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

CAMBRIDGE UNIVERSITY PRESS,  
et al,

Plaintiffs,

-vs.-

CARL V. PATTON, in his official  
capacity as Georgia State University  
President, et al,

Defendants.

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

**DEFENDANTS' RESPONSE TO PLAINTIFFS' FIRST SET OF  
INTERROGATORIES TO THE BOARD OF REGENTS DEFENDANTS**

Defendants KENNETH R. BERNARD, JR., in his official capacity as member of the Board of Regents of the University System of Georgia, JAMES A. BISHOP, in his official capacity as member of the Board of Regents of the University System of Georgia, HUGH A. CARTER, JR., in his official capacity as member of the Board of Regents of the University System of Georgia, WILLIAM H. CLEVELAND, in his official capacity as member of the Board of Regents of the University System of Georgia, ROBERT F. HATCHER, in his official capacity as Vice Chair of the Board of Regents of the University System of Georgia,

FELTON JENKINS, in his official capacity as member of the Board of Regents of the University System of Georgia, W. MANSFIELD JENNINGS, JR., in his official capacity as member of the Board of Regents of the University System of Georgia, JAMES R. JOLLY, in his official capacity as member of the Board of Regents of the University System of Georgia, DONALD M. LEEBERN, JR., in his official capacity as member of the Board of Regents of the University System of Georgia, ELRIDGE MCMILLAN, in his official capacity as member of the Board of Regents of the University System of Georgia, WILLIAM NESMITH, JR., in his official capacity as member of the Board of Regents of the University System of Georgia, DOREEN STILES POITEVINT, in her official capacity as member of the Board of Regents of the University System of Georgia, WILLIS J. POTTS, JR., in his official capacity as member of the Board of Regents of the University System of Georgia, WANDA YANCEY RODWELL, in her official capacity as member of the Board of Regents of the University System of Georgia, KESSEL STELLING, JR., in his official capacity as member of the Board of Regents of the University System of Georgia, BENJAMIN J. TARBUTTON, III, in his official capacity as member of the Board of Regents of the University System of Georgia, RICHARD L. TUCKER, in his official capacity as Chair of the Board of Regents of the University System of Georgia, and ALLAN VIGIL, in his official capacity

as member of the Board of Regents of the University System of Georgia (collectively, "Board Members" or "Defendants"), and only in said capacities, respond and object to Plaintiffs' First Set of Interrogatories to the Board of Regents Defendants ("First Set of Interrogatories") as follows:

### GENERAL OBJECTIONS

1. The Board Members object to the First Set of Interrogatories to the extent they call for disclosure of information which reflect or constitute in full or in part privileged communications between attorney and client. ("Privilege Objection").

2. The Board Members object to the First Set of Interrogatories to the extent they call for identification of documents which have been prepared either in anticipation of litigation or for hearing or trial, or which constitute the mental impressions, conclusions, opinions, or legal theories of counsel for the Board Members. ("Work Product Objection").

3. The Board Members object to the First Set of Interrogatories to the extent they call for (a) information which is not within the applicable scope of discovery in this action, or (b) information which is not relevant to the subject matter of this action and are not reasonably calculated to lead to discovery of admissible evidence. The Board Members further object to the First Set of

of documents that constitute permission. The Board Members further object that Interrogatory No. 2 is a contention interrogatory which is premature at this stage in this litigation. The Board Members further object that Interrogatory No. 2 is an improper multi-part interrogatory, which asks for facts that support the Board Members' contention that Plaintiffs gave GSU permission to provide students access to Plaintiffs' copyrighted works through GSU's library services in part 1(a), and for documents which support such contention in part 1(b).

Subject to and without waiving these objections, the Board Members incorporate by reference herein as though fully set forth the response of defendants CARL V. PATTON, in his official capacity as Georgia State University President, RON HENRY, in his official capacity as Georgia State University Provost, CHARLENE HURT, in her official capacity as Georgia State University Dean of Libraries (now Retired), and J.L. ALBERT, in his official capacity as Georgia State University Associate Provost for Information Systems and Technology ("University Administrators") to Plaintiffs' Interrogatory No. 2. The Board Members further respond that permissions for the use of copyrighted material are handled at the university level, and therefore all such facts and documents are in the knowledge and possession of GSU.

**Interrogatory No. 3:**

Identify each and every person at GSU or the Board of Regents who participates or has participated in any way in copying, scanning, posting, and/or transmitting Course Reading Material on ERes or any Course Management System, and his or her job title. (This need not include every instructor or professor that has distributed Electronic Course Reading Material.)

**Response:** The Board Members object to Interrogatory No. 3 on the basis of the Scope Objection, the Burden Objection, and the Vague Objection. Based on Plaintiffs' broad definition of the term "transmitting," Interrogatory No. 3 requires the Board Members to identify "each and every person who has in any way participated" in viewing such materials in an Internet web browser window, in opening and viewing such materials in Adobe Acrobat, in downloading such materials whether viewed or not, and/or in printing such materials. Further, it is unclear who Plaintiffs are carving out of the interrogatory in stating, "This need not include every instructor or professor that has distributed Electronic Course Reading Material."

Subject to and without waiving these objections, the Board Members incorporate by reference herein as though fully set forth the response of the University Administrators to Plaintiffs' Interrogatory No. 3. The Board Members further respond that while the Board of Regents Office of Information and

Instructional Technology is responsible for maintaining servers for WebCT/Vista, no person at the Board of Regents participates or has participated in any way in copying, scanning, posting, and/or transmitting course material on uLearn. The Board of Regents has no involvement with ERes, course web pages, or faculty web pages.

**Interrogatory No. 4:**

Identify each and every person at GSU or the Board of Regents with responsibility for or knowledge of the development, construction, programming, function, structure, management, maintenance, repair, and/or monitoring of ERes or any Course Management System for the purposes of technical operation, legal compliance, or any other purpose, and his or her job title.

**Response:** The Board Members object to Interrogatory No. 4 on the basis of the Scope Objection, the Burden Objection, and the Vague Objection. The meaning of the terms “function,” “structure,” “management,” and “monitoring” is unclear and the phrases “or knowledge of,” “legal compliance” and “any other purpose” is indefinite. The interrogatory, as worded, literally asks for the identification of every faculty member, teaching assistant, administrative assistant, secretary, staff member, and/or student with knowledge regarding the operation of ERes, ULearn, and faculty and course web pages.

Subject to and without waiving these objections, the Board Members incorporate by reference herein as though fully set forth the response of the University Administrators to Plaintiffs' Interrogatory No. 4. The Board Members further respond that staff members at the Board of Regents Office of Information and Instructional Technology with knowledge regarding uLearn are Doug Hyché, IT Program Director, and George Hernandez, Database Analyst Staff Specialist.

**Interrogatory No. 5:**

Identify each and every person at GSU or the Board of Regents responsible for determining whether a license is required for the distribution of any Electronic Course Reading Material or Course Reading Material in hard copy form and his or her job title.

**Response:** The Board Members object to Interrogatory No. 5 on the basis of the Scope Objection, the Burden Objection, and the Vague Objection. The phrase "responsible for determining whether a license is required" is vague and indefinite. The phrase "Electronic Course Reading Material ... in hard copy form" is also vague and indefinite.

Subject to and without waiving these objections, the Board Members incorporate by reference herein as though fully set forth the response of the University Administrators to Plaintiffs' Interrogatory No. 5. The Board Members



further respond that the Board of Regents does not make licensing determinations regarding distribution of course material at GSU.

**Interrogatory No. 6:**

Identify each and every person at GSU or the Board of Regents with knowledge of the extent to which Course Reading Material in electronic or hard copy coursepacks or cospacks is distributed at the University. (This need not include every instructor or professor that has distributed Electronic Course Reading Material.)

**Response:** The Board Members object to Interrogatory No. 6 on the basis of the Scope Objection and the Vague Objection. The meaning of the phrase “knowledge of the extent to which Course Reading Material ... is distributed at the University” is unclear and indefinite. The Board Members further object to the terms “electronic coursepacks” and “cospacks” as unclear and indefinite. Coursepacks are understood to be hard-copy excerpts assembled into a single work. Further, it is unclear who Plaintiffs are carving out of the interrogatory in stating, “This need not include every instructor or professor that has distributed Electronic Course Reading Material.”

Subject to and without waiving these objections, the Board Members incorporate by reference herein as though fully set forth the response of the

University Administrators to Plaintiffs' Interrogatory No. 6. The Board Members further respond that George Hernandez at the Board of Regents Office of Information and Instructional Technology is familiar with uLearn reporting capabilities respecting the number of times particular files posted on uLearn have been accessed, and are producing such reports in response to Plaintiffs' Requests for Production of Documents. The Board Members have no additional information regarding the extent to which course material is distributed at GSU.

**Interrogatory No. 7:**

Identify every bookstore, copy shop, or other establishment (Kinko's, *e.g.*) that provides coursepacks or copy packs to students for use in GSU classes.

**Response:** The Board Members object to Interrogatory No. 7 on the basis of the Scope Objection and the Burden Objection. The Board Members further object to the term "copy packs" as unclear and indefinite.

Subject to and without waiving these objections, the Board Members incorporate by reference herein as though fully set forth the response of the University Administrators to Plaintiffs' Interrogatory No. 7. The Board Members further respond that the Board of Regents has no information regarding the bookstores, copy shops, or other establishments that provide coursepacks or copy packs to students for use in GSU classes.