

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE AT BANGOR

 SHANA SANDLER,)
)
 Plaintiff)
)
 v.)
)
 MIA CALCAGNI,)
 RALPH CALCAGNI,)
 MAUREEN CALCAGNI,)
 PETER MARS,)
 and)
 BOOKSURGE, LLC,)
)
 Defendants.)

Case No. 1:07-CV-00029-GZS

**DECLARATION OF DAVID SYMONDS IN SUPPORT OF
BOOKSURGE, LLC'S MEMORANDUM OPPOSING PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT**

THE UNDERSIGNED, under penalty of perjury, declares as follows:

1. I hereby submit this Declaration in Support of BookSurge, LLC's Memorandum Opposing Plaintiff's Motion for Partial Summary Judgment. I am over the age of 18, have personal knowledge of the facts herein, and am competent to testify thereto.
2. I am the general manager of BookSurge, and a vice-president of On-Demand Publishing, LLC ("On-Demand"). BookSurge is a trade name for On-Demand.
3. Generally, BookSurge does not review, draft, or edit the copyright pages it receives from self-publishing authors that upload their content in Portable Document Format ("PDF") to BookSurge's website for printing. We have

reviewed copyright pages in the past only to ensure that authors do not mischaracterize BookSurge's relationship with Amazon.com.

4. Attached as **Exhibit A** to this declaration is the copyright page example that appeared on BookSurge's website in August 2006 when Ralph Calcagni submitted the PDF manuscript of *Help Us Get Mia* to BookSurge. The copyright page example provided by BookSurge did not list BookSurge as the "publisher."
5. *Help Us Get Mia*'s copyright page, which was submitted by Ralph Calcagni as part of his PDF upload, apparently labeled BookSurge as the book's "publisher." BookSurge did not draft or review the content of the copyright page in *Help Us Get Mia*.
6. BookSurge does not draft the "copyright" pages that appear in any of its self-publishing authors' uploaded PDF submissions. As I noted in my earlier declaration, BookSurge does not review the substantive content of these submissions at all.
7. The terms and conditions (identified in the Affidavit of Bernard J. Kubetz in Support of Plaintiff's Motion for Partial Summary Judgment ("Kubetz Aff."), Ex. 3) were posted on BookSurge's website at the time that Ralph Calcagni purchased BookSurge's printing services. BookSurge does not, however, have a copy of the Author Publishing Agreement signed by Ralph Calcagni.

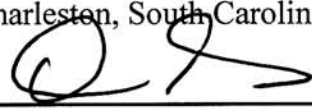
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I declare, under penalty of perjury, that the foregoing is true and correct.

Executed this 2ND of APRIL, 2008, at Charleston, South Carolina.



DAVID SYMONDS

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EXHIBIT A

EXHIBIT A

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ISBN: 0-0000-0000-00

Library of Congress Control Number: 2000000000

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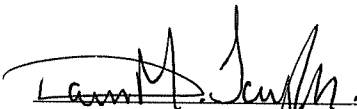
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MIA CALCAGNI,
RALPH CALCAGNI,
MAUREEN CALCAGNI,
PETER MARS,
and
BOOKSURGE, LLC,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on April 2, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.


Dawn M. Taylor, Legal Assistant