

EXHIBIT C

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

CAMBRIDGE UNIVERSITY)
PRESS, et al.,)
)
 Plaintiffs,)
)
 vs.) Civil Action File
) No. 1:08-CV-1425-ODE
MARK P. BECKER, in his)
official capacity as)
Georgia State University)
President, et al.,)
)
 Defendants.)

- - -

Videotaped deposition of LAURA G. BURTLE,
taken on behalf of the plaintiffs, pursuant to the
stipulations contained herein, before Sharon A.
Gabrielli, RPR, CCR No. B-2202, at 104 Marietta Street,
6th floor, Room 3, Atlanta, Georgia, on Friday, April
24, 2009, commencing at the hour of 9:13 a.m.

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

1 Q Okay. Do you know why she was sending this
2 information?

3 A I do not.

4 Q Okay.

5 MS. SINGER: If you would mark this as
6 P-73, please.

7 MR. ASKEW: Exhibit 73?

8 MS. SINGER: Yes.

9 (WHEREUPON, Plaintiffs' Exhibit 73 was marked for
10 identification.)

11 Q (BY MS. SINGER) Ms. Burtle, you have in
12 front of you what's been marked as P-73. And
13 Plaintiffs' Exhibit 73 is Bates stamped Georgia State
14 824. It's an Excel file entitled "GSU Cost '98 to
15 Pres" -- P-R-E-S -- ".xls."

16 And if you look on P-72, the attachment to
17 that document is "GSU Cost '98 to Pres.xls." Do you
18 see that.

19 A Yes.

20 Q Okay. Have you ever seen Plaintiffs' 73
21 before?

22 A Apparently, since I was copied on this email.

23 Q Can you tell us what P73 is, please?

24 A It's a spreadsheet showing payments to the
25 Copyright Clearance Center.

1 Q Okay. And if we look on the last page of
2 P73, the total at the bottom there is \$18,905.42. Do
3 you see that?

4 A Yes.

5 Q Okay. And that's, based on the title of the
6 spreadsheet, from 1998 to probably sometime in early
7 2008?

8 A Yes. Although it doesn't go back to 1998 --
9 oh, never mind. It does.

10 Q Are you aware -- if you look at the -- the
11 fourth column of the last page appears to be a
12 description. And we see at the top about \$3,287.91
13 looks to have been from ILL. Is that interlibrary
14 loan?

15 A Yes.

16 Q Okay. So that's what we were discussing, the
17 fees paid to CCC for -- for interlibrary loan?

18 A Correct.

19 Q And then the bottom section has -- the
20 description entries are copyright royalties, executive
21 leadership, copyright approval, copyright fees. Are
22 you familiar with what those payments would have been
23 for?

24 A No.

25 Q Who would be familiar with that?

1 A Well, whoever entered them.

2 Q Do you know who that would have been?

3 A I don't know. The last column would
4 indicate, but I don't know the key that goes with those
5 codes.

6 Q Okay. You anticipated my next question. To
7 go back to P-72 for a moment, the email says, "Here's
8 the information you requested. Lee pulled the
9 information out of Spectrum from 1998 to present." Who
10 is Lee?

11 A Lee is the library business manager.

12 Q Okay. And what is Spectrum?

13 A Spectrum is the university's financial
14 system.

15 Q Do you have access to Spectrum?

16 A No, I do not.

17 Q Do you have any opinion about whether
18 approximately \$19,000 paid to CCC over a period of ten
19 years is a large amount, a small amount?

20 A I have no context to answer that.

21 Q Okay.

22 MS. SINGER: Let's -- let's mark this
23 Exhibit 74, please.

24 (WHEREUPON, Plaintiffs' Exhibit 74 was marked for
25 identification.)

1 24. It's a copy of the Complaint. And I'm --

2 MS. SINGER: If you would please mark

3 this as Plaintiffs' 77.

4 (WHEREUPON, Plaintiffs' Exhibit 77 was marked for
5 identification.)

6 Q (BY MS. SINGER) Okay. Ms. Burtle, you have
7 the great big, thick thing in front of you that's been
8 marked Plaintiffs' Exhibit 77, bearing the Bates stamp
9 GSU 8247.001 xls-1. Do you see that?

10 A Yes.

11 Q Do you recognize Plaintiffs' Exhibit 77?

12 A I don't know that I've seen it in this form
13 before, but I recognize what it is.

14 Q Okay. And what is Plaintiffs' Exhibit 77?

15 A It's a document hit report from the ERes
16 system from the dates 1/1/09 to 4/2/09.

17 Q Have you seen reports in the same format as
18 P-77 before?

19 A Yes.

20 Q And this is -- strike that.

21 Is this the form of report that generally you
22 look at from the EReserve system?

23 A If I'm looking for hit counts, yes.

24 Q Okay. And we see that the headings at the
25 top of P-77 are document, course reserves page, date

1 range, hit count, and percentage of total?

2 A Yes.

3 Q Do you see that?

4 A Um-hmm.

5 Q Could you walk us through what each of those
6 columns mean?

7 A The document is what the document that's on
8 reserve is.

9 Q Okay.

10 A The page is which course page it's on, so
11 course number and the -- who's teaching it. Date range
12 is number of hits during that date range. Hits is the
13 number of times that document has been accessed. And
14 percent of total is the percent of all the accesses
15 during this time that that accounts for.

16 Q Okay. And the -- the total, then, would be
17 all of the hits for everything on the ERes system for
18 that date count?

19 A Everything on the active ERes system, yes.

20 Q Everything on the active. When you say
21 "active" --

22 A Not in the dark archive.

23 Q Okay. Thank you.

24 Course reserves page, am I correct that each
25 professor -- each course has its own page; is that how

1 ERes is set up?

2 A Yes.

3 Q Okay.

4 A Each section of each course.

5 Q And what do you mean by "section"?

6 A Professor could be teaching three sections of
7 the same course.

8 Q Okay.

9 A Each section will have its own page.

10 Q Okay. If I could direct your attention to
11 page 17 of P-77. So it's the -- the page where the
12 number 17 comes after the dash on P-77.

13 A Oh, I see.

14 Q I'm not going to make you count, so --

15 A I couldn't see where you were looking at a
16 number.

17 Q Okay. The second entry on page 17 of P-77,
18 the document is 15a) Awakening Children's Minds,
19 Chapter 6, pages 181 to 199 from -- the author there is
20 Berk, L.E., and the publication is Awakening Children's
21 Minds, Oxford: Oxford University Press, 2001. Do you
22 see that?

23 A Yes.

24 Q So that excerpt from Awakening Children's
25 Minds, the Oxford University Press book, would have

1 been used in course EPY 7090, the Psychology of
2 Learning of Young Children, in spring 2009 taught by
3 Flexner, Kruger, and Lederberg?

4 MR. ASKEW: I'll object to the form of
5 that question. I don't think there's a
6 foundation for that question with this
7 witness, and I don't know how this witness
8 would know whether that document was used in
9 this class or not. All this witness knows is
10 what is reported on this form.

11 MS. SINGER: Okay.

12 MR. ASKEW: We went through this a lot
13 yesterday, and I felt like at one point that
14 we really needed to stop and see if we
15 couldn't just have some sort of an agreement
16 that the witness is allowed to tell you that
17 these items are on the form. But you can ask
18 her, but I seriously doubt that she's going
19 to know whether that actual document was
20 actually used in that class. It would be
21 beyond what she would know. She can tell you
22 it's on the form. She can probably you tell
23 you that she has no reason to believe that
24 the form is inaccurate, but all she's going
25 to be able to tell you is that this document

1 appears in that report --

2 MS. SINGER: All right. I appreciate --

3 MR. ASKEW: -- and the data's there.

4 MS. SINGER: I appreciate your position.

5 MR. ASKEW: And if you'd like to maybe
6 go through and just identify the various
7 items that you would like to have that
8 acknowledgement made, I think we could do
9 that, maybe it could speed things up; but
10 beyond that, I don't know what else she can
11 tell you.

12 MS. SINGER: I appreciate your position.
13 I'm going to go ahead and ask my questions
14 because it's my deposition.

15 Q (BY MS. SINGER) So on page 7, entry 15a),
16 it's the second entry on page 17 of P-77, we see that
17 this excerpt from the Oxford Unity -- University Press,
18 Awakening Children's Minds, is listed as being used in
19 course EPY 7090, the Psychology of Learning of Young
20 Children, in spring 2009. Do you see that?

21 A Yes.

22 Q Do you have any reason to believe that
23 that -- that excerpt was list -- not listed for that
24 course?

25 A No.

1 Q Okay. And we see that it was -- the hit
2 count is one, do you see that?

3 A Yes.

4 Q Okay. Now, if you would please turn to page
5 85 of P-77.

6 MR. ASKEW: Which page?

7 MS. SINGER: 85.

8 MR. ASKEW: Thank you.

9 Q (BY MS. SINGER) Do you see five -- five
10 lines up from the bottom on page 85 of P-77, we see
11 "Susan Chase, narrative inquiry, Sage Handbook of
12 Qualitative Research." Do you -- do you see that
13 entry?

14 A Um-hmm.

15 Q And that --

16 A Yes.

17 Q That's listed as being used in course EPRS
18 8500, Qualitative Interpretative Research and Education
19 1, spring, 2009. Do you see that?

20 A Yes.

21 Q And that's listed as having been hit 84
22 times?

23 A Yes.

24 Q Do you have any reason to believe that wasn't
25 hit 84 times?

1 A No.

2 Q Okay. Who would have loaded these excerpts
3 up onto the EReserve system for spring 2009?

4 A For spring 2009, I do not know if Jim Palmour
5 was actually loading them onto the server or if that
6 was being done in the reserves unit in the library.

7 Q Okay. If you wanted to check whether an
8 excerpt was actually on the reserve system, how would
9 do you that?

10 A I would log in as an administrator. There
11 are levels of administrator. I have whatever the
12 highest level is that would let me actually access this
13 page, and I would click on that link and see if it's
14 there. Is that what you're asking?

15 Q That's -- yep, thank you.

16 If you would please turn to page 133 of P-77,
17 the bottom two entries, first one says, "Feminist Media
18 Studies, Chapter 2, from Liesbet Feminist Media
19 Studies, Sage Publications." Do you see that?

20 A Yes.

21 Q Listed as being used for course JOU 4780,
22 Women and Media, spring 2009. Do you see that?

23 A Yes.

24 Q And that's listed as being hit 52 times?

25 A Right.

1 Q The entry after that is Chapter 3 from the
2 same book, Liesbet Feminist Media Studies, Sage
3 Publications, 1994. Do you so that?

4 A Yes.

5 Q For the same course, JOU 4780, Women
6 andMedia?

7 A Yes.

8 Q And that has been hit 41 times in the -- the
9 date range of this report?

10 A Yes.

11 Q Is that a problem for -- does that -- strike
12 that.

13 Would you expect it to set off a red flag, as
14 you call it, for -- or an alarm bell, I think you might
15 have said, to have two chapters from the same work.

16 A Without seeing the work and what the
17 professor said about it, I can't answer that. I don't
18 know.

19 Q Okay. If you would turn to page 137 of
20 Plaintiffs' 77. The first line there is, "Focus on the
21 Language Classroom, Chapter 10." Do you see that?

22 A Yes.

23 Q And that is from Focus on the Language
24 Classroom, Cambridge University Press, 1991?

25 A Um-hmm.

1 Q For course AL 8900, The Practicum. Do you
2 see that?

3 A Yes.

4 Q And that was hit 57 times, according to this
5 report?

6 A Yes.

7 Q Do you have any reason to believe that that
8 information is inaccurate?

9 A No.

10 Q And the next entry is "Focus on the Language
11 Classroom, Chapter 9," from the same work?

12 A Yes.

13 MR. ASKEW: I'm not following. What --
14 are we on page 177?

15 MS. SINGER: 137.

16 MR. ASKEW: 137. Okay. Just a second.

17 Q (BY MS. SINGER) And that is listed for the
18 same course, AL 8900, Practicum. Do you see that?

19 A Um-hmm, yes.

20 Q And that was hit 17 times?

21 A Correct.

22 Q If, for some reason, you wanted information
23 about a hit count or about what items were listed on
24 the EReserve system, would you rely on a report like
25 this?

1 A Yes.

2 Q If you would please turn to page 195 of P-77.
3 The third line from the bottom, we see a -- an excerpt
4 from -- called "Rethinking Critical Theory and
5 Qualitative Research" by J.L. Kincheloe and P. McLaren
6 in the Sage Handbook of Qualitative Research. Do you
7 see that?

8 A Yes.

9 Q And that was used for course EPRS 8500,
10 Qualitative/Interpretive Research and Education 1 in
11 spring 2009. Do you see that?

12 A Yes.

13 Q And that is listed as being hit 45 times?

14 A Correct.

15 Q Two more. We're getting there. Page 283 of
16 P-77. Third line down, L. Richardson, "Writing As A
17 Method of Inquiry," in Norman Denzin and Yvonna
18 Lincoln, the Sage Handbook of Qualitative Research.

19 A Right.

20 Q And that is listed as being used in EPRS
21 8510, Qualitative Research and Education 2?

22 A Um-hmm.

23 Q And that is listed as being hit 25 times
24 during this semester?

25 A Right.

1 Q Okay. Last one, page 307 of P-77, lines 4
2 and 5 from the bottom, line 5 up says, "Slave
3 Community, Chapter 4, The Slave Family by John
4 Blassingame." Do you see that?

5 A Yes.

6 Q And below that, Chapter 7 from the same --
7 Chapter 7, also from the Blassingame Slave Community
8 book. Do you see that?

9 A Yes.

10 Q Both listed as being used in AAS 3000, the
11 African -- African-American Family, in spring 2009 --

12 A Yes.

13 Q -- do you see that? And the first chapter
14 was hit once and Chapter 7 was hit five times. Do you
15 see that?

16 A Yes.

17 Q What does, to the best of your knowledge, hit
18 count mean? I think you said it meant it was accessed?

19 A It means that somebody who had access to that
20 course page clicked on it.

21 Q Okay.

22 A If it says zero or one -- they should all say
23 at least one because the staff member who loaded it and
24 created the course page will click on it to make sure
25 it's there.

1 Q Okay.

2 A When it says one, that means no students
3 looked at it.

4 Q Do you have any way -- I'm sorry, strike
5 that.

6 But this report, according to the date at the
7 top, was run through April 2nd, 2009, right?

8 A Yes.

9 Q So there was still time left in the semester?

10 A Right.

11 Q Okay. Do you have any way of knowing what a
12 student did with the work after they accessed it?

13 A Can you clarify your question?

14 Q Sure. Do you have any way of knowing whether
15 they printed it out or saved a copy to their computer
16 or emailed it to 12 of their closest friends? Do you
17 have any way of tracking that?

18 A No.

19 Q Okay. Is it possible for a student to save a
20 copy to their computer?

21 A It's a PDF file, so I don't know of any
22 reason it would not be, but I do not know directly if
23 that's true.

24 Q Okay. Do you know whether students print
25 out --

1 A I have no way of knowing that.

2 Q Do you know if it's possible for them to do
3 so?

4 A I believe it's possible since it is a PDF
5 file.

6 Q Okay. So, to the best of your knowledge, you
7 could do with -- after you access a file from EReserves
8 you can do with it whatever you could ordinarily do
9 with a PDF file?

10 A To the best of my knowledge.

11 Q Okay. Directing your attention to
12 Plaintiffs' Exhibit 24. Do you recognize Plaintiffs'
13 Exhibit 24?

14 A Yes.

15 Q Have you seen this before?

16 A Yes.

17 Q And what is Plaintiffs' Exhibit 24?

18 A It's the Complaint.

19 Q When do you recall first seeing Plaintiffs'
20 Exhibit 24?

21 A Probably the day it was filed and we were
22 notified that it was filed.

23 Q What did you do after reviewing Plaintiffs'
24 24?

25 A I'm sorry?

1 A I -- I don't recall specifically. I believe
2 more items than this were identified in the complaint,
3 so I would assume that similar questions were asked for
4 those items.

5 Q Okay.

6 MS. SINGER: If you would please mark as
7 Plaintiffs' 79 a document bearing the Bates
8 stamp Georgia State 3167.

9 (WHEREUPON, Plaintiffs' Exhibit 79 was marked for
10 identification.)

11 Q (BY MS. SINGER) Ms. Burtle, you have in
12 front of you Plaintiffs' Exhibit 79. Do you recognize
13 this document?

14 A I recognize what it is.

15 Q And what is Plaintiffs' 79?

16 A It's a summary of document hits from 2003 to
17 5/6/08.

18 Q And when you say "document hits," those
19 are --

20 A In EReserves.

21 Q Okay. So those would be the annual hit
22 counts for the EReserve system for those years?

23 A For the active pages in the EReserve system
24 for each of those years.

25 Q Okay. To the best of your knowledge, are

1 these figures accurate?

2 A I have no reason to think they aren't.

3 Q Okay. Do you know who compiled this report?

4 A No.

5 Q Do you know why it would have been compiled?

6 A No. It appears to be looking at trends, but
7 I -- I don't have any recollection of it, so if
8 there's -- yeah, I don't know.

9 Q As part of your responsibilities, do you look
10 at trends in the usage of the EReserve system?

11 A Not on a regular basis, but if I had
12 questions about whether it was still useful, I would
13 take a look.

14 Q Do you believe that EReserves is still
15 useful?

16 A Yes.

17 Q And Plaintiffs' 79 shows that for 2007, there
18 was 259,691 hits for the active pages in EReserves?

19 A Correct.

20 Q And then the figure for 2008 is 95,007, but
21 that is a partial year; is that correct?

22 A Correct.

23 Q So the final number of hit counts for the
24 year 2008, we presume would have been greater than
25 95,000?

1 A Yes.

2 Q Okay.

3 MS. SINGER: I'm -- if you would please
4 mark as Plaintiffs' Exhibit 80 a document
5 bearing the Bates stamp Georgia State 3610.
6 (WHEREUPON, Plaintiffs' Exhibit 80 was marked for
7 identification.)

8 Q (BY MS. SINGER) Ms. Burtle, you have in
9 front of you a -- an exhibit marked Plaintiffs' Exhibit
10 80. It's an email to you from Marjorie Denise Dimsdale
11 dated April 21st, 2008. Do you recognize this
12 document?

13 A I don't recall it, but I see what it is.

14 Q And what is Plaintiffs' 80?

15 A It appears to be a response to a question I
16 asked about features in ERes.

17 Q Do you recall asking -- do you recall why you
18 asked about the ERes features?

19 A No. No, I don't.

20 Q Okay. And Ms. Dimsdale replies in
21 Plaintiffs' 80, "There are an awful lot of features
22 about ERes that we are not using." Do you know what
23 she -- what did you understand that to mean?

24 A That there are features we aren't using.

25 Q Okay. Do you know what those features are?

1 Q (BY MS. SINGER) Ms. Burtle, do you recognize
2 Plaintiffs' Exhibit 83?

3 A Yes.

4 Q And what is Plaintiffs' 83?

5 A It appears to be an email that Denise sent me
6 in response to my question of April 17th on -- on the
7 20 percent rule. It's not exactly an answer. I asked
8 where the 20 percent came from and she responded with
9 the current practice that she found.

10 Q Did you ever get an answer to the question on
11 where the 20 percent came from?

12 A That's the thing I told you she verbally told
13 me.

14 Q Okay. Aside from Plaintiffs' -- the emails
15 of Plaintiffs' Exhibit 82 and eighty -- Plaintiffs' 83,
16 do you recall any other written communications
17 regarding the 20 percent rule?

18 A I don't recall any, no.

19 Q Okay. What is the status of the 20 percent
20 rule today?

21 A We no longer use the 20 percent rule.

22 Q Has the 20 percent rule been replaced by
23 anything?

24 A It's been replaced by the faculty doing an
25 analysis of fair use using the checklist. And if they

1 determine it to be fair use, we accept it, unless it
2 sets them off an alarm and...

3 Q Okay. Is it your testimony, then, that the
4 20 percent is still used as -- as some kind of informal
5 alarm threshold for the library?

6 A Not officially, I wouldn't be surprised if
7 people who are used to the 20 percent are sensitive to
8 that amount and it sets off an alarm for them, but it's
9 certainly not something we instruct.

10 Q Okay. When the 20 percent rule existed prior
11 to the new policy, who was responsible for enforcing
12 the 20 percent rule?

13 A Denise Dimsdale was the first level of
14 responsibility for that and handled most of the issues.

15 Q And what did handling the issues entail?

16 A Telling the faculty no.

17 Q Do you have a sense of how often she had to
18 tell faculty no?

19 A No, I don't.

20 Q Did she ever escalate to you or to anyone
21 instances in which the -- the faculty pressed even
22 after they were told no?

23 A I don't recall any instances.

24 Q Okay. And if we look back at Plaintiffs' 81,
25 it says, "20 percent. I only see the one chapter

1 stipulation." Was there a one chapter stipulation at
2 Georgia State University prior to the new policy?

3 A Yes, one chapter or 20 percent.

4 Q How did that work, what if it was three
5 chapters, but only 18 percent of a work?

6 A Say that again.

7 Q How -- what was the relationship between the
8 20 percent and the one chapter? For instance --

9 A It -- it could be greater than one chapter if
10 it was less than 20 percent.

11 Q Okay. And what if it was one chapter, but it
12 was a short work that only had four chapters, so one
13 chapter was 25 percent of the work?

14 A I don't know. By this guideline, it would
15 have been the one chapter was done, but I don't know if
16 the practice differed from that.

17 Q Okay. Did the -- what did --

18 A I want to amend that.

19 Q Please.

20 A I don't think they ever went over 20 percent.

21 Q Okay. How did the -- the 20 percent or one
22 chapter -- how was that applied? Was that applied to
23 just work by work? So, what I'm trying to ask is, if a
24 professor had 20 different excerpts and they wanted to
25 use them in four classes, did -- would you look at the

1 20 percent of the particular work for each of those
2 classes -- strike that.

3 Did you have any rules about how -- whether a
4 professor could post 20 percent of a work -- if -- if
5 they wanted to post a different 20 percent of a work,
6 they were teaching two classes in a semester, and they
7 wanted to post 20 percent of a work for one class and a
8 different 20 percent of the work for a different class
9 they were teaching in the same semester, how would you
10 have applied the 20 percent rule?

11 A We only looked at an individual course page.
12 So if there were multiple sections of a book on an
13 individual course -- individual course page, we would
14 look at the cumulative effect, but not between course
15 pages.

16 Q Okay. Thank you. I'm sorry, that was a bit
17 of a tortured question.

18 MS. SINGER: If you would please mark as
19 Plaintiffs' Exhibit 84 a document bearing the
20 Bates stamp Georgia State 904.

21 (WHEREUPON, Plaintiffs' Exhibit 84 was marked for
22 identification.)

23 Q (BY MS. SINGER) Do you recognize Plaintiffs'
24 Exhibit 84?

25 A It's an email from me to several people about