

E  
X  
H  
I  
B  
I  
T  
C

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

CAMBRIDGE UNIVERSITY PRESS, et al.,

Plaintiffs,

CIVIL ACTION FILE

vs.

NO. 1:08-CV-1425-ODE

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

Defendants.

---

Videotaped deposition of NANCY SEAMANS, taken on behalf of the Plaintiffs pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, before Michelle M. Boudreaux, Georgia Certified Court Reporter, at the Offices of Legal Affairs for Georgia State University, 10 Park Place South Building, Atlanta, Georgia, on the 10th day of March 2009, commencing at the hour of 10:15 a.m.

---

SHUGART & BISHOP  
Certified Court Reporters  
13 Corporate Square  
Suite 140  
Atlanta, Georgia 30329  
(770) 955-5252

1 Q -- role and responsibility in relation to  
2 implementation of copyright compliance policy.

3 A It would -- I'm very peripherally involved  
4 in that implementation.

5 Q And with respect to Ms. Burtle, is it --

6 A Uh-huh.

7 Q -- how would you describe the extent of her  
8 involvement in such matters, that is, implementation  
9 of policy?

10 A Probably slightly more than mine, but the  
11 policy comes from the university or from the Board of  
12 Regents, so it's how we go about implementing what  
13 they have given us. So she would be more involved  
14 than I would be, Ms. Hampton would be more involved  
15 than she would be, but most of it is trying to figure  
16 out, within the constraints of what the policy is  
17 that we have been given, how we make it work best.

18 Q What is the -- what is Ms. Hampton's  
19 background in terms of training; do you know?

20 A I don't.

21 Q Do you know if she has any special training  
22 in intellectual property matters?

23 A I do not.

24 Q And copyright matters in particular?

25 A I do not.

1 the determinations that individual instructors would  
2 be making?

3 A I'm not sure I'm following your question.

4 Q Is it your understanding that the policy  
5 contemplates any form of supervision, auditing,  
6 sampling, review, or the like of the individual  
7 determinations that will be made by faculty members  
8 to determine the reasonableness of those  
9 determinations?

10 A I'm not aware of any.

11 Q And specifically in relation to Georgia  
12 State University, are you aware of any plans or  
13 processes either now in place or to be put in place  
14 to serve that function?

15 A If there is anything that I would see going  
16 forward -- and this is -- because this is new to us,  
17 we're still figuring this out, from the library  
18 perspective, that there would be a sense that staff,  
19 when in doubt, would question -- would take the issue  
20 to legal counsel, that there would be not an  
21 automatic acceptance of what a faculty member has  
22 said if there is something that raises a red flag for  
23 a faculty -- for a staff member in the library.

24 Q And when you reference staff members in  
25 this connection, what are we talking about, who are

1 we talking about?

2 A We're talking about technicians, clerks,  
3 library clerks. So it would be something that would  
4 have to be pretty egregious to make them question  
5 something, but they are given the authority to raise  
6 questions if they see something that bothers them.

7 Q Was that communicated during this seminar?

8 A Yes.

9 Q Were any examples given of what might be  
10 viewed as egregious?

11 A It mostly focused on quantity, that if  
12 somebody asked that an entire book be scanned, for  
13 example, would the staff accept that, and we  
14 generally said probably not, that they would ask that  
15 legal counsel be involved.

16 Q Any other examples that came up of that  
17 kind of egregious --

18 A Not that I'm thinking of.

19 Q Turning to page 21130, the second bullet  
20 indicates, "Remove materials at the end of each  
21 semester." Do you see that?

22 A Yes.

23 Q Does the policy contemplate what's to be  
24 done if a professor wants to offer the same materials  
25 in one or more succeeding academic terms?

1 MR. SCHAEZEL: Objection as to form.

2 THE WITNESS: I don't know.

3 Q (By Mr. Rich) Who would know the answer to  
4 a question like that?

5 A The person in charge of that unit or Laura  
6 Burtle.

7 Q And is Laura a direct report to you?

8 A Yes.

9 Q So if you, for example, were interested in  
10 requisitioning a file, if such a file existed, of  
11 completed ERes forms, you would contact Laura and  
12 make that request?

13 A Yes.

14 Q She would likely fulfill that request?

15 A I hope so.

16 Q To the best of her ability?

17 A To the best of her ability, yes.

18 Q Okay.

19 MR. RICH: Let's mark as Plaintiff's

20 a document bearing production numbers

21 7945.005.xls-1 through 377.

22 (Exhibit 20 marked for identification.)

23 Q (By Mr. Rich) I don't want you to read  
24 every line of this document, unless you care to.

25 A Good.

1 A It is.

2 Q And for what purpose was it created?

3 A In order to reflect changes that have taken  
4 place in the policy that was approved by the  
5 chancellor.

6 Q Okay. And can you tell me the principal  
7 people who were involved in the creation of these  
8 forms?

9 A Laura Burtle and the staff in the reserves  
10 department and me. And I believe Cynthia Hall did a  
11 final review of those.

12 Q And I take it the purpose of these is to  
13 assist in implementing the new policy; is that  
14 correct?

15 A Yes.

16 Q And did you receive any assistance from any  
17 resources outside of Georgia State University -- did  
18 you or your colleagues, to your knowledge, receive  
19 any assistance from outside of Georgia State  
20 University in preparing these materials?

21 A Not in terms of contacting anyone to help  
22 us with them, but in terms of looking at what other  
23 people have done with their E resources materials,  
24 yes, we looked at other Web sites.

25 Q Within the Georgia University System?

1 Q Okay. Please proceed. Following that?

2 A Following that, because the faculty member  
3 has gone through the process of telling us that this  
4 is an appropriate and acceptable use, the staff would  
5 then make the materials available in the format that  
6 the faculty member has requested unless there is  
7 something that is a red flag to that staff that makes  
8 them say, "Hmm, we need to investigate this further."

9 Q And as you testified this morning, if I  
10 recall it correctly, the one red-flag example that  
11 came to mind was, well, wait a minute, this looks  
12 like an entire textbook, let's say, I'm not so sure  
13 this is --

14 A Uh-huh.

15 Q -- appropriate. Now, if that staff member  
16 makes that judgment, what does he or she do at that  
17 point?

18 A The first piece that we have asked the  
19 staff to do is to notify the faculty member and say,  
20 "This one seems questionable to us. Can you  
21 reinforce for us that you have gone through this  
22 process?"

23 Q And let's assume that person comes to me,  
24 I'm the sociology professor, and I say --

25 A Uh-huh.



1 Q -- "I'm comfortable. I think it's the  
2 right choice" --

3 A Uh-huh.

4 Q What happens next?

5 A At that point -- and again, understand we  
6 are in a new implementation here -- my guess is that  
7 the clerical person, the staff person in the library  
8 would go to a supervisor and say, "I'm still  
9 uncomfortable with this one. Would you look at it?"  
10 And so a supervisor would be involved at this point  
11 in looking at that question.

12 Q Tell me the basic sort of education levels  
13 of the first-level person at the desk and then the  
14 next-level person at the desk at that point. What  
15 are their backgrounds?

16 A It would depend on what hour of the day you  
17 came into the library.

18 Q I'll take all the different variations.

19 A All the different variations, it could be  
20 everyone from a student who has been hired to staff  
21 that desk and basically is just kind of standing  
22 there and saying, "Yes, thank you, I'll see what I  
23 can do with it," to someone who has maybe a high  
24 school degree, to someone who has finished college,  
25 to someone who may have a library degree or a

1 master's degree in some area. Experience could range  
2 from almost nothing to 8, 10, 15 years of experience  
3 working in a library, so a very wide range.

4 Q It's a function of who will take that  
5 position --

6 A Uh-huh.

7 Q -- effectively, yes?

8 A Uh-huh.

9 Q And at the next level, what did you call  
10 it, a system supervisor?

11 A Is somebody who has -- in our instance,  
12 it's someone who has many years of experience, I'm  
13 thinking in excess of 20, in the library and would be  
14 very comfortable going back to a faculty member and  
15 saying that, "We would like you to rethink this one,"  
16 or just saying, you know, "Rather than get involved  
17 in this back-and-forth, I'm going to bump it upstairs  
18 or send it over to legal."

19 Q Now, "bumping it upstairs," do you mean  
20 bumping it to --

21 A Would be coming to me --

22 Q -- you?

23 A -- or to Laura Burtle, yes, depending on  
24 which one of us is available.

25 Q And would Laura's or your judgment be

1 final --

2 A No.

3 Q -- in that situation?

4 A No. We will not -- we will not make  
5 decisions about things like this, but we would  
6 support the staff member's decision to recommend that  
7 it be bumped over to legal.

8 Q Final determination would be made by legal  
9 in that situation?

10 A I don't think so, because I think it would  
11 be legal's -- I think legal would work with the  
12 faculty to make sure that they have gone through that  
13 fair use analysis. The faculty member is the person  
14 who best understands how this is going to fit and how  
15 they're going to use it and whether there's a fair  
16 use determination that can be made.

17 Q Now, at the end of the day, if all avenues  
18 of appeal, as we call it, or review are exhausted --

19 A Uh-huh.

20 Q -- is it your understanding that if a  
21 faculty member stands her ground and says, "I respect  
22 your view, I disagree" -- what happens? Who wins?

23 A Who wins? I would think that if the Office  
24 of Legal Affairs said, "We respectfully disagree with  
25 your determination," that the faculty member would

1 purposes of the course, the need for material to  
2 support their teaching.

3 Q Most of which would tend in favor of making  
4 a fair use determination, would they not?

5 A I think it would depend on a case-by-case  
6 basis how they go through it. I don't think you can  
7 generalize that, no.

8 Q Under what analysis would a faculty member,  
9 all other things equal, feel himself or herself  
10 benefiting from putting him or herself or GSU the  
11 burden of getting permissions for the materials they  
12 want to use in their course?

13 A Because it's the right thing to do. It's a  
14 legal and ethical issue that -- I mean, academic  
15 integrity requires that.

16 Q And what enforcement mechanisms are  
17 proposed within GSU to make sure that the policies  
18 are being properly implemented by individual faculty  
19 members?

20 MR. SCHAEZEL: Objection. Asked and  
21 answered.

22 THE WITNESS: Enforcement is --  
23 there's not an enforcement mechanism. This  
24 is a -- this is a -- we teach the faculty,  
25 we give them the tools that they have, we

1 try to make sure it doesn't happen. But  
2 there are no copyright police out there  
3 beating up on people if they make the wrong  
4 determination. I mean, this is something  
5 where a faculty member has to process all  
6 of this. It is a learning process, as they  
7 do it for each piece of material that  
8 they're using.

9 Q (By Mr. Rich) So you seem to think that  
10 it's a pejorative to enforce copyright laws, that  
11 it's --

12 A I have not said that.

13 Q You used the word "copyright police."

14 A You're asking about enforcement --

15 Q Yes.

16 A -- how is it going to be enforced.

17 Q Yes.

18 A There is a difference between making sure  
19 that people have the tools to do their job and making  
20 sure that they make their best determination, and  
21 then it's being proactive versus reactive.

22 Q If students cheat on examinations, are  
23 there any consequences to their career at GSU?

24 A Yes.

25 Q What?

1 THE WITNESS: It doesn't have the  
2 Georgia State University logo on it, but I  
3 believe it is part of the Web site for  
4 course reserves.

5 Q (By Mr. Rich) You understand this to be a  
6 recent addition to the Web site as well?

7 A I believe it is.

8 Q And is it designed to reflect the work of  
9 your committee and the resulting policy?

10 A As it references that policy, I believe it  
11 does, yes.

12 Q And who is the author of these -- of this  
13 Web site material?

14 A I believe, again, the same people who were  
15 doing the Web page that we talked about before, so it  
16 would be the folks in the E-Reserve unit, plus the  
17 supervisor of that unit, plus Laura Burtle, plus me,  
18 with some input from legal counsel, I believe.

19 Q Have you personally received any feedback  
20 from anyone in the GSU community to any of the  
21 recently posted materials or to the policy?

22 A Not yet.

23 Q Do you expect to be deluged?

24 A Not deluged, but I expect to hear things,  
25 yes.