

EXHIBIT E

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 MARJORIE DENISE
DIMSDALE, taken on behalf of the plaintiffs, pursuant to
the stipulations contained herein, before Teresa Bishop,
RPR, RMR, CCR No. B-307, at 44 Courtland Street, 2nd
floor, Atlanta, Georgia, on Wednesday, May 13, 2009,
commencing at the hour of 8:54 a.m.

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

1 that or not.

2 Q. Do you know how much free printing they get?

3 A. No.

4 Q. Do the printers in the library -- strike that.

5 Is there a charge for printing things on the
6 library printers?

7 A. Beyond the free amount that they get, then
8 yes, there is.

9 Q. And what is that charge?

10 A. I don't know.

11 Q. Do you know what that money is used for, the
12 money collected from the library printers?

13 A. I don't know.

14 Q. Do you know -- sorry -- whether the money
15 collected from printing in the library goes to the
16 library or goes back to the university?

17 A. I don't know.

18 MS. SINGER: If would please mark this
19 as Plaintiffs' 125.

20 (Plaintiffs' Exhibit No. 125
21 was marked for identification
22 by the reporter.)

23 BY MS. SINGER:

24 Q. Ms. Dimsdale, you've been handed what's been
25 marked Plaintiffs' Exhibit 125. It's a two page

1 document, a printout from a web site entitled course
2 reserves FAQ for students.

3 Do you recognize Plaintiffs' 125?

4 A. Is this from the GSU reserves web site?

5 Q. Is Plaintiffs' 125 what you were referring to
6 when you said you had information you could send out to
7 students or was it something else?

8 A. So this document originated from our old web
9 site, is that correct?

10 Q. I will represent to you, if you look at the
11 bottom corner of Plaintiffs' 125 you see the date
12 5/11/2009. I will represent to you we printed it in our
13 office on Monday, May 11th, 2009.

14 Let me ask it this way then. Is Plaintiffs'
15 125 the current FAQ for students on course reserves?

16 A. If this is printed from the current web site
17 then I would say that yes, it's currently what we're
18 doing unless there's something in here that I don't know
19 about.

20 Q. Fair enough.

21 If you see at the second page of Plaintiffs'
22 125 at the bottom there it says page authors and it
23 lists Malia and you and Shelby Failing and Denita
24 Hampton. You see that?

25 A. Yes.

1 Q. So am I correct in assuming that you had some
2 responsibility for drafting this page?

3 A. For the new web site, I did not draft the new
4 web site.

5 Q. What do you mean by new web site?

6 A. The web site changed when the Board Of Regents
7 policy changed and I don't know who drafted the web
8 site, but it was not me. There may be elements of it
9 that is something that I might have written, but the
10 actual web site I did not write.

11 Q. But this Plaintiffs' 125, this document has
12 your name on it as a page author?

13 A. Yes.

14 Q. Did you have a hand in drafting Plaintiffs'
15 125?

16 A. The -- not that I know of.

17 Q. Do you know how your name would have come to
18 be on the bottom of Plaintiffs' 125?

19 A. I have access to edit this web site.

20 Q. So is it just a default that your name
21 appears?

22 A. It's my understanding that technologically
23 speaking I'm given rights to edit this page.

24 Q. Is being given rights to edit the page the
25 same thing as being an author, to your understanding?

1 A. No.

2 Q. Do you know why you appear as a page author on
3 Plaintiffs' 125?

4 A. So that I could edit the page if they need me
5 to.

6 Q. Have you ever had occasion to edit the page?

7 A. The old web site, most of that web site was
8 written by me. But the new web site was not written by
9 me.

10 Q. What do you mean when you say the old web
11 site?

12 A. The web site changed when our policy or when
13 the Board Of Regents policy changed.

14 Q. That was sometime in spring 2009?

15 A. Yes.

16 Q. Just so I'm understanding you, is it a
17 completely new web site or the web site same URL just
18 some of the information changed when the new policy went
19 into effect?

20 A. The URL itself, I'm not sure if it's the same.
21 I think it is. You click the same path to get there.

22 Q. So it's your understanding that some of the
23 information on the web site changed when the new policy
24 went into effect in spring 2009?

25 A. Yes.

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MS. SINGER: If you could please mark this as Plaintiffs' 126.

(Plaintiffs' Exhibit No. 126 was marked for identification by the reporter.)

MS. GARY: You actually have extra copies of these?

MS. SINGER: This one I don't actually. I'm sorry.

Off the record for a moment.

THE VIDEOGRAPHER: Off the record at 11:35:24.

(Brief recess.)

THE VIDEOGRAPHER: Back on the record at 11:35:49.

BY MS. SINGER:

Q. Ms. Dimsdale, you've been handed what's been marked Plaintiffs' Exhibit 126. It's a printout from the Georgia State University library web site entitled course reserves ERes guidelines.

Do you recognize Plaintiffs' Exhibit 126?

A. Is this from our old web site?

Q. I will represent to you again in the bottom right corner of Plaintiffs' Exhibit 126 it bears the date May 11th, 2009. I'll represent to you that we

1 printed this off the web site on Monday, May 11th, 2009.

2 Do you believe that these ERes guidelines are
3 current?

4 A. It appears to me that they're not current.

5 Q. How do you make that determination?

6 A. I can see down here there's this 20 percent
7 guideline which we no longer use.

8 Q. Anything else?

9 A. We don't use real audio format. The EReserves
10 request form is not available at the reserve desk if
11 they're submitting the material to be digitized. There
12 may be other things. That's -- that's what I see right
13 now.

14 Q. On P-126 in the middle section it says
15 submission of digital print request, you see that?

16 A. Yes.

17 Q. The fourth bullet point says GSU library will
18 not receive coursepacks for electronic reserves. You
19 see that?

20 A. Yes.

21 Q. What is a coursepack?

22 A. It's a print resource of files for a class.

23 Q. What form do those print resources take?

24 A. I don't know.

25 Q. Have you ever seen a coursepack?

1 A. I've seen one. I don't remember much about
2 them, but yes, I have seen one.

3 Q. What did it generally look like?

4 A. The one from my music class, a bunch of
5 photocopy pages.

6 Q. Where did you get the one from your music
7 class?

8 A. It's been a long time. I don't remember.

9 Q. Was it purchased directly from the university
10 somehow?

11 A. I don't remember.

12 Q. Did you purchase it or was it free?

13 A. I don't remember that, either.

14 Q. Have you -- other than the coursepack you
15 purchased for your music class, have you ever seen a
16 coursepack?

17 A. I think I've seen a few. I'm sure at some
18 point or I probably -- I'm not sure. At some point
19 something might have showed up in reserves. So likely I
20 have seen a coursepack.

21 Q. Do you have a general understanding of whether
22 coursepacks are something that students pay for or
23 whether they're available for free?

24 A. I don't know.

25 Q. Do you have any kind of general understanding

1 about where students obtain coursepacks?

2 A. If -- I don't know where students obtain them,
3 no.

4 Q. On P-126 in the first section on general, the
5 last bullet point says for information on fair use and
6 copyrights read the Regents' guide to understanding
7 copyrights and fair use. Do you see that? It's the
8 last bullet point.

9 A. Yes.

10 Q. To your understanding is the Regents' guide to
11 copyright and fair use still available on the
12 university's web site?

13 A. I believe that this link is still available.
14 The policy for the Board Of Regents has changed, so --
15 but I believe the link to that policy is still
16 available.

17 Q. Do you believe that the guidance provided in
18 the Regents' guide to understanding copyright and fair
19 use is still valid?

20 A. Do you mean -- what do you mean by that?

21 Q. Would you still be guided by the guidance
22 available in the Regents' guide to understanding
23 copyright and fair use in determining whether to post
24 something on EReserves or not?

25 A. You mean the old guidelines or the new

1 guidelines?

2 Q. Well, the Regents' guide to your understanding
3 copyright and fair use, to your understanding that the
4 old guidelines or the new guidelines?

5 A. I don't know.

6 Q. Do you consider the old guidelines to provide
7 any information that is useful to you as you sit here
8 today in determining whether to post something to
9 EReserves or not?

10 A. I would reference the new guidelines and not
11 the old guidelines.

12 Q. The very top of the second page of P-126 it
13 says electronic reserve items which require copyright
14 permission will not be posted until permission is
15 secured. Do you see that?

16 A. Yes.

17 Q. What's meant by that?

18 A. If something does not meet fair use then
19 permission to use that item would have to be secured
20 before we would post it.

21 Q. Who determines whether something meets fair
22 use?

23 A. Currently the instructor placing material on
24 reserve would evaluate their material for fair use.

25 Q. Does the library check to see whether the

1 material complies with fair use?

2 A. The library does not or the reserves unit does
3 not evaluate the material, though if a red flag were
4 raised we would question it.

5 Q. If a red flag is raised, what does the reserve
6 staff do?

7 A. We would investigate the material and if I
8 were seeing that I would -- likely I would ask my
9 supervisor about it and I might also ask legal
10 affairs about it.

11 Q. What would you expect the outcome to be if
12 some professor was trying to post something you felt
13 raised a red flag?

14 A. I don't think I could speculate on that.

15 Q. Do you believe that a request that raises a
16 red flag would ultimately end up being posted on
17 EReserves?

18 A. I would have to discuss it with legal affairs.
19 It would depend on the situation.

20 Q. Have you had occasion to discuss any EReserves
21 requests with legal affairs?

22 A. Yes.

23 Q. On how many occasions?

24 A. I don't remember.

25 Q. Have you had occasion to discuss with legal

1 affairs any time in the last six months?

2 A. Yes. I don't remember an instance, but I have
3 their phone number memorized.

4 Q. You mentioned that if it didn't meet fair use
5 you would require copyright permission. What did you
6 mean?

7 A. Whoever owns the copyright for the material
8 would need to give permission for that. Or they could
9 pay licensing or something of that sort as well.

10 Q. When you say they could pay, who would pay?

11 A. That would be the instructor placing the
12 material on reserve.

13 Q. So is it your understanding that the
14 instructor himself or herself would be responsible for
15 paying for the license fees?

16 A. There could be some other way to do this. I
17 don't have a budget for this. I don't know if anyone
18 else does or not.

19 Q. Does anyone in the library have a budget for
20 paying for licensing?

21 A. I don't know.

22 Q. Have you ever seen a professor bring copyright
23 permission?

24 A. It's happened. I don't remember instances of
25 it specifically. There might be something if we

1 received a letter or something, there might be something
2 scanned in ERes or something. It has come up at some
3 point. I just don't remember the instance of it.

4 Q. So it isn't a frequent occurrence?

5 A. No.

6 Q. Have you ever had occasion to tell a professor
7 they needed to acquire copyright permission?

8 A. Probably so. I think -- usually we give them
9 options for things, and that's one of the options. If
10 something doesn't meet fair use, then we'll give them
11 some options.

12 Q. What would those options be?

13 A. If -- one of the things that -- one of our
14 guidelines is that the GSU library or the instructor
15 must own an original copy of -- a first generation copy,
16 the one you would purchase, a lawfully obtained copy of
17 the item in order for us to digitize it. If the library
18 or the professor does not own that, then we can suggest
19 that the library purchase it. That's one.

20 Q. Are there any other options that the library
21 gives?

22 A. They could use an alternative item that does
23 meet fair use. I can't think of anything else at the
24 moment.

25 Q. My question may not have been entirely clear

1 here. When you say the library determines an item
2 doesn't meet fair use, what were you referring to?

3 A. If -- that was one instance. If it doesn't
4 meet the GSU policy for this meeting that either the
5 instructor or the library doesn't own the original item,
6 that's one instance of that.

7 Q. Are there any other instances encompassed in
8 your statement when something -- when the library
9 determines something doesn't meet fair use?

10 A. I can't think of one at the moment.

11 Q. And again at the bottom of P-126 it says page
12 authors. And again we see Malia, you, Shelby Failing
13 and Denita Hampton. You see that?

14 A. Yes.

15 Q. Are you one of the authors of P-126?

16 A. I've -- I didn't write the new web site. My
17 understanding of this instance of my name being listed
18 here is I have rights to edit the page.

19 Q. So no, you didn't write P-126?

20 A. I did not write it. I could have written --
21 well, wait, this is -- actually this is -- P-126 is --
22 if we confirm that it is the old web site, then I did
23 author this one. Or I did write it.

24 Q. How would we go about confirming that it's the
25 old web site?

1 A. I don't know.

2 Q. Me neither.

3 Ms. Dimsdale, I'm handing you what has been
4 previously marked as Plaintiffs' Exhibit 37. Do you
5 recognize Plaintiffs' 37?

6 A. It's a little hard to read.

7 Q. I apologize for that. The copy that was
8 originally produced wasn't great and several generations
9 of photocopies have not helped that issue.

10 A. Is this from our current electronic reserves
11 request form?

12 Q. That's what I'm asking.

13 A. It appears to be so.

14 Q. Did you have any involvement in creating
15 Plaintiffs' 37?

16 A. There are elements of the new form that were a
17 part of the old form and basically they just revised the
18 old form it looks like to include additional
19 requirements. And I was not involved in -- I didn't
20 create these new additions. I did converse with Laura
21 about it somewhat.

22 Q. What did you discuss with Laura?

23 A. I don't think it's -- one of the things that I
24 don't think is evident from this printout, but we talked
25 about the library already licenses the item is one of

1 checklist to evaluate material. They would not fill
2 that out for someone. It would be the instructor's
3 responsibility to complete the fair use checklist.

4 Q. What exactly does the reserve staff do to see
5 whether the copyright policy has been complied with?

6 A. One of the things is to make sure that if it's
7 going to be an electronic item that's placed on reserve,
8 they would make sure the online form was submitted. If
9 there's copyrighted material on an ERes page, then make
10 sure that there was a password. Also expiring the page,
11 archiving the page at the end of the semester. That's
12 what comes to mind at the moment.

13 Q. Anything else?

14 A. There are other things, but that's just what I
15 was thinking of at the moment.

16 MS. SINGER: If you would please mark
17 this as Plaintiffs' Exhibit 127.

18 (Plaintiffs' Exhibit No. 127
19 was marked for identification
20 by the reporter.)

21 BY MS. SINGER:

22 Q. Ms. Dimsdale, you've been handed a printout
23 from the Georgia State University library web site dated
24 May 11th, 2009 entitled course reserves FAQ for
25 instructors.

1 Do you recognize this document? Take your
2 time to review it. I'm going to ask you specific
3 questions, so right now I'm just generally asking if
4 this is something that you recognize.

5 A. The -- it looks familiar.

6 Q. Okay. On page 2 of Plaintiffs' 127 about two
7 thirds of the way down the page, the question in bold is
8 do I have the option of placing paper copies of
9 materials such as articles and class notes on reserve.
10 And the answer is no. Students now expect and prefer to
11 access reserve materials from the computer desktop.
12 Online access allows an unlimited number of students to
13 access the materials 24/7 from anywhere in the world.

14 To best of your understanding is this current
15 policy?

16 A. This -- I don't know about the option of
17 placing paper copies. I don't know if that's something
18 that's going to change or not. But the access, the
19 unlimited numbers of students to access the materials
20 24/7 from wherever they are seems to be current to me.

21 Q. The next line of P-127 says, what materials
22 may be placed on reserve without obtaining copyright
23 permission. And we see physical copies of books, CDs
24 and videos.

25 Is that still current?

1 A. If it's an original, if it's not a second
2 generation copy, if it's the lawfully obtained copy of
3 these materials then that should be current, yes.

4 Q. Okay. The next item is up to 20 percent of a
5 book owned by either the instructor or GSU can be
6 digitized. Is that current policy?

7 A. There's not a percentage limit given in the
8 current policy.

9 Q. The next item is journal articles owned by GSU
10 or by the professor placing the item on reserve not
11 obtained through ILL or GIL express, these items will be
12 digitized. Is that current policy?

13 A. Current policy is to link to journal articles
14 in the GSU databases.

15 Q. What if it's a journal article that's not in
16 one of the GSU databases?

17 A. I would probably have to ask legal affairs
18 about that.

19 Q. Have you had occasion to do so since the new
20 policy has been in effect?

21 A. No.

22 Q. How about government publications, can those
23 still be placed on reserve without obtaining copyright
24 information?

25 A. Government documents, might check up on it,

1 but typically I think they're available to the public.
2 I believe we can link to those.

3 Q. And exams, homework solutions, lecture notes
4 and any publication you, you being the professor, own
5 the copyright on, those would still be able to be posted
6 on reserve without obtaining copyright permission,
7 right?

8 A. If the instructor owns the copyright and
9 they're giving themselves permission, so it seems that
10 we could place that on reserve.

11 Q. On the next page of P-127, the question is
12 when should I seek copyright permission. And the answer
13 is when an article not owned by you or GSU is submitted
14 for reserve. Is that still the case?

15 A. Yes. Well, I think it would depend, but
16 there's a good possibility, yes, that you need
17 permission to do that.

18 Q. When multiple chapters or more than 20 percent
19 of a book are intended to be placed on reserve. Is that
20 current policy?

21 A. There's no percentage given in current policy.

22 Q. Do you believe that copyright permission needs
23 to be sought if it's more than 20 percent of a book
24 intended to be placed on reserve?

25 A. It would depend on the situation and the

1 instructor would evaluate their situation.

2 Q. Little ways down on P-127 it says the
3 bookstore did not order enough copies of my textbook for
4 class. Can I put a photocopy of the book on reserve.
5 Answer no. This is not considered fair use because it
6 affects the marketing value of the copyright owner. The
7 instructor may place his or her own original copy of the
8 textbook on reserve. Is that the current policy?

9 A. The current policy is actually pretty short,
10 so a lot of these details that you're referring to as
11 policy is probably not policy. The photocopying an
12 entire textbook, there's a good chance that that will
13 affect the market value, so that's not a practice that
14 we would typically do.

15 Q. What if a professor filled out the fair use
16 checklist and determined that the photocopy of the
17 entire book was fair use, would you go ahead and post
18 it?

19 A. That would be a red flag, and so that would
20 have to be questioned and would go to the supervisor or
21 legal affairs or both.

22 Q. What is meant by it's not considered fair use
23 because it affects the marketing value of the copyright
24 owner?

25 A. I think marketing value is a very difficult

1 factor to determine. It's quite possible that an entire
2 book would affect it because you can just take the
3 photocopy of the entire book instead of purchasing it.
4 You don't want to replace -- students should be or
5 someone should be purchasing this book if we're going to
6 put this book on reserve. And to make a photocopy of it
7 seems like it has the potential to really affect the
8 marketing value.

9 Q. What's your understanding of the marketing
10 value?

11 A. Not much.

12 Q. In your opinion could something, something
13 less than the full book be photocopied and placed on
14 EReserves and not affect the marketing value?

15 A. I think it depends on the situation.

16 Q. Can you think of any situation where
17 photocopying something less than the entire book and
18 putting it on EReserves would not affect the marketing
19 value?

20 A. Hopefully there's a lot of those situations.
21 Specifically I don't have one in mind, but yes, I
22 believe there's a lot.

23 Q. Who has the ability to either add or delete
24 items on a course reserves page in ERes?

25 A. Anyone with administrator access.

1 both IE and Mozilla. Too bad for copyright.

2 What does that mean?

3 A. It looks like you can save a persistent URL to
4 your desktop and link directly to the item without
5 entering a password. Which is bad.

6 MS. SINGER: I have no further
7 questions.

8 MS. GARY: I have just a few clarifying
9 questions.

10 EXAMINATION

11 BY MS. GARY:

12 Q. If you could, Ms. Dimsdale, pull out
13 Plaintiffs' 125 through 127. Probably at the bottom of
14 that pile.

15 And let's start with Plaintiffs' 125. If you
16 could flip to the second page of that, underneath page
17 authors it appears to have a revised date. What is
18 that?

19 A. November 10th, 2005. That's what it says.

20 Q. So is it your understanding that this document
21 would have been created and revised before the new
22 copyright policy?

23 A. It appears -- let's see. From the document
24 itself, I would have to read the whole thing to figure
25 that out, this looks like this software is automatically

1 telling you to update and it has not been updated since
2 November 10th is what it says.

3 Q. And then on Plaintiffs' 126, just look at the
4 second page again at the revised date. What date does
5 that give?

6 A. April 21st, 2008.

7 Q. Okay. And that would be before the adoption
8 of the new copyright policy?

9 A. The new copyright policy went into effect in
10 2009, so yes.

11 Q. Okay. And then one more time on Plaintiffs'
12 127, flip to the third page. And underneath page
13 authors, what is the revised date on that?

14 A. August 16th, 2007.

15 Q. Okay. And that was -- so it would have been
16 revised before the adoption --

17 A. Yes.

18 Q. -- of the new copyright policy.

19 Is it your understanding that a faculty member
20 or a student currently looking for information on
21 electronic reserves, would they be directed to these
22 pages? Are these the current pages?

23 A. The current pages reflect the new policy. If
24 you click from the library home page into reserves it
25 takes you to -- I don't know the URL, but it takes you

1 to the new information. So that's the information that
2 we've been given.

3 MS. GARY: Thank you. I have no more
4 questions.

5 THE VIDEOGRAPHER: That concludes the
6 deposition. We're off the record at
7 3:47:08.

8 (Deposition concluded at 3:47 p.m.)
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