

# AVOTAYNU

Publisher of Works on Jewish Genealogy

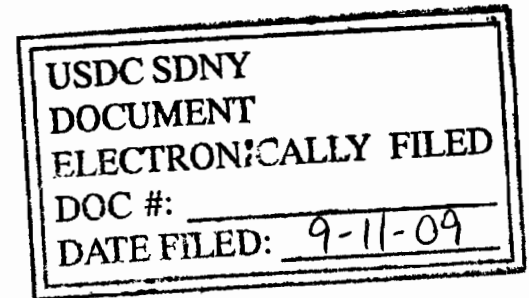
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September 4, 2009

Office of the Clerk, J. Michael McMahon  
U.S. District Court for the Southern District of New York  
500 Pearl Street  
New York, New York 10007



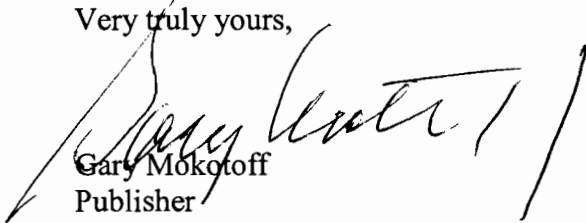
Avotaynu is a publisher of books for which the copyright owners are the authors themselves. We wish to object to the proposed settlement between Google, Inc. and various copyright owners. Our principal objection is that it uses the class action suit mechanism as a means to bypass Congressional law. The settlement represents the will of, at most, a few thousand copyright owners, but it affects millions of copyright owners.

This proposed settlement is contrary to U.S. copyright law, which states that all copyrighted materials are protected unless specifically released to the public domain by the copyright owner. The settlement, if approved, would override these laws by stating that copyrighted material can be used by Google if the copyright owner remains passive.

The suit only involves books that Google considers "out of print." But the fact remains that this should not give Google the right to use someone else's property, and in fact doing so might cause harm to the author. For example, a book might be out of print because it is obsolete. Making a digitized version available through Google could imply that the author was continuing to publish misleading and outdated material. A book might be out of print because the author feels there currently is no market for the book but anticipates a future market. Making it available on Google would stifle this future market.

Class action suits should not be used to bypass Congressional law. Allowing such use will open a Pandora's box of other possible actions. We are requesting that the court set aside the settlement.

Very truly yours,

  
Gary Mokotoff  
Publisher