Niko Pfund.]

C. SAGE Publications

11. *Plaintiff SAGE Publications ("SAGE") is a Delaware corporation headquartered in Thousand Oaks, California, with offices in Los Angeles, London, New Delhi, Singapore, and Washington, D.C. [Stipulated Facts ¶ 5.]*

12. *SAGE currently publishes books and textbooks in over 20 subject areas and more than 560 journals in business, humanities, social sciences, science, technology, and medicine. [Stipulated Facts ¶ 6.]*

13. SAGE publishes over 500 new titles each year. [Anticipated testimony of Carol Richman.]

D. Academic Publishing and the Market for Sales of Plaintiffs' Works

14. Cambridge, Oxford, and SAGE (collectively "Plaintiffs") are academic publishers. The target market for their works is academic institutions, professors, and students. [Anticipated testimony of Frank Smith, Niko Pfund, and Carol Richman.]

15. Academic works have a tremendous impact on the development and advancement of academic disciplines. [Anticipated testimony of Frank Smith and Niko Pfund.]

16. *Academic publishers play an important role in higher education.* [Stipulated Facts ¶ 7.]

17. *Instructors rely on academic publishers to produce scholarship that can be used in the classroom and keep them abreast of what is happening in their field of study.* [Stipulated Facts ¶ 8.]

18. The publication of scholarly work is generally a significant factor in the career advancement of college and university faculty members. [Anticipated testimony of Frank Smith and Niko Pfund; Deposition of John S. Duffield, Docket No. 320 (“Duffield Dep.”) at 21:14-24:8]

19. Academic publishers serve a credentialing function that has a direct impact on tenure and promotion decisions. [Anticipated testimony of Frank Smith and Niko Pfund.]

20. Those responsible for tenure decisions within a university rely in part on the imprimatur of the publishing house as an indicator of the quality of a professor’s work. [Anticipated testimony of Frank Smith and Niko Pfund.]

21. *The high quality of Plaintiffs’ academic works is directly attributable to their involvement in all aspects of the publishing process, from selecting manuscripts for publication to the editing, design, sales, marketing, licensing, and distribution of the works.* [Stipulated Facts ¶ 9.]

22. The general process for publishing a scholarly work involves the solicitation (or selection) of a manuscript, peer review, production, editing, design, and marketing, selling, or licensing the work. [Anticipated testimony of Frank Smith, Carol Richman, and Niko Pfund.]

23. Plaintiffs employ editors who are substantive experts in their fields to solicit manuscripts and to work with authors – often over a period of years – to develop manuscripts. [Anticipated testimony of Frank Smith, Carol Richman, and Niko Pfund.]

24. Works published by Cambridge and Oxford receive an additional layer of review by the Syndicates and Delegates, respectively, who are leading scholars in their fields. [Anticipated Testimony of Frank Smith and Niko Pfund.]

25. Once a book has been accepted for publication, it undergoes additional editing. Tables, graphics and illustrations are designed, the book is copyedited, typeset and proofread, and indices and appendices are created. [Anticipated testimony of Frank Smith and Niko Pfund.]

26. After the manuscript is completed, it is sent out for peer review by panels of expert assembled by the publisher. Virtually everything published by each of the Plaintiffs is subject to peer review. [Anticipated testimony of Frank Smith, Carol Richman, and Niko Pfund.]

27. *The development of textbooks is especially costly and resource-consuming. A publisher may employ between 100 and 300 paid outside reviewers to vet and edit a single work, design and create art, illustrations, tables, and graphics, and conduct focus groups to test the utility of a particular work.* [Stipulated Facts ¶ 10.]

28. Plaintiffs support and are themselves users of the fair use doctrine. Plaintiffs' authors regularly incorporate previously created material into their own scholarly works with the understanding that the doctrine principally embraces limited and transformative uses. [Anticipated Testimony of Frank Smith, Carol Richman and Niko Pfund.]

29. Oxford's fair use guidelines state that it is *usually* acceptable to quote 1-3% of an original work *if* the use is transformative. [Anticipated testimony of Niko Pfund; Plaintiffs' Exhibit 496]

30. Where a proposed use exceeds Oxford's fair use guidelines, the publisher or author would obtain permission to use the third-party material. Fees for such permissions comprise one of Oxford's largest production costs. [Anticipated testimony of Niko Pfund.]

31. *Plaintiffs' operating expenses are in the tens of millions of dollars a year each.* [Stipulated Facts ¶ 11.]

32. Another of the most significant expenses for Plaintiffs each year is the royalties paid to authors. [Anticipated testimony of Frank Smith, Carol Richman, Niko Pfund.]

33. For example, Oxford pays its authors approximately each year in direct royalties and license payments, as well as money for grants. [Anticipated testimony of Niko Pfund]

34. In FY 2009, Cambridge paid in royalties to its authors. [Anticipated testimony of Frank Smith.]

35. SAGE also pays a substantial amount in royalties to authors each year. [Anticipated testimony of Carol Richman.]

36. *Plaintiffs rely on income from sales of their books and journals, particularly at colleges and universities – which constitute the largest market for their works – to enable them to continue to publish high-quality scholarly works.* [Stipulated Facts ¶ 12.]

37. *Plaintiffs also offer their works for sale through electronic platforms, including e-books (digital versions of published books) and databases, and through custom publishing programs that allow professors to create customized anthologies by combining content from several different works from a single publisher.* [Stipulated Facts ¶ 13.]

38. Plaintiffs' have invested significant resources into the creation of their electronic products. [Anticipated testimony of Frank Smith, Carol Richman, Niko Pfund.]

39. Many works that appear on the Joint Filing of Alleged Infringements (Docket No. 266) are available through Plaintiffs' electronic platforms and/or custom publishing programs. [Anticipated testimony of Frank Smith, Carol Richman, and Niko Pfund.]

40. For example, many of the Cambridge works listed on the Joint Filing are available by subscription to Cambridge's electronic platforms for books (Cambridge Books Online, Cambridge Companions Online, or Cambridge Histories Online). With a subscription to one of Cambridge's electronic platforms, users can place content on electronic reserves systems. [Anticipated testimony of Frank Smith]

41. Some of the Oxford works listed on the Joint Filing are also available through its online database of research monographs, Oxford Scholarship Online (OSO). With a subscription to OSO, users can download, print, or link content to products like ERes. [Anticipated Testimony of Niko Pfund.]

42. Plaintiffs incur substantial expenses in connection with the promotion, marketing, and sales of their scholarly works. [Anticipated Testimony of Frank Smith, Carol Richman, and Niko Pfund.]

43. One element of Plaintiffs' marketing strategy is to send free copies of academic works to professors. [Anticipated Testimony of Frank Smith, Carol Richman, and Niko Pfund.]

44. SAGE works that appear on the Joint Filing included in SAGE's custom publishing programs, through which SAGE can create a customized compilation of excerpts from various SAGE works. [Anticipated Testimony of Carol Richman.]

E. Licensing and "Permissions" for Plaintiffs' Works Directly and Through Copyright Clearance Center (CCC)

45. *As an alternative to purchasing an entire book or journal, Plaintiffs also offer users (e.g., professors and students) one-time, excerpt-specific licenses known as "permissions" to photocopy or digitally reproduce portions of their works in exchange for a fee. [Stipulated Facts ¶ 14.]*

46. *Permissions represent a significant revenue stream for Plaintiffs. [Stipulated Facts ¶ 15.]*

47. *The permissions market for Plaintiffs' works includes the copying and distribution of excerpts of Plaintiffs' works in both hardcopy and digital format, including coursepacks and through systems like GSU's ERes and uLearn systems. [Stipulated Facts ¶ 16.]*

48. *Permissions to use portions of Plaintiffs' works can be obtained either directly from the Plaintiffs or through Copyright Clearance Center (CCC) on Plaintiffs' behalf. [Stipulated Facts ¶ 17.]*

49. Each Plaintiff work listed in Exhibit 1 to the Amended Complaint and on the Joint Filing is available for licensing directly from the publisher or through CCC. [Anticipated testimony of Frank Smith, Carol Richman, and Niko Pfund.]

50. *CCC is a not-for-profit corporation established in 1977 that acts as a centralized clearinghouse for the granting of reproduction rights for books, journals, newspapers, and other text, non-text, and multimedia works. [Stipulated Facts ¶ 18.]*

51. *CCC has the nonexclusive right to issue licenses and grant permissions on behalf of tens of thousands of authors and publishers. [Stipulated Facts ¶ 19.]*

52. Tens of millions of works are covered by the various licenses offered by CCC. [Anticipated testimony of Tracey Armstrong.]

53. CCC provides copyright solutions to rightsholders as well as users such as academic institutions, professors, students, individuals, and corporations [Anticipated Testimony of Tracey Armstrong.]

54. [In its last fiscal year, CCC generated approximately _____ in revenue, _____ of which was attributable to its academic pay-per-use services. [Anticipated testimony of Tracey Armstrong.]

55. Approximately _____ of the revenue earned by CCC in a given year is distributed to participating rightsholders. [Anticipated testimony of Tracey Armstrong.]

56. *Since 2007, CCC has paid royalties related to its APS and ECCS (i.e., those services specifically covering print and digital copies in the U.S. academic setting) of more than _____ to Cambridge, over _____ to Oxford, and over _____ to SAGE. [Stipulated Facts ¶ 31.]**

* The Academic Permissions Service (APS) and Electronic Course Content Service (ECCS) are described in more detail in the following section.

57. In Fiscal Year 2009, CCC paid royalties of _____ to Cambridge, _____ to Oxford, and _____ to SAGE. [Stipulated Facts ¶ 33.]

58. In Fiscal Year 2010, CCC paid royalties of _____ to Cambridge, _____ to Oxford, and _____ to SAGE. [Stipulated Facts ¶ 34.]

59. In Fiscal Year 2010, CCC paid royalties of _____ to Oxford and _____ to SAGE attributable to the AACL program. [Stipulated Facts ¶ 38.]

60. Since the inception of the pay-per-use academic permissions services, CCC has distributed to rightsholders approximately _____ in license royalties (_____ attributable to APS and _____ attributable to ECCS). [Anticipated Testimony of Tracey Armstrong.]

1. CCC's Academic Permissions Service (APS) and Electronic Course Content Service (ECCS)

61. CCC offers two types of transactional, i.e., pay-per-use, licenses to users in the academic community: the Academic Permissions Service (APS) and the Electronic Course Content Service (ECCS). [Stipulated Facts ¶ 20.]

62. APS permits users to obtain permission, on a work-by-work basis, to photocopy and distribute physical copies of text-based copyrighted works, including books and journal articles. [Stipulated Facts ¶ 21.]

63. APS covers print uses on the academic campus, including use in coursepacks and classroom handouts. The APS repertory contains almost _____ works, including many of the Plaintiffs' works. [Stipulated Facts ¶ 22.]

64. The APS repertory of almost _____ works only reflects domestic works. When works from reproduction rights organizations around the world are considered, the APS repertory contains a substantially larger number of works. [Anticipated testimony of Tracey Armstrong.]

65. CCC receives APS permissions requests from approximately institutions annually. [Stipulated Facts ¶ 23.]
66. In Fiscal Year 2009, CCC processed approximately APS permission requests and ECCS requests. [Stipulated Facts ¶ 32.]
67. Georgia State University (“GSU”) has used APS to request permissions for use in coursepacks. [Stipulated Facts ¶ 24.]
68. CCC’s Electronic Course Content Service (ECCS) covers uses of excerpts in electronic format, e.g., electronic “coursepacks,” course management systems, faculty intranet sites, and systems comparable to GSU’s electronic reserves system. [Stipulated Facts ¶ 25.]
69. CCC’S ECCS repertory contains approximately two million works that are available for licensing. [Stipulated Facts ¶ 26.]
70. CCC has processed millions of permission requests for academic uses in the past five years. [Stipulated Facts ¶ 27.]
71. Permissions requests to CCC typically are processed through its website at www.copyright.com. Much of CCC’s permissions process is automated. [Stipulated Facts ¶ 28.]
72. Rightsholders can set limits on the material offered for permission through CCC. [Anticipated testimony of Frank Smith, Niko Pfund, and Tracey Armstrong.]
73. Approximately of APS requests and about of ECCS permissions requests are granted. [Stipulated Facts ¶ 29.]
74. For approximately of digital permissions requests and of print permissions requests, the user is given an answer immediately. [Anticipated Testimony of Tracey Armstrong; Deposition of Debra Marinello, Docket No. 214 (“Marinello Dep. I”) (June 30, 2009) 103:13-15.]

75. Where CCC is unable to grant permission immediately, for instance, because the size of a request exceeds the limits of CCC's authorization, CCC typically contacts the publisher directly to attempt to secure permission on behalf of the customer (what is referred to as a "special order") or provides contact information for the user to request permission directly from the publisher. [Anticipated Testimony of Tracey Armstrong, Carol Richman, Frank Smith, Niko Pfund.]

76. More than _____ of special order requests are ultimately fulfilled. [Anticipated testimony of Tracey Armstrong.]

77. CCC limits the amount of material that is allowed to be copied from a work (generally 25% or two chapters of a work). [Anticipated Testimony of Tracey Armstrong.]

78. *CCC charges in the range of 10-25 cents for each page copied for academic use. [Stipulated Facts ¶ 30.]*

79. All APS and ECCS prices are set by the applicable rightsholder, usually on a price "per page" basis. Occasionally rightsholders will set prices by article or by the size of the class. [Anticipated testimony of Tracey Armstrong.]

80. CCC also charges a service fee of \$3.50 on each transaction which enables it to cover its costs. This fee was recently increased; at the time of the 2009 Maymester, Summer 2009 term, and Fall 2009 term, had an instructor at GSU had sought permission from CCC, the service fee would have been \$3.00. [Anticipated testimony of Tracey Armstrong.]

2. CCC's Academic Annual Copyright License

81. *CCC offers an annual subscription license for academic institutions known as the Academic Annual Copyright License (AACL), which permits an academic institution to pay a single "blanket" fee annually to make unlimited print and digital reproductions of the covered works across all of its academic activities, without the need to secure separate permission for each work copied. [Stipulated Facts ¶ 35.]*

82. *The AACL covers distribution in coursepacks (hard copy and digital), classroom handouts, course management systems, electronic reserves, and other systems. [Stipulated Facts ¶ 36.]*

83. The AACL covers the copying activities of faculty, students, deans, provosts, and other individuals within the academic institution. [Anticipated testimony of Tracey Armstrong.]

84. The AACL accelerates the ability of an institution to use and share information without burdening the faculty. [Anticipated Testimony of Tracey Armstrong.]

85. The AACL is not intended to replace a purchase or subscription to a work. [Anticipated Testimony of Tracey Armstrong.]

86. The AACL can be supplemented with APS and ECCS permissions requests for works that are not covered under the AACL. [Anticipated Testimony of Tracey Armstrong.]

87. *The AACL repertory contains over _____ works. SAGE's works and Oxford's works are available for license through the AACL. [Stipulated Facts ¶ 37.]*

88. The AACL was developed in response to the demands of the market. The number of works in the AACL repertory continues to grow. [Anticipated Testimony of Tracey Armstrong.]

89. *Currently, _____ institutions, including both private colleges and public universities, have signed up for the AACL. [Stipulated Facts ¶ 39.]*

90. CCC sets pricing for the AACL on a per-student basis, depending upon factors such as fulltime equivalent (FTE) student enrollment and an institution's Carnegie Classification Enrollment Profile (which is based on the relative proportion of graduate and undergraduate degrees). [Anticipated Testimony of Tracey Armstrong.]

91. The estimated annual cost for the AACL at GSU would be (per fulltime student) based on GSU's Carnegie Classification Enrollment Profile as "High Undergraduate" and FTE student enrollment of 30,427 (the latest number available from the U.S. Department of Education), in addition to the current size and scope of the AACL repertory. [Anticipated Testimony of Tracey Armstrong.]

92. The only additional fee associated with an AACL license is one time general and administrative fee of 20% of the annual fee. [Anticipated Testimony of Tracey Armstrong.]

93. By comparison to this fee per student, GSU has increased annual student fees by \$142 per student to fund the new football program, on which it has spent over \$8 million in the past two years. [Mike Tierney, "Georgia State Hoping Football Builds Community in a Football Town," *The New York Times* (Apr. 19, 2009); Anticipated Testimony of Risa Palm.]

3. The Ease and Speed of Permissions Via CCC

94. CCC's website, copyright.com, enables users to search for a work and, if it is included in the millions of works in the CCC repertory, obtain permission on the spot. [Anticipated Testimony of Tracey Armstrong.]

95. CCC offers Application Programming Interfaces (APIs) that incorporate CCC's licensing functionality into software programs (including Docutek, the software GSU uses for its electronic reserves system) such that the software can communicate directly with CCC's licensing system and process licensing transactions from within the software application without having to leave the application and visit copyright.com. [Anticipated testimony of Tracey Armstrong.]

96. CCC's licensing programs accommodate fair use. [Anticipated testimony of Tracey Armstrong.]

II. THE DEFENDANTS

97. *Georgia State University, located in Atlanta, Georgia, is a public university and is a unit of the Board of Regents of the University System of Georgia (USG).* [Stipulated Facts ¶ 40.]

98. *GSU President Mark P. Becker is the head of GSU and is its chief administrative officer, with supervisory authority over the administrators of the GSU library and the GSU Information Systems and Technology Department. [Stipulated Facts ¶ 41.]*

99. President Becker is responsible for ensuring that the library and the use of the electronic reserves system complies with federal copyright law. [Deposition of Mark P. Becker, Docket No. 316 (“Becker Dep.”), 26:10-27:6; Plaintiffs’ Exhibit 975 (“RFA”) Nos. 3-9.]

100. *The GSU Provost (currently Risa Palm) is responsible for monitoring the functions and officials of the University’s academic administration, including correcting noncompliance with federal copyright law. [Stipulated Facts ¶ 42.]*

101. *GSU Associate Provost for Information Systems and Technology J. L. Albert is responsible for the technical operation and maintenance of the ERes system at GSU and has supervisory authority over the GSU staff who support use of the uLearn course management system at GSU. [Stipulated Facts ¶ 44.]*

102. *Defendant Nancy Seamans, the Dean of Libraries at GSU, has supervisory authority over the library staff responsible for the ERes system and is responsible for ensuring that the ERes system complies with policies of the Board of Regents and GSU. [Stipulated Facts ¶ 45.]*

103. *The Board of Regents of USG has supervisory authority over GSU and elects the President of GSU. [Stipulated Facts ¶ 46.]*

104. The members of the Board of Regents have the authority in their official capacities for ensuring that copyrighted works may be distributed electronically at GSU only if done so in compliance with a court-ordered injunction. [RFA No. 60.]

105. The named Defendants are responsible for preparing the University budget, library budget, and IS&T budget, which includes funds for books, equipment, salaries, and the hardware and software used to distribute course material electronically to students. [RFA Nos. 13, 21, 47.]

106. *Defendants have the authority to order that copyrighted works may be distributed electronically at GSU only if done in compliance with policies set by (a) the State of Georgia Board of Regents, (b) Georgia State University, or (c) a court-ordered injunction. [Stipulated Facts ¶ 47.]*

107. *GSU employees administer and maintain the ERes servers and software, and can remove and/or block access to specific course materials on the ERes system. [Stipulated Facts ¶ 48.]*

108. *Defendants have the authority to direct library staff to block access to or remove specific materials or specific course pages on the ERes system, and have the authority to order that library personnel produce reports of ERes and uLearn activities for a specific time period, including if so ordered by the Court in order to monitor compliance with any court-ordered injunction. [Stipulated Facts ¶ 49.]*

109. GSU instructors acknowledge that they would remove a course reading excerpt from ERes and uLearn immediately and without question if instructed to do so by President Becker, Provost Palm, the Board of Regents, or the Dean of Libraries. [Anticipated Testimony of GSU instructors.]

110. If a course reading were determined to infringe the copyright of the owner, President Becker would order it to be removed. [Becker Dep. 88:10-15.]

111. If it came to the attention of Dean of University Libraries Nancy Seamans that course reading materials were posted to ERes that should not have been, she would ask staff to remove the materials, notify the faculty member, and probably notify legal affairs. [Deposition of Nancy Seamans, Docket No. 174 (“Seamans Dep.”) at 125:8-17.]

III. THE PROVISION OF COURSE READING MATERIALS TO GSU STUDENTS

A. Coursepacks

112. *Coursepacks are excerpts of copyrighted works – typically photocopied from various books and/or journals – which are compiled by a professor into a custom anthology of course readings that students can purchase. [Stipulated Facts ¶ 50.]*

113. *At GSU, coursepacks are printed and bound together and sold as units through the GSU Bookstore. [Stipulated Facts ¶ 51.]*

114. *GSU pays permissions fees when copyrighted content is used in hardcopy coursepacks. [Stipulated Facts ¶ 52.]*

115. GSU has an account with CCC to pay for coursepack permissions. From 1998 to 2008, GSU paid \$18,905.42 to CCC for coursepack permissions. [See Plaintiffs' Exhibit 699; Deposition of Laura Burtle, Docket No. 169 ("Burtle Dep.") at 30:11-32:21.]

116. Coursepack usage by GSU faculty has declined in recent years, while there has been an increase in the use of ERes. [Deposition of James Palmour, Docket No. 167 ("Palmour Dep.") at 128:16-19, 140:15-25; Burtle Dep. at 23:17-20; Deposition of Diane Belcher, Docket No. 171 ("Belcher Dep.") at 45:6-10, 53:4-9.]

117. During the Spring 2009 term, coursepacks for only approximately 15 courses were offered for sale, while materials for more than 300 courses were available on ERes. [Palmour Dep. at 128:16-23.]

118. Although GSU pays permissions fees when a copyrighted work is used in a hard-copy coursepack, when that very same copyrighted material is distributed electronically, no fee is paid. [Palmour Dep. at 128:25-129:25, 135:5-7, 138:17-139:9; Belcher Dep. at 54:5-7, 54:20-25; Deposition of Denise Dimsdale, Docket No. 172 ("Dimsdale Dep.") at 133:1-25; Seamans Dep. 137:6-139:1.]

119. GSU has encouraged faculty members to make course materials available via digital distribution rather than coursepacks to avoid paying the copyright royalties associated with hardcopy coursepacks. [Palmour Dep. at 128:25-129:12; 135:1-14; 141:7-16; Plaintiff Trial Exhibits 675, 772; Seamans Dep. at 144:2-8.]

120. Students are charged 6 cents per page plus copyright royalties of 15 to 20 cents per page plus \$1.00 for the cover, binding, and packaging plus a 1/3 markup for bookstore profit for coursepacks, as compared to the five cents it costs students to print a page from ERes on university printers. [Palmour Dep. at 132:2-134:16.]

B. The ERes System

121. *“ERes” is the electronic course content portion of the third-party software that GSU uses to offer digitized copies of course reading material to students. [Stipulated Facts ¶ 43.]*

122. GSU professors make required readings available to students through the ERes system. [Anticipated testimony of GSU instructors; Palmour Dep. at 26:3-15, 38:15-39:3, 139:25-141:6.]

123. GSU instructors distribute required reading material via ERes without permission from the copyright owner. [Anticipated testimony of GSU instructors; Plaintiffs’ Exhibit 687; *see also* Deposition of Jason Reifler, Docket No. 175 (“Reifler Dep.”) at 40:15-41:1, 75:11-20, 111:6-8, 119:14-17, 121:17-22; Deposition of Jodi Kaufmann, Docket No. 173 (“Kaufmann Dep.”) at 87:15-21; Palmour Dep. at 25:7-27:7, 38:15-39:14; 141:5-6.]

124. GSU faculty submit requests to make course reading materials available via ERes to GSU library staff, who may be part-time high school clerks. Seamans Dep. 113:19-114:3. [Anticipated testimony of GSU instructors; Defendants’ Amended and Supplemental Responses to Plaintiffs’ First Set of Interrogatories to Defendants, May 19, 2009, Docket No. 335-1, at No. 3; Palmour Dep. at 40:7-10; Burtle Dep. at 39:15-40:1; Dimsdale Dep. at 18:17-19:7, 20:7-11, 22:2-9, 22:24-23:6.]

125. GSU library personnel do not review a professor’s ERes selection for copyright compliance unless it raises a “red flag” – a standard that is not defined in the policy and that has been triggered only once across thousands of course reading materials. [Dimsdale Dep. at 59:23-64:8; 73:8-10.]

126. *GSU library personnel post the requested material to ERes by scanning it (thereby creating a copy on a GSU computer) and then uploading the material to a computer server owned by GSU. [Stipulated Facts ¶ 53.]*

127. Employees of GSU save Electronic Course Material to a GSU computer server so that it may be made available to ERes users enrolled in a specified course during the time. [Stipulations of Fact Regarding ERes and uLearn Usage at GSU (Docket No. 118) (hereinafter “ERes/uLearn Stipulations”) ¶ 2.]

128. *Students in a given course access the posted digital copies via a web page with the ERes web interface that is dedicated to the specific course (a “course page”). [Stipulated Facts ¶ 54.]*

129. *Electronic course reading materials accessed via ERes can be printed and downloaded and/or saved by the ERes user to his or her hard drive. [Stipulated Facts ¶ 55.]*

130. *Students are able to, and sometimes do, view, download, and print copies of course reading material posted on ERes. [Stipulated Facts ¶ 56.]*

131. *Multiple copies of copyrighted works are made every time a GSU student accesses course reading via ERes: one copy when a student views the work, another copy if the student saves the material, and yet another copy if the student prints the material. [Stipulated Facts ¶ 57.]*

132. Licenses to make digital copies of excerpts of Plaintiffs’ works available electronically to students via ERes (or comparable digital distribution systems) can be obtained easily from CCC or directly from the Plaintiffs. [Anticipated testimony of Frank Smith, Carol Richman, Niko Pfund and Tracey Armstrong; Plaintiffs’ Exhibit 672 ¶ 9; Plaintiffs’ Exhibit 671 ¶11; Plaintiffs’ Exhibit 673 ¶ 17.]

133. *The GSU library staff is aware that the ERes software offers copyright compliance features, but it does not utilize these features. [Stipulated Facts ¶ 58.]*

134. GSU administrators are aware that Plaintiffs offer licenses to make copies of their works available electronically. [Palmour Dep. at 153:20-154:4; Burtle Dep. at 25:25-26:4; Deposition of William Potter, Docket No. 170 (“Potter Dep.”) at 29:8-18; Seamans Dep. at 42:23-32:6.]

135. *GSU has not budgeted for, does not intend to budget for, and has not established any procedures for obtaining licenses or permission to post electronic course material, including on ERes. [Stipulated Facts ¶ 59.]*

136. *GSU has not produced any evidence of fees paid for posting course reading material on ERes since 2003. [Plaintiffs' Exhibit 678; Palmour Dep. at 153:1-154:7; anticipated Testimony of Tracey Armstrong]*

C. The uLearn System at GSU

137. *uLearn is the electronic course management system that USG licenses from third-party vendor Blackboard/WebCT. [Stipulated Facts ¶ 72.]*

138. *uLearn resides on a server that is owned and maintained by USG. GSU pays USG a license fee of more than \$250,000 for use of the uLearn software. [Stipulated Facts ¶ 73.]*

139. *Instructors at GSU may post electronic course reading materials on uLearn. [Stipulated Facts ¶ 74.]*

140. *GSU encourages instructors to post reading materials on uLearn for distribution to students. [Stipulated Facts ¶ 75.]*

141. *GSU instructors can upload material to uLearn without ever looking at a copyright policy. [Anticipated testimony of Paula Christopher; Deposition of Paula Christopher, Docket No. 168 ("Christopher Dep.") at 79:20-23, 109:2-22.]*

142. *Instructors' use of uLearn increased in the five years preceding this litigation. [Anticipated testimony of Paula Christopher; Christopher Dep. at 28:19-21.]*

143. *As part of the process of posting electronic course materials to uLearn, instructors at GSU or their authorized representatives save copies of the materials to their computers to facilitate the upload of these files to the uLearn system. [Stipulated Facts ¶ 76.]*

144. *The only limitation on the quantity of material that can be posted to uLearn is a limit on the size of each individual digital file. [Stipulated Facts ¶ 77.]*

145. *Large digital files can be split into multiple PDF files and posted to uLearn. [Stipulated Facts ¶ 78.]*

146. *GSU students enrolled in a specified course may use uLearn to access electronic course materials made available for that course. Such access is tracked and listed on the uLearn reports. [Stipulated Facts ¶ 79.]*

147. *Reading materials distributed through uLearn generally are in the PDF format, and copies of the material are made every time a student accesses material via uLearn. [Stipulated Facts ¶ 80.]*

148. *Certain GSU instructors post required course reading materials on uLearn, including unlicensed copyrighted materials. [Anticipated testimony of YouJin Kim; Reifler Dep. at 40:15-22.]*

149. *In the Fall 2009 Semester, Professor Kim posted 24 required course readings to uLearn, including many unauthorized excerpts of Plaintiffs' copyrighted works. [Plaintiffs' Exhibit 519 (syllabus); Anticipated Testimony of YouJin Kim].*

150. *Electronic course materials accessed via uLearn can be printed and/or downloaded and/or saved by the uLearn user to his or her hard drive. [Stipulated Facts ¶ 81.]*

151. *GSU students pay a fee to the university for printing provided by GSU. [Stipulated Facts ¶ 82.]*

152. *GSU has access to various data regarding usage of uLearn, including which course materials a student has accessed. [Stipulated Facts ¶ 83.]*

153. *The uLearn software has the ability to create reports ("uLearn Reports") that depict information regarding those files made available on uLearn to authorized student users enrolled in the course for which the files were posted, including any electronic course reading materials. [Stipulated Facts ¶ 84.]*

154. Defendants have been unable to produce information or reports about the specific files distributed to students through uLearn, including electronic course reading material, because the files are named individually by instructors in a manner that makes it impossible for Plaintiffs to identify the material associated with each file. [Anticipated testimony of Paula Christopher.]

155. For the semesters referenced in the March 15, 2011 Joint Filing, GSU did not produce uLearn Reports similar to the ERes reports they provided to Plaintiffs. [Anticipated testimony of Paula Christopher.]

156. As of June 10, 2009, there were approximately 2,500 active course pages on the uLearn system, approximately 150,000 total course pages, and more than 22,939 users with access to the uLearn system. [Anticipated testimony of Paula Christopher; Christopher Dep. at 60:14-61:9, 93:14-23.]

157. GSU has no plans to institute procedures to ensure that instructors comply with the Board of Regents copyright policy with regard to their use of uLearn. [Anticipated testimony of Paula Christopher; Christopher Dep. at 109:14-17.]

IV. GSU'S POLICIES REGARDING ELECTRONIC COURSE MATERIAL DISTRIBUTION

A. GSU's Policy Prior to February 2009

158. Prior to February 2009, USG made available a set of guidelines on copyright law titled "Regents' Guide to Understanding Copyright & Educational Fair Use." [Plaintiffs' Exhibit 681]

159. Defendants' expert Dr. Kenneth Crews reviewed this policy at the time of its promulgation in 1997 and characterized it as one "that just says yes to everything." [Deposition of Kenneth Crews, Docket No. 176 ("Crews Dep.") at 20:2-6; 22:9-23:12.]

160. Dr. Crews communicated "serious concerns" about the policy, which remained in place from 1997 to 2009. [Crews Dep. at 21:2-3; Plaintiffs' Exhibit 733.]

161. Under the pre-2009 guidelines, GSU library employees reviewed requests to post material on ERes solely to determine whether (1) the library owned a copy of the requested work and (2) the requested excerpt was shorter than the greater of one chapter or 20 percent of the total work. [Anticipated Testimony of Denise Dimsdale, James Palmour; Palmour Dep. at 40:2-19; 79:3-9; Burtle Dep. at 54:11-13, 142:8-10, 146:10-16.]

162. Under the pre-2009 guidelines, thousands of copyrighted works were placed on ERes each semester. [See *supra* ¶V.A.206.]

B. GSU's Current Copyright Policy

163. *The Board of Regents introduced a new copyright policy for USG schools on February 17, 2009. [Stipulated Facts ¶ 86.]*

164. *The policy was the result of efforts by the Board of Regents Select Committee on Copyright, which convened in late December 2008, eight months after the commencement of this lawsuit. [Stipulated Facts ¶ 87.]*

165. *Plaintiffs were first advised about the new copyright policy in February 2009, following public announcement of the new policy. [Stipulated Facts ¶ 88.]*

166. *The new copyright policy was implemented at GSU to some extent during the 2009 Maymester and more fully during the 2009 Summer semester. [Stipulated Facts ¶ 89.]*

167. *The new policy makes the instructor responsible for evaluating whether a particular reading posted on ERes is fair use by completing a "Fair Use Checklist" form (the "Checklist"). [Stipulated Facts ¶ 90.]*

168. On occasion, GSU administrators have become aware that professors were not complying with their copyright responsibilities but took no action. Christopher Dep. at 112:19-113:1.]

169. Defendants concede that some professors did not comply with the checklist retention requirements of the GSU copyright policy. [Def. Mem. in Opposition to Pl. Motion in Limine to Preclude the Admission of Recently Created Fair Use Checklist, Docket No. 290 at 4.]

C. The “Fair Use Checklist”

170. The Fair Use Checklist lists the four nonexclusive statutory fair use factors. Under each factor, it lists some possible characteristics of the proposed use of the course material under a “weighs in favor of fair use” column and a “weighs against fair use” column. [Plaintiffs’ Exhibit 687.] As discussed in Plaintiffs’ Proposed Conclusions of Law, the listing of these characteristics on the checklist does not accurately reflect fair use case law in numerous respects.

171. The GSU policy calls for the instructor to fill out the Checklist for each work he or she proposes to digitally distribute and to retain a copy. [Plaintiffs’ Exhibit 687.]

172. The instructor must review each of the listed characteristics and indicate which ones apply to the proposed use by marking the corresponding boxes. [Plaintiffs’ Exhibit 687.]

173. The instructor is required to add up the checks in each column for each of the four factors. If there are more checks in the “weighs in favor of fair use” column than in the “weighs against fair use” column, the factor is deemed to favor fair use. [Plaintiffs’ Exhibit 687.]

174. Under the GSU policy, each statutory factor and each of the listed criteria on the Checklist is given equal weight. [Plaintiffs’ Exhibit 687.]

175. GSU did not produce any Checklists on which a proposed reading was found not to be a fair use. [See, e.g., Plaintiffs’ Exhibit 558-624; 631-652; 654-664; 629; 681.]

176. GSU did not produce a single checklist on which a single statutory factor was found to weigh against fair use.

177. The Checklists produced by GSU showed that the instructors virtually always get at least two, and usually three, points in favor of fair use by marking “Nonprofit educational” and “Teaching” as well as “Use is necessary to achieve your intended educational purpose” under Factor 1, and GSU instructors invariably find that Factor 1 inevitably weighs in favor of fair use. [See, e.g., Plaintiffs’ Exhibits 558-624; 631-652; 654-664; 629;

881.].

178. Despite the fact that GSU instructors have acknowledged that photocopying a work for teaching purposes is not transformative, in completing the Checklist, GSU instructors rarely check the box for “non-transformative.” [Anticipated testimony of GSU instructors; Seamans Dep. at 180:17–181:18, 192:25–193:21; Burtle Dep. at 170:4–7; Reifler Dep. at 56:25–57:20; 58:22–59:13; Kaufmann Dep. at 67:7–68:20; 77:18–78:12; Belcher Dep. at 91:15–20, 117:12–18; Dimsdale Dep. at 52:15–17; Potter Dep. at 155:21–22; Belcher Dep. at 89:4–5; 91:6–14; *see also* Plaintiffs’ Exhibit 558-624; 631-652; 654-664; 629; 881.]

179. GSU instructors invariably find that Factor 2 of the Checklist weighs in favor of fair use when published, non-fiction works are used for teaching purposes despite the fact that GSU instructors have acknowledged that the scholarly works at issues are not purely factual compilations. [Anticipated testimony of GSU instructors; Seamans Dep. at 196:11–197:15; Reifler Dep. at 63:24–65:11; Belcher Dep. at 119:9–15; *see also* Plaintiffs’ Exhibits 558-624; 631-652; 654-664; 629; 881.]

180. In completing the Checklist, GSU instructors have considered the distribution of a copyrighted work to all students enrolled in a course not be a “public distribution.” [Anticipated testimony of GSU instructors; Plaintiffs’ Exhibits 558-624; 631-652; 654-664; 629; 881.]

181. In completing the Checklist, GSU instructors consider it impossible or unlikely that any chapter in an edited compilation of independent articles could represent “the heart of the work” under Factor 3, even where multiple articles from such a compilation are used in their entirety. [Anticipated testimony of GSU instructors; Kaufmann Dep. at 80:13–81:3; Belcher Dep. at 95:20–96:1.]

182. GSU did not produce a single Checklist on which “large portion or entire work used” was marked under Factor 3, even where the Checklist reflected the proposed use of one or more complete chapters. [Plaintiffs’ Exhibits 558-624; 631-652; 654-664; 629; 881.]

183. In completing the Checklist, GSU instructors generally find that the amount taken is narrowly tailored even though the proposed use may reflect the use of multiple chapters. [Anticipated testimony of GSU instructors; Plaintiffs' Exhibits 558-624; 631-652; 654-664; 629; 881.]

184. On more than 90 percent of the Checklists produced by GSU, the instructor did not take into account the availability of a license under Factor 4. [Plaintiffs' Exhibit 588-665; 688; 692; 694; 696; 698; 842; 844; 845; 849; 878-882; 891-894; 938; Docket No. 188; Anticipated testimony of GSU instructors; *see also* Reifler Dep. at 75:1-4; Kaufmann Dep. at 65:23-66:8, 74:15-22, 85:17-22, 86:3-7.]

185. GSU instructors have incorrectly considered the posting of a copyrighted work on ERes or uLearn to constitute the making of a single copy rather than a distribution of multiple copies. [Anticipated testimony of GSU instructors; Belcher Dep. at 105:9-22; Reifler Dep. at 95:6-10; Stipulated Fact No. 57 (acknowledging that multiple copies are made).]

186. GSU did not produce a single Checklist on which "repeated or long-term use that demonstrably affects the market for the work" was checked even where the proposed use is of course reading material that has been used repeatedly semester after semester. [Plaintiffs' Exhibits 558-624; 631-652; 654-664; 629; 881.]

187. GSU did not produce a single Checklist on which "significantly impairs market or potential market for copyrighted work or derivative work" was marked. [Plaintiffs' Exhibits 588-665; 891-894; 938; Docket No. 188.]

V. THE ONGOING DISTRIBUTION OF PLAINTIFFS WORKS AT GSU

A. Usage Statistics for ERes at GSU

188. *The term "ERes Reports" means those reports generated by the electronic course reserve system at GSU and produced by Defendants to Plaintiffs in this action. [Stipulated Facts ¶ 60.]*

189. *The ERes Reports were generated using computers and software within the possession, custody, and control of Defendants. [Stipulated Facts ¶ 61.]*

190. *The ERes software has the ability to create reports that contain information regarding electronic course materials posted on ERes and accessed by ERes users. [Stipulated Facts ¶ 62.]*

191. *The ERes Reports produced by Defendants to Plaintiffs in this action were created using the ERes software's reporting capabilities. [Stipulated Facts ¶ 63.]*

192. The ERes Reports were not altered by Defendants following their creation and were produced to Plaintiffs exactly as they were generated by the ERes software. [ERes/uLearn Stipulations ¶ 7.]

193. *Each row on the ERes Reports provides information regarding distinct electronic course material posted on ERes for a specified course. [Stipulated Facts ¶ 64.]*

194. *The ERes Reports lists electronic course materials available on the ERes system for a specified course during the time periods specified in the "Date Range" column. [Stipulated Facts ¶ 64.]*

195. *Employees of GSU manually input into the ERes system the information that appears in the columns of the ERes Reports bearing the headings "Document" and "Course Reserves Page." [Stipulated Facts ¶ 66.]*

196. The ERes software compiles and stores the information entered by GSU employees as to each electronic course material posted on the system. [ERes/uLearn Stipulations ¶ 11.]

197. *The ERes software tracks the number of times each electronic course material on the system is accessed by an ERes user. [Stipulated Facts ¶ 67.]*

198. *The information in the "Document" column on the ERes Report identifies the title of a specific electronic course material made available on the ERes for the course specified in the "Course Reserves Page" column. [Stipulated Facts ¶ 68.]*

199. *The information in the “Course Reserves Page” column on the ERes Report identifies the course for which the specific electronic course material in that row of the report is/was offered through ERes. [Stipulated Facts ¶ 69.]*

200. *Where a personal name is given in the “Course Reserves Page” column on the ERes Reports, it refers to the instructor of the identified course. [Stipulated Facts ¶ 70.]*

201. *Where a season and year are given in the Course Reserves Page column on the ERes Reports (e.g., “Fall 2008” or “Spring 2008”), the information typically refers to the semester during which the identified course was offered. [Stipulated Facts ¶ 71.]*

202. The information in the “Date Range” column of each ERes Report identifies the time period during which the ERes activity documented by the Report took place. [ERes/uLearn Stipulations ¶ 17.]

203. Occasionally, when an ERes report is generated for a semester prior to the date on which the report is generated (e.g., when a report for a 2009 semester is run in 2010), the Course Reserves Page listing for a given course may list the semester and year of the most recent semester in which the course was taught (as opposed to the prior semester) because the Course Reserves Page was updated when the course was taught again. In these situations, however, the activity revealed on the report represents activity during the dates in the Date Range column of the report. [Anticipated testimony of Jim Palmour and Denise Dimsdale.]

204. The data in the “Hit Count” column of each ERes Report represents the number of times the specific electronic course material listed in that row of the report was accessed by ERes users during the corresponding time period. [ERes/uLearn Stipulations ¶ 18; Anticipated testimony of James Palmour.]

205. Each “hit” represented in the “Hit Count” column of the ERes Reports represents the display of the corresponding electronic course material on an authorized user’s computer monitor. [ERes/uLearn Stipulations ¶ 20.]

206. Thousands of copyrighted excerpts were offered via ERes each semester between 2005 and the Spring 2009 semester, before the adoption of the new Copyright Policy at GSU. [See Palmour Dep. at 102:5-107:3; Plaintiffs' Exhibits 700 (Spring 2005 ERes Report); 701 (Fall 2006 ERes Report); 702 (Spring 2007 ERes Report); 703 (Fall 2007 ERes Report); 704 (Spring 2008 ERes Report); 710 (Summer 2008 ERes Report); 705 (Fall 2008 ERes Report); 679 (Spring 2009 ERes Report).]

207. During the three weeks of classes in May 2009 ("2009 Maymester"), over 500 unlicensed course materials were posted to ERes. These postings (which exclude links to licensed copies of journal articles and ERes entries that merely reference call numbers for a book in hardcopy library reserves) were accessed over 3,000 times. [See Joint Exhibit 1.]

208. During the Summer 2009 semester, more than 400 unlicensed course materials were posted to ERes. These postings (which exclude links to licensed copies of journal articles and entries referencing hard-copy course reserves) were accessed over 6,000 times. [See Joint Exhibit 2.]

209. During the Fall 2009 semester, approximately 1,000 unlicensed course materials were posted to ERes – including 44 excerpts posted to ERes for the course "Advanced Developmental Psychology" (EPY8220) alone, and 37 excerpts for the course "Comparative Culture" (PERS2001). These materials (which exclude links to licensed copies of journal articles and entries referencing hard-copy course reserves) were accessed nearly 4,000 times. [See Joint Exhibit 3.]

B. Distribution of Plaintiffs' Works on the Parties' March 15, 2011 Joint Filing of Alleged Infringements (the "Joint Filing")

210. Under the new copyright policy, GSU professors have posted full chapters and multiple chapters of copyrighted works to ERes. For example, during the 2009 Maymester, Professor Kaufmann posted seven chapters comprising 187 pages from *The SAGE Handbook of Qualitative Research* to ERes for her EPS8500 class. [Joint Exhibit 3.]

211. The Joint Filing (Docket No. 266) represents alleged infringements of Plaintiffs' works at GSU during the 2009 Maymester, Summer 2009 term, and Fall 2009 term, as derived from ERes reports and

syllabi produced by Defendants pursuant to the Court's November 5, 2010 Order. [Joint Filing.][†]

212. Reading the Joint Filing charts (Exhibits A, B, and C) from left to right:

- The information in the “course title” column identifies the course in which the allegedly infringing work in that row was distributed electronically;
- The information in the “instructor” column identifies the instructor of the identified course;
- The information in the “title of work” column identifies the Plaintiff work that was made available to GSU students in electronic or digital format via ERes or uLearn;
- The information in the “copyright owner of work” column identifies the Plaintiff that is the owner or exclusive licensee of the work in that row;
- The information in the “description” column includes a brief description of the work, including the total number of pages and chapters;
- The information in the next three columns indicates the number of chapters, page range, and number of pages of the work that were electronically distributed for use in that course during that semester;
- The information in the “percent copied and distributed” column represents the percent of the work that was copied and distributed electronically for use in that course during that semester;
- The information in the “retail list price” column indicates the retail price of the work at the time that work was allegedly infringed, i.e.,

[†] Plaintiffs have not identified every entry on the Joint Filing as a separate Proposed Finding of Fact here, but incorporate by reference here every aspect of the Joint Filing other than Defendants' objections.

what a student would have had to pay to purchase the entire work at the time that it was allegedly infringed. This is the list price for the work if purchased new and does not account for the fact that some retailers charge less than the list price.

- The information in the “licensing cost per student” column identifies the cost of licensing the excerpt(s) of the work that was electronically distributed for use in that course during that semester, i.e., the amount it would have cost to license the excerpt for distribution in that course; beneath the first number, in parentheses, is the cost of licensing the excerpt(s) for a class of twenty students;
- The information in the “actual class size” column identifies the number of students that were actually enrolled in the identified course and, beneath that number, the amount that it would have cost to license the excerpt(s) to a class that size, including the \$3.00 service fee charged at the time by CCC;
- The information in the “copyright registration number” column identifies the U.S. copyright registration number for those works that are registered with the U.S. Copyright Office or indicates “first published in the United Kingdom” for those works that were first published in the United Kingdom (by at least 30 days) and, therefore, are foreign works protected under the Berne Convention. [Joint Filing.]

213. In addition to the uses of Plaintiffs’ works detailed in the Joint Filing, the ERes reports for the Maymester 2009, Summer 2009 term, and Fall 2009 term (Joint Exhibits 1-3) also demonstrate Defendants’ extensive distribution of copyrighted material via ERes during these academic terms – including the number of times each of the works on the report was accessed (or “hit”) during the term. During the Summer 2009 semester, for example, a total of 15 complete chapters from 4 different books were posted to ERes for the course “Introduction to Sociology” (SOC1101) [*see* Joint Exhibit 2.]

C. GSU's Continued Use of Works Identified in the Amended Complaint

214. GSU did not obtain permission from Plaintiffs or CCC for the digital duplication, display, or distribution of any of the works listed in Exhibit 1 to the Amended Complaint. [GSU Answer, Docket No. 42, ¶¶ 22 et seq.; Anticipated Testimony of Frank Smith, Carol Richman, and Niko Pfund.]

215. Several of Plaintiffs' works on the Joint Filing were identified in Plaintiffs' Amended Complaint and demonstrate instructors' repeated use of the works without authorization semester after semester, even after the promulgation of GSU's new copyright policy. [Amended Complaint; Joint Filing.]

216. For example, GSU professors have continued to place excerpts of John Blassingame's *The Slave Community* (a Joint Filing work) on ERes. This material was accessed a total of 889 times between January 2005 and January 2009. [GSU Answer ¶ 27; Plaintiffs' Exhibit 736 (ERes Report).]

217. GSU Professor Patricia Dixon has taught the courses "African-American Male/Female Relationships" (AAS4030) and "African-American Family" (AAS3000) on various occasions over the past few years. Professor Dixon placed Chapters 4 and 7 (a total of 78 pages) from *The Slave Community* on ERes for the students enrolled in these courses during the Spring 2007, Fall 2007, Spring 2008, Fall 2008, and Spring 2009 semesters. [Plaintiffs' Exhibits 716, 717, 718, 719, 720, 721, 736; Palmour Dep. at 193:7-16, 201:6-13, 202:19-25, 206:7-15, 207:5-8, 210:7-11.]

218. *Professor Dixon placed Chapter 7 of The Slave Community on ERes for students in her course "African American Family" (AAS3000) during the Fall 2009 semester. [Stipulated Facts ¶ 85].*

219. GSU Professor Ann Kruger placed Chapter 6 (39 pages) of Laura Berk's *Awakening Children's Minds: How Parents and Teacher Can Make a Difference* on ERes for the eighteen students enrolled in her course "Psychology of Learning: Young Children" (EPY7090) during the Fall 2007 semester. [GSU Answer ¶ 27; Plaintiffs' Exhibit 722; Palmour Dep. at 185:18-25, 223:15-20.]

220. Various GSU professors have placed excerpts of *The SAGE Handbook of Qualitative Research* (second and third editions) on ERes, both before and after the adoption of GSU's new copyright policy. [GSU Answer ¶¶ 22, 23; Plaintiffs' Exhibit 723 and 736; Palmour Dep. at 173 – 220; Kaufmann Dep. at 105:24–106:7.]

221. GSU Professor Jodi Kaufmann placed several chapters totaling approximately 150 pages of *The Handbook of Qualitative Research* on ERes for the ten students enrolled in her course "Interpretive Inquiry in Education" (EPSF9280) during the Fall 2006 semester. [Plaintiffs' Exhibit 701 (ERes report); 724 (syllabus); 265 and 267 (books).]

222. During the Fall 2007 semester, the following portions of *The SAGE Handbook of Qualitative Research* (3d ed.) were placed on ERes for Professor Kaufmann's course "Qualitative/Interpretive Research in Education I" (EPS8500):

- Chapter 5, "Freeing Ourselves from Neocolonial Domination in Research" (pages 109-138), by Russell Bishop
- Chapter 12, "Rethinking Critical Theory and Qualitative Research" (pages 303-341), by Joe L. Kincheloe & Peter McLaren
- Chapter 14, "Critical Humanism and Queer Theory: Living With the Tensions" (pages 357-373), by Kenneth Plummer
- Chapter 17, "Qualitative Case Studies" (pages 443-465), by Robert Stake
- Chapter 22, "Testimonio, Subalternity, and Narrative Authority" (pages 547-557), by John Beverly
- Chapter 25, "Narrative Inquiry" (pages 651-679), by Susan Chase and
- Chapter 36, "Relativism, Criteria, and Politics" (pages 915-932), by John Smith & Phil Hodkinson.

[GSU Answer ¶ 23; Plaintiffs' Exhibit 723 (syllabus).]

223. During the Spring 2008 semester, the following portions of *The SAGE Handbook of Qualitative Research* (3d ed.) were placed on ERes for Professor Kaufmann's course "Qualitative Research in Education II" (EPRS8510):

- Chapter 5, "Freeing Ourselves from Neocolonial Domination in Research" (pages 109-138), by Russell Bishop
- Chapter 14, "Critical Humanism and Queer Theory: Living With the Tensions" (pages 357-373), by Kenneth Plummer
- Chapter 17, "Qualitative Case Studies" (pages 443-465), by Robert Stake
- Chapter 22, "Testimonio, Subalternity, and Narrative Authority" (pages 547-557), by John Beverly
- Chapter 25, "Narrative Inquiry" (pages 651-679), by Susan Chase
- Chapter 36, "Relativism, Criteria, and Politics" (pages 915-932), by John Smith & Phil Hodgkinson and
- Chapter 38, "Writing: A Method of Inquiry" (pages 959-978), by Laurel Richardson & Elizabeth Adams St. Pierre.

[GSU Answer ¶ 23; Plaintiffs' Exhibits 808 (syllabus) and 704 (ERes Report).]

224. During the Spring 2007 semester, GSU Professor Diane Belcher placed the following excerpts of *The Handbook of Qualitative Research* (2d Ed.), totaling over 130 pages, on ERes for the ten students enrolled in her course "Qualitative Research" (AL8961):

- pages 163-188 of Chapter 6, "Paradigmatic Controversies, Contradictions, and Emerging Confluences," by Yvonna S. Lincoln and Egon G. Guba
- pages 435-454 of Chapter 16, "Case Studies," by Robert Stake
- pages 455-486 of Chapter 17, "Ethnography and Ethnographic Representation," by Barbara Tedlock

- pages 509-535 of Chapter 19, “Grounded Theory: Objectivist and Constructivist Methods,” by Kathy Charmaz and
- pages 645-672 of Chapter 24, “The Interview: From Structured Questions to Negotiated Text,” Andrea Fontana and James H. Frey.

[Plaintiffs’ Exhibits 702 and 725.]

225. During the Fall 2007 semester, Professor Belcher placed pages 673-702 of Chapter 25, “Rethinking Observation: From Method to Context,” of *The Handbook of Qualitative Research* (2d ed.) on ERes for the students enrolled in her course “Qualitative Methods in Sociology” (SOCI8342). [Plaintiffs’ Exhibits 703 (ERes Report), 265 and 267 (books).]

226. During the Spring 2007 semester, GSU Professor Jennifer Esposito placed Chapter 12, “Rethinking Critical Theory and Qualitative Research” (pages 303-341), by Joe L. Kincheloe & Peter McLaren and Chapter 25, “Narrative Inquiry” (pages 651-679), by Susan Chase, of *The Handbook of Qualitative Research* (3d ed.) on ERes for the students enrolled in her course “Qualitative Research” (AL8961). [Plaintiffs’ Exhibits 702 (ERes Report), 265 and 267 (books).]

VI. PLAINTIFFS’ OWNERSHIP OF THE COPYRIGHTED WORKS AT ISSUE IN THE LITIGATION

A. Cambridge University Press

227. Cambridge is the owner or exclusive licensee of the copyright in each of the Cambridge works identified in Plaintiffs’ Amended Complaint. [Anticipated Testimony of Frank Smith.]

228. Each Cambridge work identified on Plaintiffs’ Amended Complaint is registered with the U.S. Copyright Office or is a work first published in the United Kingdom protected under U.S. copyright law under the Berne Convention. [Anticipated Testimony of Frank Smith; Plaintiffs’ Exhibit 672 (Smith Decl.) ¶¶ 11, 14, 15, 24, 25, 31.]

229. Cambridge owns the copyright to Paul T. Nicholson & Ian Shaw's *Ancient Egyptian Materials and Technology* as a whole and the copyrights to the individual essays that make up the book's individual chapters. Cambridge has registered *Ancient Egyptian Materials and Technology* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 7-12.]

230. Cambridge owns the copyright to James Purpura's *Assessing Grammar*. Cambridge has registered *Assessing Grammar* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 16-17.]

231. Cambridge owns the copyright to Dan Douglas's *Assessing Language for Specific Purposes*. *Assessing Language for Specific Purposes* was published in the United Kingdom on December 9, 1999, more than thirty days before its February 28, 2000 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 21-22.]

232. Cambridge owns the copyright to Gary Buck's *Assessing Listening*. Cambridge has registered *Assessing Listening* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 25-26.]

233. Cambridge owns the copyright to Charles Alderson's *Assessing Reading*. *Assessing Reading* was published in the United Kingdom on February 24, 2000, more than thirty days in advance of its March 28, 2000 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 30-31.]

234. Cambridge owns the copyright to Sari Luoma's *Assessing Speaking*. Cambridge has registered *Assessing Speaking* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 35-36.]

235. Cambridge owns the copyright to John Read's *Assessing Vocabulary*. Cambridge has registered *Assessing Vocabulary* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 45-46.]

236. Cambridge owns the copyright to Sara Cushing Weigle's *Assessing Writing*. Cambridge has registered *Assessing Writing* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 40-41.]

237. Cambridge owns the copyright to *The Cambridge Companion to the Organ* as a whole and the copyrights to the individual essays that make up the book's individual chapters. *The Cambridge Companion to the Organ* is a foreign work protected under the Berne Convention, and Cambridge has registered chapters 14 and 15 of *The Cambridge Companion to the Organ* with the U.S. Copyright Office in its own name. [Plaintiffs' Exhibit 672 (Smith Decl.) ¶¶ 24, 21; Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 164-167.]

238. Cambridge owns the copyright to I.S.P. Nation's *Learning Vocabulary in Another Language*. Cambridge has registered *Learning Vocabulary in Another Language* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 126-127.]

239. Cambridge owns the copyright to *Companion to Beethoven* as a whole and the copyright to the individual essays that make up the book's individual chapters. Cambridge has registered *Companion to Beethoven* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 54-56.]

240. Cambridge owns the copyright to *Cambridge Companion to Mendelssohn* as a whole and the copyrights to the individual essays that make up the book's individual chapters. *Cambridge Companion to Mendelssohn* was published in the United Kingdom on October 21, 2004, more than thirty days before its November 29, 2004 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 66-68.]

241. Cambridge owns the copyright to *Cambridge Companion to Schumann* as a whole and the copyrights to the individual essays that make up the book's individual chapters. *Cambridge Companion to Schumann* was published in the United Kingdom on June 28, 2007, more than thirty days in advance of its August 13, 2007 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 76-77.]

242. Cambridge owns the copyright to Denis Twitchett and Frederick Mote's *Cambridge History of China* (vol. 8, part 2) as a whole and the copyrights to the individual essays that make up the book's individual chapters. Cambridge has registered *Cambridge History of China* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 80-82.]

243. Cambridge owns the copyright to James Dean Brown and Thom Hudson's *Criterion Referenced Language Testing*. Cambridge has registered *Criterion Referenced Language Testing* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 86-87.]

244. Cambridge owns the copyright to Penny Ur and Andrew Wright's *Five Minute Activities*. Cambridge has registered *Five Minute Activities* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 91-92.]

245. Cambridge owns the copyright to Penny Ur's *Grammar Practice Activities*. *Grammar Practice Activities* was published in the United Kingdom on December 15, 1988, more than thirty days before its February 24, 1989 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 100-101.]

246. Cambridge owns the copyright to Gill Plain and Susan Seller's *A History of Feminist Literary Criticism* as a whole and the copyrights to the individual essays that make up the book's individual chapters. *A History of Feminist Literary Criticism* was published in the United Kingdom on August 30, 2007, more than thirty days before its October 8, 2007 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 104-105.]

247. Cambridge owns the copyright to *International Health Organisations and Movements* as a whole and the copyrights to the individual essays that make up the book's individual chapters. Cambridge has registered *International Health Organisations and Movements* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 109-111.]

248. Cambridge is the exclusive licensee of the copyright to Friederike Klippel's *Keep Talking: Communicative Fluency for Language Teaching* (193 pages). *Keep Talking: Communicative Fluency for Language Teaching* was published in the United Kingdom on February 14, 1985, more than thirty days before its April 26, 1985 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 115-116.]

249. Cambridge owns the copyright to *Language Acquisition and Conceptual Development* as a whole and the copyrights to the individual essays that make up the book's individual chapters. Cambridge has registered *Language Acquisition and Conceptual Development* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 120-122.]

250. Cambridge owns the copyright to Kenneth Hamilton's *Liszt: Sonata in B Minor*. Cambridge has registered *Liszt: Sonata in B Minor* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 131-132.]

251. Cambridge owns the copyright to Paul Davis and Mario Rinvoluceri's *More Grammar Games*. Cambridge has registered *More Grammar Games* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 135-136.]

252. Cambridge owns the copyright to Mark Hancock's *Pronunciation Games*. *Pronunciation Games* was published in the United Kingdom on December 7, 1995, more than thirty days before its February 23, 1996 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 139-140]

253. Cambridge owns the copyright to Lawrence Kirmayer, Robert Lemelson and Mark Barad's *Understanding Trauma* as a whole and the copyrights to the individual essays that make up the book's individual chapters. Cambridge has registered *Understanding Trauma* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 143-145.]

254. Cambridge owns the copyright to Judy DeLoache and Alma Gottlieb's *A World of Babies* as a whole and the copyrights to the individual essays that make up the book's individual chapters. Cambridge has registered *A World of Babies* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibits 148-151.]

B. Oxford University Press

255. Oxford is the owner or exclusive licensee of the copyright to each of the Oxford works identified in Plaintiffs' Amended Complaint. [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 673 (Declaration of Niko Pfund) ¶¶ 22, 25, 28, 31.]

256. Each Oxford work identified on Plaintiffs' Amended Complaint is registered with the U.S. Copyright Office or is a work first published in the United Kingdom protected under U.S. copyright law under the Berne Convention.

257. *Oxford owns the exclusive copyright to Laura Berk's Awakening Children's Minds (296 pages). Oxford has registered Awakening Children's Minds with the U.S. Copyright Office in its own name. [Stipulated Facts ¶ 100.]*

258. Oxford owns the exclusive copyright to John Blassingame's *The Slave Community* (382 pages). Oxford has registered *The Slave Community with the U.S. Copyright Office in its own name.* [Stipulated Facts ¶ 101.]

259. Oxford owns the copyright to Sharlene Hesse-Biber's and Patricia Leavy's *Approaches to Qualitative Research* (546 pages), while SAGE owns the copyright in the chapter by Norman Denzin entitled "The Practices and Politics of Interpretation." Oxford has registered *Approaches to Qualitative Research* with the U.S. Copyright Office in its own name, and SAGE has registered *the Handbook of Qualitative Research in its name.* [Anticipated Testimony of Niko Pfund and Carol Richman; Plaintiffs' Exhibits 349-350.]

260. Oxford owns the copyright to *Behavior, Society, and Nuclear War, Vol. 1* as a whole, including the copyrights to the individual essays that make up the book's individual chapters. Oxford registered *Behavior, Society, and Nuclear War, Vol. 1* with the U.S. Copyright Office in its own name effective February 6, 1990, just a month after the January 18, 1990 publication of the book. [Anticipated Testimony of Niko Pfund; Declaration of Niko Pfund in Opposition to Defendants' Motion In Limine ¶ 9; Plaintiffs' Exhibits 360-361.]

261. Oxford owns the copyright to *Challenges of the Third Age: Meaning and Purpose in Later Life* as a whole, including the copyrights to the individual essays that make up the book's individual chapters. Oxford has registered *Challenges of the Third Age: Meaning and Purpose in Later Life* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Niko Pfund; Declaration of Niko Pfund in Opposition to Defendants' Motion In Limine ¶ 7; Plaintiffs' Exhibits 364-365.]

262. Oxford owns the copyright to Kenneth Jackson's *Crabgrass Frontier: The Suburbanization of the United States* (306 pages). Oxford has registered *Crabgrass Frontier: The Suburbanization of the United States* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 369-370.]

263. Oxford is the exclusive licensee of Robert Alford's *The Craft of Inquiry: Theories, Methods, Evidence*. *The Craft of Inquiry: Theories, Methods, Evidence* is registered with the U.S. Copyright Office in the name of the author. [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 373-374.]

264. Oxford has the exclusive right to distribute any portion of Scott Mainwaring and Christopher Welna's *Democratic Accountability in Latin America* (332 pages) and has the right to file suit in the name of the authors. *Democratic Accountability in Latin America* was published in the United Kingdom on July 31, 2003, more than thirty days before its October 9, 2003 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 377-378.]

265. Oxford has the exclusive right to distribute any portion of *Dionysus Since 69: Greek Tragedy at the Dawn of the Third Millennium* and has the right to file suit for infringements of any portion of the work pursuant to agreement with Oxford University Press UK (which published the book). *Dionysus Since 69: Greek Tragedy at the Dawn of the Third Millennium* was published in the United Kingdom on January 8, 2004, more than thirty days before its March 11, 2004 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Niko Pfund; Declaration of Niko Pfund in Opposition to Defendants' Motion In Limine ¶ 14; Plaintiffs' Exhibits 378, 381.]

266. Oxford has the exclusive right to distribute any portion of *The Enlargement of the European Union* and has the right to file suit for infringements of any portion of the work pursuant to agreement with Oxford University Press UK (which published the book). *The Enlargement of the European Union* was published in the United Kingdom on March 20, 2003, more than thirty days before its September 18, 2003 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Niko Pfund; Declaration of Niko Pfund in Opposition to Defendants' Motion In Limine ¶ 15; Plaintiffs' Exhibits 378, 383.]

267. Oxford is the exclusive licensee of Paul Ewald's *Evolution of Infectious Disease* (216 pages). *Evolution of Infectious Disease* is registered with the U.S. Copyright Office in the name of the author. [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 389-390.]

268. Oxford is the exclusive licensee of translation rights in *Film Language: A Semiotics of the Cinema*. Oxford has registered the translation of *Film Language: A Semiotics of the Cinema* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 391, 393.]

269. Oxford has the exclusive right to distribute any portion of Lyle Bachman's *Fundamental Considerations in Language Testing* (360 pages). Oxford has registered *Fundamental Considerations in Language Testing* with the U.S. Copyright Office in the Author's name. [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 407-408.]

270. Oxford owns the copyright to *Handbook of Adult Development and Learning* and the copyrights to the individual essays that make up the book's individual chapters. Oxford has registered *Handbook of Adult Development and Learning* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 415-416.]

271. Oxford has the exclusive right to distribute any portion of Lyle Bachman & Adrian Palmer's *Language Testing in Practice* (365 pages). Oxford has registered *Language Testing in Practice* with the U.S. Copyright Office in the Author's name. [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 419-420.]

272. Oxford owns the copyright to Michael Bugeja's *Living Ethics: Across Media Platforms* (305 pages). Oxford has registered *Living Ethics: Across Media Platforms* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 424-425.]

273. Oxford has the exclusive right to distribute any portion of Julian Rushton's *The Music of Berlioz* (347 pages), and has the right to bring a copyright action in the author's name. *The Music of Berlioz* was published in the United Kingdom on August 2, 2001, more than thirty days before its September 27, 2001 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 428, 378.]

274. Oxford owns the copyright to Ichiro Kawachi and Lisa Berkman's *Neighborhoods and Health*, including the copyrights to the individual essays that make up the book's individual chapters. Oxford has registered *Neighborhoods and Health* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Niko Pfund; Declaration of Niko Pfund in Opposition to Defendants' Motion In Limine ¶ 7; Plaintiffs' Exhibits 430-431.]

275. Oxford has the exclusive right to distribute any portion of Peter Grundy's *Newspapers* (129 pages). *Newspapers* was published in the United Kingdom on February 4, 1993, more than thirty days before its March 18, 1993 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 434, 378.]

276. Oxford has the exclusive right to distribute any portion of Jerome and Elizabeth Roche's *North Italian Church Music in the Age of Monteverdi* and has the right to file suit for infringements of any portion of the work pursuant to agreement with Oxford University Press UK (which published the book). *North Italian Church Music in the Age of Monteverdi* was published in the United Kingdom on September 13, 1984, more than thirty days before its November 1, 1984 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Niko Pfund; Declaration of Niko Pfund in Opposition to Defendants' Motion In Limine ¶ 7; Plaintiffs' Exhibit 378.]

277. Oxford has the exclusive right to distribute any portion of *The Operas of Charles Gounod*. *The Operas of Charles Gounod* was published in the United Kingdom on October 8, 1992, more than thirty days before its November 19, 1992 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Niko Pfund; Declaration of Niko Pfund in Opposition to Defendants' Motion In Limine ¶ 16; Plaintiffs' Exhibit 981.]

278. Oxford owns the copyright to *The Organ As a Mirror of Its Time: North European Reflections 1610-2000* as a whole and the copyright to the individual essays that make up the book's individual chapters, including the chapter by Hans Davidson. Oxford has registered *The Organ As a Mirror of Its Time: North European Reflections 1610-2000* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 442, 443]

279. Oxford owns the copyright to Rhonda Williams's *The Politics of Public Housing: Black Women's Struggles Against Urban Inequality*. Oxford has registered *The Politics of Public Housing: Black Women's Struggles Against Urban Inequality* in its own name. [Anticipated Testimony of Niko Pfund; Declaration of Niko Pfund in Opposition to Defendants' Motion In Limine ¶ 4; Plaintiffs' Exhibits 446-447.]

280. Oxford owns the copyright to C. Wright Mills's *The Power Elite* (362 pages). Oxford has registered *The Power Elite* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 449-450.]

281. Oxford University Press UK (Oxford's UK affiliate) owns the copyright to *Regimes and Democracy in Latin America: Theories and Methods* as a whole and the copyright to the individual essays written by the editor, Gerardo Munck. Oxford has the exclusive right to distribute the entire book and the right to file suit for infringements of any portion of the work pursuant to agreement with Oxford University Press UK (which published the book). *Regimes and Democracy in Latin America: Theories and Methods* was published in the United Kingdom on May 10, 2007, more than thirty days before its June 28, 2007 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Niko Pfund; Declaration of Niko Pfund in Opposition to

Defendants' Motion In Limine ¶¶ 10-11; Plaintiffs' Exhibits 453, 378.]

282. Oxford owns the copyright to *Region, Race and Reconstruction: Essays in Honor of C. Vann Woodward* (450 pages) as a whole and the copyright to the individual essays that make up the book's individual chapters, which were penned specifically for this volume. Oxford has registered *Region, Race and Reconstruction* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Niko Pfund; Declaration of Niko Pfund in Opposition to Defendants' Motion In Limine ¶ 8; Plaintiffs' Exhibits 455-456.]

283. Oxford has the exclusive right to distribute any portion of Gillian Porter Ladousse's *Role Play: Resource Books for Teachers* (182 pages). *Role Play: Resource Books for Teachers* was published in the United Kingdom on April 9, 1987, more than thirty days before its June 11, 1987 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 459, 378.]

284. Oxford has the exclusive right to distribute any portion of Michael Marmot and Richard Wilkinson's *Social Determinants of Health* (358 pages). *Social Determinants of Health* was published in the United Kingdom on April 13, 2005, more than thirty days before its November 24, 2005 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 465, 466, 378.]

285. Oxford is the exclusive licensee of Lawrence Levine's *The Unpredictable Past: Explorations in American Cultural History* (320 pages). *The Unpredictable Past: Explorations in American Cultural History* is registered with the U.S. Copyright Office in the name of the author. [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 478-479.]

286. Oxford has the exclusive right to distribute any portion of John Morgan and Mario Rinvoluceri's *Vocabulary* and has the right to file suit for infringements of any portion of the work pursuant to agreement with Oxford University Press UK (which published the book). *Vocabulary* was published in the United Kingdom on May 30, 1991 (it was not published in the U.S.) and is a foreign work protected under the Berne Convention. [Anticipated

Testimony of Niko Pfund; Declaration of Niko Pfund in Opposition to Defendants' Motion In Limine ¶ 13; Plaintiffs' Exhibits 482, 378.]

287. Oxford has the exclusive right to distribute any portion of Tricia Hedge's *Writing: Resource Books for Teachers* and has the right to file suit for infringements of any portion of the work pursuant to agreement with Oxford University Press UK (which published the book). *Writing: Resource Books for Teachers* was published on February 3, 2005, more than thirty days before its March 24, 2005 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Niko Pfund; Declaration of Niko Pfund in Opposition to Defendants' Motion In Limine ¶ 12; Plaintiffs' Exhibit 485, 378.]

C. SAGE Publications, Inc.

288. SAGE is the owner or exclusive licensee of the copyright to each of the SAGE works identified in Plaintiffs' Amended Complaint.

289. Each SAGE work identified on Plaintiffs' Amended Complaint is registered with the U.S. Copyright Office or is a work first published in the United Kingdom protected under U.S. copyright law under the Berne Convention. [Plaintiffs' Exhibit 671 (van Valkenburg Decl.) ¶¶ 22-23, 27, 30; Anticipated Testimony of Carol Richman.]

290. SAGE owns the copyright to *The SAGE Handbook of Qualitative Research* (Norman Denzin & Yvonna S. Lincoln, eds.) as a whole and the copyrights to the individual essays that make up the book's individual chapters. SAGE has registered *The SAGE Handbook of Qualitative Research* and each contribution to *The SAGE Handbook of Qualitative Research* with the U.S. Copyright Office in its own name. [Plaintiffs' Exhibit 671 (van Valkenburg Decl.) ¶¶ 22-23; Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 268-282, 324.]

291. SAGE owns the copyright to Bette Dickerson's *African American Single Mothers: Understanding Their Lives and Families* as a whole and the copyrights to the individual essays that make up the book's individual chapters. SAGE has registered *African American Single Mothers: Understanding Their Lives and Families* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Carol Richman; Plaintiffs'

Exhibits 203-205.]

292. SAGE owns the copyright to Harriette McAdoo's *Black Children* as a whole and the copyrights to the individual essays that make up the book's individual chapters. SAGE has registered *Black Children* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 210-213.]

293. SAGE owns the copyright to Harriette McAdoo's *Black Families* as a whole and the copyrights to the individual essays that make up the book's individual chapters. SAGE has registered *Black Families* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 218-221.]

294. SAGE owns the copyright to Ralph Carter's *Contemporary Cases in U. S. Foreign Policy: From Terrorism to Trade* as a whole and the copyrights to the individual essays that make up the book's individual chapters. *Contemporary Cases in U. S. Foreign Policy: From Terrorism to Trade* is registered with the U.S. Copyright Office. [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 226-228.]

295. SAGE owns the copyright to Norman Denzin, Yvonna Lincoln and Linda Tuhiwai Smith's *Handbook of Critical and Indigenous Methodologies* as a whole and the copyrights to the individual essays that make up the book's individual chapters. SAGE has registered *Handbook of Critical and Indigenous Methodologies* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 232-236.]

296. SAGE is the exclusive licensee of Paul Atkinson, Amanda Coffey, Sarah Delamont, John Lofland and Lyn Lofland's *Handbook of Ethnography*. *Handbook of Ethnography* was only published in the United Kingdom, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 240.]

297. SAGE owns the copyright to *Handbook of Feminist Research: Theory and Praxis* as a whole and the copyrights to the individual essays that make up the book's individual chapters. SAGE has registered *Handbook of Feminist Research: Theory and Praxis* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 244-247.]

298. SAGE owns the copyright to *Handbook of Mixed Methods in Social & Behavioral Research* as a whole and the copyrights to the individual essays that make up the book's individual chapters. SAGE has registered *Handbook of Mixed Methods in Social & Behavioral Research* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 252-254.]

299. SAGE owns the copyright to of *The Handbook of Narrative Inquiry* as a whole and the copyrights to the individual essays that make up the book's individual chapters. SAGE has registered *The Handbook of Narrative Inquiry* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 259-261.]

300. SAGE is the exclusive licensee of George Ritzer and Barry Smart's *The Handbook of Social Theory* (537 pages). *Handbook of Social Theory* was published in the United Kingdom on March 20, 2001, more than thirty days before its November 13, 2003 publication in the United States, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 289-290.]

301. SAGE owns the copyright to Jaber Gubrium and James Holstein's *Inside Interviewing: New Lenses, New Concerns* (506 pages). SAGE has registered *Inside Interviewing: New Lenses, New Concerns* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 294-295.]

302. SAGE owns the copyright to *Qualitative Research Practice* as a whole and the copyrights to the individual essays that make up the book's individual chapters. *Qualitative Research Practice* was only published in the United Kingdom, and is a foreign work protected under the Berne Convention. [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 299-301.]

303. SAGE owns the copyright to Vincent Anfara and Norman Mertz's *Theoretical Frameworks in Qualitative Research* (188 pages). SAGE has registered *Theoretical Frameworks in Qualitative Research* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 306-307.]

304. SAGE owns the copyright to Steven Hook's *U.S. Foreign Policy: The Paradox of World Power* as a whole and the copyrights to the individual essays that make up the book's individual chapters. SAGE has registered *U.S. Foreign Policy: The Paradox of World Power* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 311-313.]

305. SAGE owns the copyright to Michael Patton's *Utilization-Focused Evaluation: The New Century Text* (386 pages). SAGE has registered *Utilization-Focused Evaluation: The New Century Text* with the U.S. Copyright Office in its own name. [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 317-318.]

VII. THE PLAINTIFFS' MARKETS ARE HARMED BY GSU'S ACTIVITIES

A. The Market for Sales of Plaintiffs' Works

306. *The market for Plaintiffs' works include sales of copies of the original works. [Stipulated Facts ¶ 91.]*

1. Cambridge University Press has been deprived of sales revenue for the works at issue

307. *Cambridge's Americas Branch had net income in 2009 of approximately [redacted] (on net sales revenue of [redacted]). [Stipulated Facts ¶ 92].*

308. With respect to the Cambridge works identified in the Joint Filing:

- *Ancient Egyptian Materials and Technology* had earned [redacted] (approximately [redacted]) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 13]

- *Assessing Grammar* had earned (approximately) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 18]
- *Assessing Language for Specific Purposes* had earned (approximately) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 23]
- *Assessing Listening* had earned (approximately) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 27]
- *Assessing Reading* had earned (approximately) in sales revenue as of February 2011 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 32]
- *Assessing Speaking* had earned (approximately) in sales revenue as of February 2011 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 37]
- *Assessing Vocabulary* had earned (approximately) in sales revenue as of February 2011 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 47]
- *Assessing Writing* had earned (approximately) in sales revenue as of February 2011 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 42]
- *Cambridge Companion to Beethoven* had earned (approximately) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 57];
- *Cambridge Companion to Mendelssohn* had earned (approximately) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 69]
- *Cambridge Companion to Schumann* had earned (approximately) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 78]

- *Cambridge History of China* (vol. 8, part 2) had earned (approximately) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 83]
- *Criterion Referenced Language Testing* had earned (approximately) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 88]
- *Five Minute Activities* had earned (approximately) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 93]
- *Grammar Practice Activities* had earned (approximately) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 102]
- *A History of Feminist Literary Criticism* had earned (approximately) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 106]
- *International Health Organisations and Movements* had earned (approximately) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 112]
- *Keep Talking* had earned (approximately) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 117]
- *Language Acquisition and Conceptual Development* earned (approximately) in sales revenue from the date of its publication on January 26, 2010 through October 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 123]
- *Learning Vocabulary in Another Language* had earned (approximately) in sales revenue as of February 2011 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 128]

- *Liszt: Sonata in B Minor* has earned (approximately) in sales revenue [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 133]
- *More Grammar Games* had earned (approximately) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 137]
- *Pronunciation Games* had earned (approximately) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 141]
- *Understanding Trauma* had earned (approximately) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 146]; and
- *A World of Babies* had earned approximately (approximately) in sales revenue as of November 2010 [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 152].

2. Oxford University Press has been deprived of sales revenue for the works at issue

309. *Oxford's annual operating profit in fiscal year 2009 was (on net sales revenue of). Its net income in fiscal year 2008 (on net sales revenue of) was .* [Stipulated Facts ¶ 93.]

310. With respect to the Oxford works identified in the Amended Complaint and Joint Filing:

- *Awakening Children's Minds* earned in sales revenue through November 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 357, 344]
- *Behavior, Society, and Nuclear War, Vol. 1* earned in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 357]

- *Challenges of the Third Age: Meaning and Purpose in Later Life* earned [redacted] in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 344, 357, 366]
- *Crabgrass Frontier: The Suburbanization of the United States* earned [redacted] in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 357, 344]
- *The Craft of Inquiry: Theories, Methods, Evidence* earned [redacted] in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 357]
- *Democratic Accountability in Latin America* earned [redacted] in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 357]
- *Dionysus Since 69: Greek Tragedy at the Dawn of the Third Millennium* earned [redacted] in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 357]
- *The Enlargement of the European Union* earned a total of [redacted] in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 357]
- *Evolution of Infectious Disease* earned [redacted] in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 357, 344]
- *Film Language; A Semiotics of the Cinema* earned a total of [redacted] in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 357]
- *Fundamental Considerations in Language Testing* earned [redacted] (approximately [redacted]) in sales revenue through February 25, 2011 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 421]
- *Handbook of Adult Development and Learning* earned [redacted] in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 357, 344]

- *Language Testing in Practice* earned [REDACTED] (approximately [REDACTED]) in sales revenue through February 25, 2011 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 421]
- *Living Ethics: Across Media Platforms* earned [REDACTED] in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 357]
- *The Music of Berlioz* earned [REDACTED] in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 357]
- *Neighborhoods and Health* earned [REDACTED] in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 357, 344]
- *Newspapers* earned [REDACTED] in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 357]
- *North German Church Music in the Age of Buxtehude* earned [REDACTED] in sales revenue through November 7, 2010 [Plaintiffs' Exhibit 357]
- *North Italian Church Music in the Age of Monteverdi* earned [REDACTED] in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 357]
- *The Operas of Charles Gounod* earned [REDACTED] in sales revenue through December 6, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 982]
- *The Organ as a Mirror of Its Time: North European Reflections 1610-2000* earned [REDACTED] in sales revenue through November 7, 2010 [Plaintiffs' Exhibits 357, 344]
- *Politics of Public Housing: Black Women's Struggles Against Urban Inequality* earned [REDACTED] in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 344, 357, 366]

- *The Power Elite* earned a total of \$1,100,000 in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 357, 344]
- *Regimes and Democracy in Latin America: Theories and Methods* earned \$1,100,000 in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 357, 344]
- *Region, Race and Reconstruction* earned \$1,100,000 in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 357]
- *Role Play: Resource Books for Teachers* has earned \$1,100,000 in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 357]
- *The Slave Community* earned \$1,100,000 in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 357]
- *Social Determinants of Health* earned \$1,100,000 in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 357, 344]
- *The Unpredictable Past: Explorations in American Cultural History* earned \$1,100,000 in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibits 357, 344]
- *Vocabulary* earned \$1,100,000 in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 357]
- *Writing: Resource Books for Teachers* earned \$1,100,000 in sales revenue through November 7, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 357]

3. SAGE Publications, Inc.

311. SAGE's net income in 2009 was \$1,100,000 (on sales revenue of \$1,100,000). [Stipulated Facts ¶ 94.]

312. With respect to the SAGE works identified in the Amended Complaint and Joint Filing:

- The second edition of *The SAGE Handbook of Qualitative Research* earned [REDACTED] in sales revenue, and the third edition has earned [REDACTED] in sales revenue as of February 2010 [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 328]
- *African American Single Mothers: Understanding Their Lives and Families* earned [REDACTED] in sales revenue as of November 2010 [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 206]
- *Black Children* earned [REDACTED] in sales revenue as of November 2010 [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 214]
- As of November 2010, the first edition of *Black Families* earned [REDACTED] in sales revenue; the second edition earned [REDACTED], the third edition earned [REDACTED], and the fourth edition earned [REDACTED] [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 222]
- *Contemporary Cases in U. S. Foreign Policy: From Terrorism to Trade* earned [REDACTED] in sales revenue as of November 2010 [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 229]
- *Handbook of Critical and Indigenous Methodologies* earned [REDACTED] in sales revenue as of November 2010 [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 237]
- *Handbook of Ethnography* earned [REDACTED] (approximately [REDACTED]) in sales revenue as of November 2010 [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 241]
- *Handbook of Feminist Research: Theory and Praxis* earned [REDACTED] in sales revenue as of November 2010 [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 248]
- *Handbook of Mixed Methods in Social & Behavioral Research* earned [REDACTED] in sales revenue as of November 2010 [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 255]

- *Handbook of Narrative Inquiry* earned [redacted] in sales revenue as of November 2010 [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 262];
- *Handbook of Social Theory* earned [redacted] (approximately [redacted]) in sales revenue as of November 2010 [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 291]
- *Inside Interviewing: New Lenses, New Concerns* earned [redacted] in sales revenue as of November 2010 [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 296]
- *Qualitative Research Practice* earned [redacted] (approximately [redacted]) in sales revenue as of November 2010 [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 302]
- *Theoretical Frameworks in Qualitative Research* earned [redacted] in sales revenue as of November 2010 [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 308]
- *U.S. Foreign Policy: The Paradox of World Power* earned [redacted] in sales revenue as of November 2010 [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 314]
- As of November 2010, the second edition of *Utilization-Focused Evaluation: The New Century Text* earned [redacted] in sales revenue, the third edition earned [redacted], and the fourth edition earned [redacted] in sales revenue [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 319]

313. GSU's infringing activities substitute directly for the purchase of the Plaintiffs' books (or, as detailed elsewhere, licensing of excerpts of the books). In every instance in which GSU provided students with excerpts of digital course reading materials free of charge, the students did not have to purchase a copy of the book from which the excerpt was taken, and the Plaintiffs did not receive the sales revenue. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 672 ¶ 31; Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 673 ¶ 38; Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 671 ¶ 38.]

314. The above-described sales revenues of each of the Plaintiffs are less than they would have been had the GSU professors required students to purchase the Plaintiffs' original books rather than providing free digital excerpts via ERes or uLearn. [Anticipated Testimony of Frank Smith; Plaintiffs' Exhibit 672 ¶¶ 31-32; Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 671 ¶ 38; Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 673 ¶ 38.]

315. The sales revenue of each Plaintiff would significantly decline should the activities at GSU become widespread. [Anticipated testimony of Frank Smith, Carol Richman, and Niko Pfund.]

316. Decreases in sales revenue makes it difficult for Plaintiffs to support their operating expenses and to continue to publish the same high quality scholarly work. [Anticipated testimony of Frank Smith, Carol Richman, and Niko Pfund.]

B. The Market for Licenses (“Permissions”) to Copy Excerpts of Plaintiffs’ Works

317. *The market for Plaintiffs’ works also includes “permissions,” i.e., licenses to make and distribute copies of excerpts of the works, including to students. [Stipulated Facts ¶ 95.]*

318. Permissions for Plaintiffs’ works are granted both directly by Plaintiffs themselves and through Copyright Clearance Center (CCC) [Anticipated testimony of Frank Smith, Carol Richman, Niko Pfund; *see supra* ¶¶ I.E.56 - I.E.59.]

319. *The permissions market for Plaintiffs’ works includes the copying and distribution of excerpts of Plaintiffs’ works in both hardcopy and digital format, including in coursepacks and through systems such as GSU’s ERes and uLearn systems. [Stipulated Facts ¶ 96.]*

320. Revenue from permissions is a crucial supplement to income from sales of the Plaintiffs' works, particularly as the works become older, fall out of print, or are replaced by newer editions and as usage migrated from print to online. [Anticipated testimony of Frank Smith, Carol Richman, and Niko Pfund; Plaintiffs' Exhibit 672 ¶ 42; Plaintiffs' Exhibit 671 ¶¶ 10, 45; Plaintiffs' Exhibit 673 ¶¶ 42, 46.]

321. *Permissions represent a significant revenue stream for Plaintiffs.* [Stipulated Facts ¶ 15.]

322. The life cycle for permissions income is longer than that of sales of books. [Anticipated testimony of Frank Smith.]

323. *Permissions income often permits Plaintiffs to continue to publish books that otherwise might be unprofitable.* [Stipulated Facts ¶ 97.]

1. GSU's activities directly substitute for permissions revenue at Cambridge University Press

324. *Cambridge earned _____ in permissions revenue in fiscal year 2009, _____ in fiscal year 2008, and _____ in fiscal year 2007.* [Stipulated Facts ¶ 98.]

325. Approximately _____ of Cambridge's revenue is derived from permissions. [Anticipated testimony of Frank Smith.]

326. With respect to the Cambridge works identified in the Joint Filing:

- *Ancient Egyptian Materials and Technology* earned _____ in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated testimony of Frank Smith; Plaintiffs' Exhibit 14]
- *Assessing Grammar* earned _____ in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated testimony of Frank Smith; Plaintiffs' Exhibit 19]
- *Assessing Listening* earned _____ in permissions revenue from CCC from July 1, 2004 through February 16, 2011 [Anticipated testimony of Frank Smith; Plaintiffs' Exhibit 28]

- *Assessing Reading* earned \$1,000,000 in permissions revenue from CCC from July 1, 2004 through February 16, 2011 [Anticipated testimony of Frank Smith; Plaintiffs' Exhibit 33]
- *Assessing Speaking* earned \$1,000,000 in permissions revenue from CCC from July 1, 2004 through February 16, 2011 [Anticipated testimony of Frank Smith; Plaintiffs' Exhibit 38]
- *Assessing Vocabulary* earned \$1,000,000 in permissions revenue from CCC from July 1, 2004 through February 16, 2011 [Anticipated testimony of Frank Smith; Plaintiffs' Exhibit 48]
- *Assessing Writing* earned \$1,000,000 in permissions revenue from CCC from July 1, 2004 through February 16, 2011 [Anticipated testimony of Frank Smith; Plaintiffs' Exhibit 43]
- *Cambridge Companion to Beethoven* earned \$1,000,000 in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated testimony of Frank Smith; Plaintiffs' Exhibit 58]
- *Cambridge Companion to Mendelssohn* earned \$1,000,000 in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated testimony of Frank Smith; Plaintiffs' Exhibit 70]
- *Cambridge History of China* (vol. 8, part 2) earned \$1,000,000 in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated testimony of Frank Smith; Plaintiffs' Exhibit 84]
- *Criterion Referenced Language Testing* earned \$1,000,000 in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated testimony of Frank Smith; Plaintiffs' Exhibit 89]
- *Five Minute Activities* earned \$1,000,000 in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated testimony of Frank Smith; Plaintiffs' Exhibit 94]
- *Grammar Practice Activities* earned \$1,000,000 in permissions revenue from CCC from July 1, 2004 through December 1, 2010

- *History of Feminist Literary Criticism* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated testimony of Frank Smith; Plaintiffs' Exhibit 107]
- *International Health Organisations and Movements* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated testimony of Frank Smith; Plaintiffs' Exhibit 113]
- *Keep Talking* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Plaintiffs' Exhibit 118]
- *Language Acquisition and Conceptual Development* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Plaintiffs' Exhibit 124]
- *Learning Vocabulary in Another Language* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through February 16, 2011 [Plaintiffs' Exhibit 129]
- *Pronunciation Games* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010
- *A World of Babies* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Plaintiffs' Exhibit 153]

2. GSU's activities directly substitute for permissions revenue at Oxford University Press

327. Oxford earned [REDACTED] in permissions revenue in fiscal year 2008 and [REDACTED] in fiscal year 2009. [Anticipated testimony of Niko Pfund]

328. With respect to the Oxford works identified in the Amended Complaint and Joint Filing:

- *The Slave Community* earned approximately [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 463]

- *Awakening Children's Minds* earned [REDACTED] in permissions revenue from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 358]
- *Approaches to Qualitative Research* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 353]
- *Behavior, Society, and Nuclear War, Vol. 1* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 362]
- *Challenges of the Third Age: Meaning and Purpose in Later Life* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 367]
- *Crabgrass Frontier: The Suburbanization of the United States* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 371]
- *Craft of Inquiry: Theories, Methods, Evidence*, earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 375]
- *Democratic Accountability in Latin America* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 379]
- *Evolution of Infectious Disease* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 379]
- *Film Language; A Semiotics of the Cinema* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 394]

- *Fundamental Considerations in Language Testing* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through February 16, 2011 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 409]
- *Handbook of Adult Development and Learning* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 417]
- *Language Testing in Practice* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through February 16, 2011 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 422]
- *Living Ethics: Across Media Platforms* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 426]
- *Neighborhoods and Health* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 432]
- *Newspapers* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 436]
- *The Power Elite* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 451]
- *Regimes and Democracy in Latin America: Theories and Methods* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 454]
- *Region, Race and Reconstruction* earned [REDACTED] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 457]

- *Social Determinants of Health* earned \$ [redacted] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 467]
- *Unpredictable Past: Explorations in American Cultural History* earned [redacted] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 480]
- *Vocabulary* earned [redacted] in permissions revenue from CCC from July 1, 2004 through December 1, 2010 [Anticipated Testimony of Niko Pfund; Plaintiffs' Exhibit 483]

3. GSU's activities directly substitute for permissions revenue at SAGE Publications, Inc.

329. SAGE earned [redacted] in permissions revenue in fiscal year 2008, [redacted] in 2007, and [redacted] in 2006. [Plaintiffs' Exhibit 671 ¶ 24; Anticipated Testimony of Carol Richman.]

330. With respect to the SAGE works identified in the Amended Complaint and the Joint Filing:

- The second edition of *The SAGE Handbook* has earned [redacted] in permissions revenue and the third edition has earned [redacted] in permissions revenue to date. [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 671 ¶ 25]

331. With respect to the SAGE works identified in the Joint Filing:

- *African American Single Mothers: Understanding Their Lives and Families* has earned [redacted] in permissions revenue from CCC and [redacted] in direct permissions revenue [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 207-208]
- *Black Children* has earned [redacted] in permissions revenue from CCC and [redacted] in direct permissions revenue [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 215-216]

- *Black Families* has earned [REDACTED] in permissions revenue from CCC and [REDACTED] in direct permissions revenue [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 223-224]
- *Contemporary Cases in U. S. Foreign Policy: From Terrorism to Trade* has earned [REDACTED] in permissions revenue from CCC and [REDACTED] in direct permissions revenue [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 229-230]
- *Handbook of Critical and Indigenous Methodologies* has earned [REDACTED] in permissions revenue from CCC and [REDACTED] in direct permissions revenue [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 237-238]
- *Handbook of Ethnography* has earned [REDACTED] in permissions revenue from CCC and [REDACTED] (approximately [REDACTED]) in direct permissions revenue [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 241-242]
- *Handbook of Feminist Research: Theory and Praxis* has earned [REDACTED] in direct permissions revenue [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 248]
- *Handbook of Mixed Methods in Social & Behavioral Research* has earned [REDACTED] in permissions revenue from CCC and [REDACTED] in direct permissions revenue [Anticipated Testimony of Carol Richman Plaintiffs' Exhibits 255-257]
- *Handbook of Narrative Inquiry* has earned [REDACTED] in permissions revenue from CCC and [REDACTED] in direct permissions revenue [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 263-264]
- *The Handbook of Qualitative Research (2d & 3d ed)* has earned [REDACTED] in permissions revenue from CCC and [REDACTED] in direct permissions revenue from SAGE [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 284-287]
- *Handbook of Social Theory* has earned [REDACTED] in permissions revenue from CCC and [REDACTED] (approximately [REDACTED]) in direct permissions

revenue [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 291-292]

- *Inside Interviewing: New Lenses, New Concerns* has earned _____ in permissions revenue from CCC and _____ in direct permissions revenue [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 296-297]
- *Qualitative Research Practice* has earned _____ in permissions revenue from CCC and _____ and _____ (approximately _____) in direct permissions revenue [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 303-304]
- *Theoretical Frameworks in Qualitative Research* has earned _____ in direct permissions revenue [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibit 309]
- *U.S. Foreign Policy: The Paradox of World Power* has earned _____ in permissions revenue from CCC and _____ in direct permissions revenue [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 315, 229]
- *Utilization-Focused Evaluation: The New Century Text* has earned _____ in permissions revenue from CCC and _____ in direct permissions revenue [Anticipated Testimony of Carol Richman; Plaintiffs' Exhibits 320-321]

4. Harm to Plaintiffs

332. In every instance in which GSU provided students with excerpts of digital course reading materials free of charge, Plaintiffs did not receive a permissions fee. [Anticipated testimony of Frank Smith, Carol Richman, and Niko Pfund; Plaintiffs' Exhibit 672 ¶¶ 34-37; Plaintiffs' Exhibit 671 ¶¶ 40-41; Plaintiffs' Exhibit 673 ¶¶ 40-41.]

333. Even in instances where GSU professors wish to assign only an excerpt of a book and therefore would not require students to purchase the entire book, unlicensed uses like those occurring at GSU still substitute for the payment of permissions fees. [Anticipated testimony of Frank Smith, Carol Richman, and Niko Pfund; Plaintiffs' Exhibit 672 ¶¶ 34-37; Plaintiffs' Exhibit 671 ¶¶ 40-41; Plaintiffs' Exhibit 673 ¶¶ 40-41.]

334. The above-described permissions revenues of each of the Plaintiffs (as well as those described below from CCC) are less than they would have been had GSU paid the requisite permissions fee rather than providing free digital excerpts via ERes or uLearn. [Anticipated testimony of Frank Smith, Carol Richman, and Niko Pfund; Plaintiffs' Exhibit 672 ¶¶ 34-38; Plaintiffs' Exhibit 671 ¶¶ 40-43; Plaintiffs' Exhibit 673 ¶¶ 40-42.]

335. Should the practices at GSU continue and become even more widespread, it would threaten the ability of academic publishers to continue to publish high-quality scholarly works for use in the educational environment. [Anticipated testimony of Frank Smith, Niko Pfund, and Carol Richman.]

VIII. SCHOOLS THAT OBTAIN LICENSES TO USE WORKS IN THE JOINT FILING

336. At least the following schools and copyshops have obtained licenses from CCC for permission to copy the Cambridge University Press works identified in the Joint Filing:

Ancient Egyptian Materials and Technology [Plaintiffs' Exhibit 14]

- University of California, Los Angeles

Assessing Grammar [Plaintiffs' Exhibit 19]

- Columbia University, Teachers College

Assessing Listening [Plaintiffs' Exhibit 28]

- SIT, Graduate Institute World Learning
- University of Oregon – University Printing Service

Assessing Reading 1 [Plaintiffs' Exhibit 33]

- Clean Copy, Portland State University

Assessing Speaking [Plaintiffs' Exhibit 38]

- SIT, Graduate Institute World Learning

Assessing Vocabulary [Plaintiffs' Exhibit 48]

- Brigham Young University Bookstore

The Cambridge Companion to Beethoven [Plaintiffs' Exhibit 58]

- Lawrence University Library
- University of Denver Bookstore
- University of Maryland
- University of Minnesota

Cambridge Companion to Mendelssohn [Plaintiffs' Exhibit 70]

- University of Minnesota

Grammar Practice Activities

- KB Books, San Diego State University
- University of Southern California, University of California, Berkeley

History of Feminist Literary Criticism [Plaintiffs' Exhibit 107]

- University Supply Store, The University of Alabama

International Health Organizations and Movements [Plaintiffs' Exhibit 113]

- University of Southern California, Stanford University
- Yale University Printing and Publishing Services

Keep Talking [Plaintiffs' Exhibit 118]

- Aztec Shops, Ltd., SDSU
- KB Books, San Diego State University
- Oscar Quezada, University of California, Riverside
- Tichenor Publishing and Printing, University of Illinois
- UCLA

Language Acquisition and Conceptual Development [Plaintiffs' Exhibit 124]

- Rice University
- Target Copy of Gainesville, Inc., University of Florida
- University of California, Merced
- University of Southern California, Stanford University

Pronunciation Games

- Massachusetts Institute of Technology

- University of California San Diego

A World of Babies [Plaintiffs' Exhibit 153]

- Copy Central, University of California, Berkeley
- copypro/Krishna, Inc., California State University
- DBA Copyworks, Iowa State University
- Marquette University
- Odin Legacy, UCB
- Paradigm Books & Lecture Notes, University of Texas

337. The following schools and copyshops have obtained licenses from CCC for permission to copy the Oxford University Press identified in the Joint Filing:

Approaches to Qualitative Research [Plaintiffs' Exhibit 353]

- Bel Jean Copy Print Center Athens, The University of Georgia
- Dollar Bill Copying, University of Michigan
- Iowa State University
- Photocopy Services, Minnesota State University
- University of California, Los Angeles
- University of Denver

Awakening Children's Minds: How Parents and Teachers Can Make a Difference [Plaintiffs' Exhibit 358]

- Maryland University College

Behavior, Society and Nuclear War Volume I [Plaintiffs' Exhibit 362]

- Concordia University Bookstore, Concordia University
- Massachusetts Institute of Technology

Challenges of the Third Age [Plaintiffs' Exhibit 367]

- Iowa State University
- NA Publishing Inc., University of Massachusetts Lowell

Crabgrass Frontier [Plaintiffs' Exhibit 371]

- Cornell University, Cornell University Store
- Harvard Kennedy School of Government, Harvard University

- Hastings College of Law
- NA Publishing Inc., Harrington College of Design
- NA Publishing Inc., Institute for the International Education of Students
- Paper Owl Bookstore, Oregon Institute of Technology
- Smith College
- Syracuse University
- Tiger Xpress, Smith College
- University Copy and More, University of Florida
- University of California, UCB
- University of Oregon Publishing Service, University of Oregon
- University of Southern California, Berkeley
- University Readers, New School of Architecture
- Vanderbilt University

The Craft of Inquiry [Plaintiffs' Exhibit 375]

- NA Publishing Inc., Harvard University
- NA Publishing Inc., New York University
- Up Close Copies, University of Illinois
- Copy Central, UCB

Democratic Accountability in Latin America [Plaintiffs' Exhibit 379]

- Copy Central, University of California Berkeley
- Dollar Bill Copying, University of Michigan
- Jenn's Copy & Binding, UTexas
- Loyola Marymount University
- University Cooperative Society, UT at Austin
- University of California Irvine
- University of North Carolina at Chapel Hill
- University of Notre Dame
- University of Southern California, Stanford University
- University Readers, UCSD

Evolution of Infectious Disease [Plaintiffs' Exhibit 379]

- Vanderbilt University

Film Language: A Semiotics of the Cinema [Plaintiffs' Exhibit 394]

- Alternative Copy Shop, University of California Santa Barbara
- copypro/Krishna, Inc., California State University
- Dennison University
- University of Colorado
- University of Southern California, Stanford University
- Yale University Printing and Publishing Services, Yale University

Fundamental Considerations in Language Testing [Plaintiffs' Exhibit 409]

- Aztec Shops Ltd., SDSU
- Azusa Pacific University
- University of Oregon – University Printing Service
- University Copy, Rutgers University

Handbook of Adult Development and Learning [Plaintiffs' Exhibit 417]

- Bank Street College of Education Library, Bank Street College of Education
- Duquesne University
- Eastern Mennonite University
- NA Publishing, Southern Methodist University
- University of Michigan
- Village Copier, Bank Street

Living Ethics [Plaintiffs' Exhibit 426]

- University of St. Thomas

Language Testing in Practice [Plaintiffs' Exhibit 422]

- Aztec Shops Ltd., SDSU
- Loyola Marymount University
- Texas Tech University

Neighborhoods and Health [Plaintiffs' Exhibit 432]

- Boston University School of Public Health
- Clean Copy Inc., Portland State University
- Copy Central, John F. Kennedy University
- Copy Central, University of California Berkeley
- Harvard School of Public Health
- Notes-N-Quotes, University of Illinois

- Theiss Investments d/b/a Gnomon Copy, Northeastern University School of Law
- University of Edinburgh
- University of Washington
- University Readers, Boston University
- University Readers, Northeastern University
- Welch Medical Library, Johns Hopkins University
- Yale University Printing & Publishing Services, Yale University

Politics of Public Housing: Black Women's Struggles Against Urban Inequality

- Johns Hopkins University
- Notes-N-Quotes, University of Illinois

The Power Elite [Plaintiffs' Exhibit 451]

- Amherst College
- Aztec Shops Ltd., SDSU
- Brigham Young University
- Copy Craft, Santa Clara University
- Cornell University
- Course Reader Material, UCLA
- Custom Copies and Textbook, Inc., University of Florida
- DBA Copyworks Cedar Falls, University of Northern Iowa
- Dollar Bill Copying, The University of Michigan
- George Mason University
- Hofstra University
- Kenyon College
- Lafayette College
- Loyola Marymount University
- Metropolitan State University
- NA Publishing Inc., Bentley College
- NA Publishing Inc., Harvard University
- NA Publishing Inc., Maryville College
- NA Publishing Inc., Old Dominion University
- NA Publishing Inc., Union Institute & University
- NA Publishing Inc., Western Kentucky University
- Notes-N-Quotes, University of Illinois

- Paradigm Course Resource, University of Minnesota
- Paradigm Books & Lecture, University of Texas
- Stockholm University
- Tichenor Publishing and Printing, Western Kentucky University
- University Book Exchange, East Carolina University
- University Copy Center, Blinn
- University of California, Los Angeles
- University of Connecticut
- University of Mary Washington
- University of New Hampshire Printing Services, University New Hampshire
- University of Pittsburgh
- University of Southern California
- University of Southern California, Stanford University
- University Readers Inc., University of California at Riverside
- University Readers, Inc., University of California San Diego
- USD Bookstore, University of San Diego
- Vanderbilt University

Regimes and Democracy in Latin America [Plaintiffs' Exhibit 454]

- Amherst College
- Copy Central, University of California, Berkeley

Region, Race and Reconstruction: Essays in Honor of C. Vahn Woodward
[Plaintiffs' Exhibit 454]

- Amherst College
- Aztec Shops, Ltd., SDSU
- BFS Business Printing, Suffolk University
- Indiana University
- Mississippi State University
- Notes-N-Quotes, University of Illinois
- Off Campus Books, University of Texas at Dallas
- Ohio Wesleyan University
- Reed College
- The Ohio State University
- Unique Copy Center of New York, NYU

- University of Illinois
- University of Vermont
- University Readers Inc., Bowdoin College
- University Readers Inc., CSU Long Beach
- Village Copier, Barnard College
- Wheelock Books, Dartmouth College

Slave Community: Plantation Life in the Antebellum South [Plaintiffs' Exhibit 463]

- University of North Carolina at Chapel Hill
- University of Southern California, Stanford University
- University of the South
- University of Washington
- University Readers, Castleton State College
- Wabash College
- Zee Zee Copy Inc., UC Berkeley

Social Determinants of Health [Plaintiffs' Exhibit 467]

- Boston University
- Boston University School of Public Health
- Dartmouth Medical School
- Dollar Bill Copying, The University of Michigan
- Harvard Law School
- Harvard School of Public Health
- KU Bookstores, University of Kansas
- McMaster University
- University of California Los Angeles
- University of Michigan
- University of Minnesota
- University Readers Inc., Boston University
- Vanderbilt University
- Welch Medical Library, Johns Hopkins University
- Yale University Printing and Publishing Services, Yale University

Unpredictable Past: Explorations in American Cultural History [Plaintiffs' Exhibit 480]

- Collegiate Press, Northeastern University
- Middlebury College
- Paradigm Course Resource, University of Minnesota
- University of Colorado
- Yale University Printing and Publishing Services, Yale University

Vocabulary [Plaintiffs' Exhibit 483]

- University of California San Diego

338. The following schools and copyshops have obtained licenses from CCC or directly from SAGE for permission to copy the SAGE Publications works identified in the Joint Filing:

African American Single Mothers: Understanding Their Lives and Families [Plaintiffs' Exhibit 208]

- Capella University Library, Capella University
- NA Publishing Inc., Capella University
- NA Publishing Inc., University of North Carolina, Charlotte
- NA Publishing Inc., XanEdu University
- University of Chicago

Black Children [Plaintiffs' Exhibits 215-216]

- Amherst College
- Canada College Bookstore, Canada College
- Collective Copies, Amherst College
- Linus Publications, Inc., Buffalo State College SUNY
- Little Professor Book Center, CSUF
- Notes-N-Quotes, University of Illinois
- Stanford Bookstore Custom Publishing Department (Craig Molaug)
- University of Delaware, GCC, University of Delaware
- University of Kansas Libraries, University of Kansas
- USC Trojan Bookstore

Black Families [Plaintiffs' Exhibits 223-224]

- Capella University Library, Capella University
- Collective Copies, UMASS

- Grade A Notes, Inc., Columbus OH (Brian Hart)
- Grade A Notes Inc., North Carolina Wesleyan College
- Linus Publications Inc., Buffalo State College SUNY
- NA Publishing Inc., Capella University
- NA Publishing Inc., West Chester University of Pennsylvania
- Stanford Bookstore Custom Publishing Department (Craig Molaug)
- University of Delaware Library, University of Delaware
- University of North Carolina
- University of Texas Austin
- University of Wisconsin
- University Readers Inc.
- University Readers Inc., University of California Davis

Contemporary Cases in U.S. Foreign Policy: From Terrorism to Trade [Plaintiffs' Exhibit 230]

- Indiana University
- Oregon State University
- Tichenor Publishing and Printing, Indiana University

Handbook of Critical and Indigenous Methodologies [Plaintiffs' Exhibit 238]

- Collegiate Press, Northeastern University
- Iowa State University
- The Ohio State University – Retail Services, The Ohio State University
- University of Michigan

Handbook of Ethnography [Plaintiffs' Exhibit 242]

- Bel Jean Copy Print Center Athens, UGA
- Boston University
- Copy Central – John F. Kennedy University
- Dollar Bill Copying, UM
- Harvard
- Kent State University
- The Ohio State University
- Staffordshire University
- UCSF

- University of Maryland
- University of Minnesota
- University of Missouri Columbia
- University of North Carolina at Chapel Hill
- Up Close Copies, University of Illinois
- Western Washington University

Handbook of Mixed Methods in Social & Behavioral Research [Plaintiffs' Exhibits 256-257]

- Pro-Copy, Inc., University of South Florida (USF)
- McMaster University Bookstore, Hamilton, Ontario
- NA Publishing Inc., University of Arkansas Little Rock
- Notes-N-Quotes, University of Illinois
- University of Idaho Library, University of Idaho
- University of Michigan
- University of North Carolina at Chapel Hill
- UWS
- Welch Medical Library, Johns Hopkins University

Handbook of Narrative Inquiry [Plaintiffs' Exhibit 264]

- Institute of Education, University of London
- Penn State University

Handbook of Social Theory, by George F. Ritzer and Barry Smart [Plaintiffs' Exhibit 292]

- Aztec Shops Ltd., SDSU
- Cornell University
- Course Reader Material, UCLA
- Rollins College
- University of California Los Angeles

Inside Interviewing: New Lenses, New Concerns [Plaintiffs' Exhibit 297]

- University of Michigan
- Zip Publishing, Ohio State University

Qualitative Research Practice, by Clive Seale [Plaintiffs' Exhibits 303-304]

- Michigan State University
- Staffordshire University
- The Ohio State University – Retail Services, The Ohio State University
- University of California San Francisco (UCSF)
- University of Maryland, University College

Theoretical Frameworks in Qualitative Research [Plaintiffs' Exhibit 309]

- University of Hartford

The SAGE Handbook of Qualitative Research (First, Second and Third Editions)
[Plaintiffs' Exhibits 284-287]

- Access Copyright, University of Guelph
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- Boston University School of Public Health
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- Collegiate Press, Northeastern University
- Columbia University, Teachers College (Robert Schwarz)
- Copley Publishing Group, Capella University
- Copy Central, Argosy University
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- Copy Shop, Tufts
- Cougar Copy Center, Provo, Utah
- Cornell University

- Course Reader Material, UCLA
- Dakota Textbook Co., University of North Dakota
- Dennison University
- Dollar Bill Copying, University of Michigan
- Dollar Bill Copying, Western Michigan
- Duquesne University
- Dynamic Student Services, University of Delaware
- Earlham College
- Elizabeth Hollinger
- George Mason University
- George Washington University (James Estes)
- Grade A Notes, Lincoln NE
- Grade A Notes, Ohio State University
- Gray's College Bookstore, UL Iowa State University
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- Harvard University, Kennedy School of Government (Bob Coner)
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- KB Books, SDSU
- Loma Linda University
- Marquette University
- Martha Thibodeaux
- NA Publishing Inc., Babson College
- NA Publishing, Capella University
- NA Publishing Inc., Fielding Graduate Institute
- NA Publishing Inc., Hofstra University
- NA Publishing SIT Graduate Institute/World Learning
- NA Publishing, University of Texas San Antonio
- Notes-N-Quotes, University of Illinois
- Paradigm Course Resource, University of Minnesota
- Penn State University
- Photocopy Services, MSU Mankato
- Portland State University (Eric Mankowski)
- Principia College
- Pro-Copy Inc., University of South Florida

- Purdue University Printing Services, Purdue University
- Royal Roads University
- RMIT University (Anne Lennox)
- Rowan University
- Skikne Enterprises, Inc., Harvard
- Smith College School for Social Work
- Texas Tech University Copy Services, Texas Tech University
- The Ohio State University – Retail Services, Ohio State University
- The Robert Gordon University (Carole Gray)
- The SLU Bookstore, St. Lawrence University
- The University of Sydney
- Tichenor Publishing and Printing, Ball State University
- Trinity College Dublin
- Unique Copy Center of New York, NYU
- University Copy, North Brunswick, New Jersey
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- University of Arizona, Arizona Health Sciences Library
- University of Calgary
- University of California Davis
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- University of Michigan
- University of Minnesota
- University of Minnesota (Kyong Halvorson)
- University of Minnesota (Lois Williams)
- University of Missouri
- University of Missouri – Columbia
- University of North Carolina at Chapel Hill
- University of Oregon
- University of Ottawa
- University of Saskatchewan
- University of Southern California
- University of Southern Maine
- University of Texas at Arlington
- University of Toronto Press, Custom Publishing Service (Chris MaGee)

- University of Ulster (George Pitcher)
- University of Vermont
- University Readers Inc., Arizona State University
- University Readers, Boston University
- University Readers, Northwestern University
- University Readers, University of California, Riverside
- University Readers Inc., Washington State University
- USC Custom Publishing (Rhonda Bonstein)
- USC Trojan Bookstore
- Utah State University (Annalee Hall)
- Utah State University (Tanya Udin)
- Vanderbilt University
- Wayne State University Library System, Wayne State University
- Westwood Copies, UCLA

U.S. Foreign Policy: The Paradox of World Power [Plaintiffs' Exhibit 315]

- Copy Outlet, Texas Tech

Utilization Focused Evaluation [Plaintiffs' Exhibits 320-321]

- Access Copyright, University of Guelph
- Access Copyright, University of Waterloo
- Argosy University
- ASU Lodestar Center for Philanthropy and Nonprofit Innovation, Arizona State University
- Bel-Jean Copy Print Center, University of Georgia
- Bill Samaras, Copyright Coordinator
- Carnegie Mellon University
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- Curry Printing, Clark University
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- Newman Library, Baruch College
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Respectfully submitted this 17th day of May, 2011.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the foregoing **PLAINTIFFS'**
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filing system which will send e-mail notification of such filing to opposing counsel
as follows:

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