

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

CAMBRIDGE UNIVERSITY PRESS,
et al.,

Plaintiffs,

-v-

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

Defendants.

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

**DEFENDANTS' SUBMISSION IN RESPONSE TO
PLAINTIFFS' REVISED LIST OF WORKS AT ISSUE**

During the trial, Plaintiffs filed their reduced list of the number of works at issue and a summary what Plaintiffs contend are the relevant facts about those remaining works. (Plaintiffs now claim 75 acts of infringement over the three relevant semesters in 2009, by 23 professors concerning 64 works.)

This Submission by Defendants is to respond to Plaintiffs' revised listing and to summarize Defendants' contentions as to the remaining works -- in addition to Defendants' contention that the professors' actual or alleged uses of the works at issue constituted fair uses. (Defendants refer to the "actual or alleged"

infringements because, while Plaintiffs have cut the number of alleged infringements, Plaintiffs are still over-stating the number of alleged uses, in light of the evidence adduced at trial. For example, Plaintiffs are still claiming infringement by Professor Murphy as to seven works, even though Professor Murphy *required students to purchase two of the books and did not use the other five excerpts in class*; he merely apprised the students that the remaining excerpts were available on ERes. Similarly, Plaintiffs still claim that Professor Kaufmann used a work that she did not use.)

Attached as Exhibits “A,” “B,” and “C” are lists reflecting, by semester, the reduced number of works about which Plaintiffs presently complain, including the title of the work, the publisher, the total numbers of chapters and pages, the number of chapters and pages allegedly used, and Plaintiffs’ and Defendants’ respective contentions as to the amounts (in terms of percentages) used. In addition, the list identifies instances in which a significant number of the excerpt pages at issue are plainly not protectable under copyright law, either because the pages contain public domain material or the publisher has specifically stated the pages can be copied for classroom use, and calculates the percentage used net of the pages that are plainly not protectable.

Finally, the lists in Exhibits “A,” “B,” and “C” set forth the contentions by Defendants as to each excerpt (in addition to the contention that the actual or claimed use of the excerpt was fair use). In addition to indentifying the excerpt pages that plainly constitute unprotectable matter, the list summarizes the lack of proof of ownership regarding the works as to which ownership is still an issue. Additionally, the list identifies the works as to which Defendants contend Plaintiffs are not entitled to any presumptions, such as a presumption of originality, either because of the status of the work as a foreign work or because Plaintiffs did not register the work until more than five years after first publication.

Respectfully submitted this 7th day of June, 2011.

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 7.1D of the Local Rules of the Northern District of Georgia, counsel for Defendants certifies that the foregoing **DEFENDANTS' SUBMISSION IN RESPONSE TO PLAINTIFFS' REVISED LIST OF WORKS AT ISSUE** was prepared in a font and point selection approved by this Court and authorized in Local Rule 5.1C.

/s/ Mary Katherine Bates

Mary Katherine Bates

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 7th day of June, 2011, I have electronically filed the foregoing **DEFENDANTS' SUBMISSION IN RESPONSE TO PLAINTIFFS' REVISED LIST OF WORKS AT ISSUE** with the Clerk of the Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following attorneys of record:

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