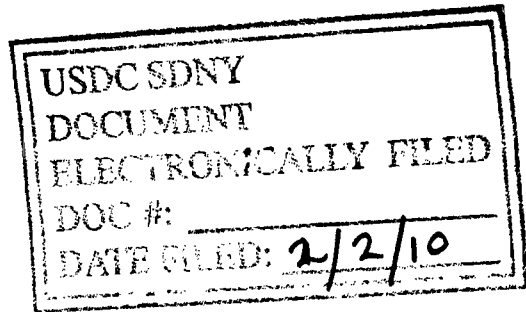


Docket 383



August 7, 2009

05-cv-8136

The Honorable Denny Chin
United States District Court for the Southern District of New York
500 Pearl Street
New York, NY 10007
Fax (212) 805-7906

Dear Judge Chin,

I am writing to support making the millions of books that Google has digitized reach the widest possible audience as quickly as possible. I am not writing to you as one with professional experience in the law. I wish instead to articulate something of the impact that this resource will exert. I hope that a business plan and subsequent agreement will emerge that will make those books available to the public at large. This agreement will, if enacted, give to Bunker Hill Community College better access to a more useful library than that to which I have access at Harvard University, the greatest university library on earth. This is a watershed event and can serve as a catalyst for the reinvention of education, research and intellectual life.

The Author's Guild et al v. Google Inc

I write this letter from several complementary and quite distinct perspectives:

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As a Classicist, I write to you as one dedicated to preserving, creating and disseminating knowledge about the past to the widest possible audience. Those of us who study the past depend upon primary sources – the library is not just a place where we publish the results of our work. The library contains the published data upon which our articles and monographs depend. The Google collection can be for us comparable to historic projects such as the Human Genome and the Sloan Sky Survey.

As Professor in and Chair of the Department of Classics at Tufts University I write to you as a professor charged to support the interests of undergraduates, graduate students, and faculty who study the Greco-Roman world. For us, the Google Collection can be a foundation for the reinvention of our field, as we explore larger, more challenging research projects than were ever feasible before and as we teach our students to think critically about thousands of years of scholarship.

As a humanist who has since 1982 been work on the shift from print culture to a digital world I write as part of a broader scholarly community that is supportive of open access and open source publication. For humanists developing this new digital infrastructure, the Google collection can be an extraordinary catalyst. Even as we look to a truly digital environment and develop resources and activities that cannot exist in print, access to the collection of digitized books can provide us with the raw materials with which to build this new digital age. I have in particular had the privilege to conduct workshops in

Europe and North America on the opportunities and challenges of mass digitization within the humanities, engaging dozens of humanists over two years. I have also have conducted research with funding from the National Science Foundation, the National Endowment for the Humanities, the Department of Education and the Mellon Foundation on building services for the humanities within large collections. So far I have concentrated on developing and using materials freely available from the Internet Archive. Access to Google's collection would be extraordinary step forward.

As the Editor in Chief of an open access digital library on the Greco-Roman world that began development in 1987 – long before Google was founded and before many recent undergraduates were born, I write to you as one who would augment the vast materials and services from Google with domain specific data. The knowledge bases that we have spent more than two decades developing can, we, when integrated with open services and broadly accessible collections from Google, contribute to a new and unprecedented environment for the study of antiquity. All of our work is openly accessible and we are committed to expanding the audience for Greco-Roman antiquity and for the past in general. If Google can make its collections accessible to an wide audience, then the possibilities for third parties such as ourselves to add value to Google's services an collections are immense.

As the father of two children now in college, I write to you with particular urgency. My older son is a senior and this agreement comes too late to have a significant impact upon his education. My younger son has, however, just moved into his freshman dorm. As a father and a professional scholar I thus write with a particular sense of urgency, for I have a profound sense of what the Google Books Collection means for intellectual life and for the intellectual development of our students. In this context, the discussion goes beyond abstractions. I feel a particular obligation, given my background and situation, to speak on behalf of the parents and students this settlement will affect, because I understand the importance of what Google has done and because the Google Books collection is such a radical advance upon what has ever been possible before. For these students and their parents, the house is on fire.

The Google Books Collection can advance the following issues.

1) Physical access to the published record of humanity. When I entered graduate school thirty years ago, I assumed that detailed knowledge of the past was accessible only in a handful of great research libraries, all situated within North America and Western Europe – print is expensive and we simply could not reach beyond a tiny network of academic libraries. Simple proximity to a great library did not provide physical access – only those who were physically present and who had the right academic affiliations could enter. The inequities of this environment were and remain profound. Even as an increasing amount of intellectual output became available in print form, the business models served the same elite institutions that flourished in print. We had thus a classic situation in which we replicated in the first generation of the digital age the very inequalities of print access.

If Google is able to make its digitized holdings available to the full range of academic institutions, then it will shatter inequalities so entrenched in tradition that we have often taken them for granted.

2) Intellectual access. Physical access is a necessary but insufficient condition for intellectual activity. A great deal of work has gone into methods by which to make documents intellectually more accessible. Information glut is not new – no one since the

nineteenth century, if then, has been able to read everything published about major authors such as Homer or Virgil. In our own field Greek and Latin source texts are not only accessible online but in a digital environment where we can provide translation and reading support tools that make those documents intellectually accessible. We know that people are reading Greek and Latin who would not have been able to do so if we relied upon printed texts. This is a particular example of a more general phenomenon that affects all digitized material.

The tools already available make the books that Google has digitized intellectually more accessible. It is not just that we can put our hands on documents more quickly or even that we can find useful documents that we would have otherwise missed. We have already begun to make better use of those digitized books than we could do before. The realizable value of each individual document is greater in a digital environment than in print.

3) Intellectual citizenship. When I was an undergraduate, we consumed the ideas of others. If we wrote successful undergraduate theses, they might sit on the shelves of the university archives but no one expected contributions from anyone who was not, at the least, an advanced graduate student. We are, however, now building a new digital infrastructure that draws upon but goes far beyond what we could do in print. We have to redesign and then recreate editions, lexica, commentaries, encyclopedias and other materials that pursue traditional goals but have radically new forms. Ambitious undergraduates can expect to fix their names to material contributions that they can now make to the field at an early stage of their careers. Since they now have access to new intellectual resources and can pose questions that were never feasible before, our undergraduates can aspire to conduct meaningful research before they graduate. We can link the results of that research to relevant source texts, disseminate that work around the world and preserve that work for generations. The implications of this shift are profound and, insofar as we can tell, entirely positive.

We have perhaps begun to see the effects of having our students become active contributors more clearly in Classics than in other disciplines because our field has both been developing digital infrastructure longer than most areas of the humanities and because many of our primary materials are now already available in open access and open source formats. The physical and intellectual access to the Google Books Collection can serve to stimulate these effects both within my own field and throughout the humanities. We are witnessing the emergence of a radically new, but deeply traditional form of intellectual activity, as emerging technologies allow us to more fully realize our most basic goals of advancing intellectual life.

Physical access, intellectual access, and intellectual citizenship are all advancing and will continue to advance, but wide dissemination of the books that Google has digitized will accelerate and broaden each of these processes.

To conclude, the Google Settlement is not perfect and I share many of the reservations that my colleagues have raised – I particularly note the August 13, 2009, letter from my colleagues in the University of California system. My academic collaborators and I publish all of our work under open source and open access licenses. We collaborate with and strongly support the work of the Internet Archive and the Open Knowledge Commons. I welcome the reported alliance of Amazon, Microsoft, and Yahoo seeking broader access to copyrighted materials – there is far more to do than any one organization, even Google, can accomplish on its own. In my own research I have been digitizing materials for more than two decades and I also would like to see a rational, generalized policy whereby we could all make scholarly content more accessible – I think

particularly of my own teachers who lived to serve their field and are not alive to give permissions to unlock the work that they did.

I cannot, however, do justice to the vision and leadership that Google has shown in this historical effort. Any forward thinking individual has realized for years that we need digital versions of the human record. At the very least, we should have access to materials published in book form and organized within our libraries. At least two factors, however, stood in the way. First, there is the simple capital investment: the Internet Archive has established an efficient, open environment for digitizing books that costs approximately \$.10 per page – roughly \$40-50 per book if we consider the cost of pulling books from the shelf. To digitize tens of millions of books under such a system would require approximately a billion dollars. Raising this much extra capital was daunting in any circumstances.

At the same time, however, the rights regime made efforts at converting our print heritage into digital form far too risky: even if we somehow raised that immense sum, there was the possibility of legal action – a possibility that was realized. Google had both the capacity and the will to exercise extraordinary leadership. With 10,000,000 books reportedly already in digital form, the Google Books Project represents a world historic shift – that point where the published human record finally broke free of its printed form and into the digital world of twenty-first century intellectual life. The sooner this massive resource becomes available to serve the public interest, the better.

To sum up: Google has made a bold and innovative investment and this investment can have a dramatic impact upon the public good. That impact is, however, dependent upon broad access – if only the wealthiest institutions can afford access to the Google Books collection, then the collection will only exacerbate the terrible inequities in access that we inherited from print culture that the first generation of digital publishers have replicated. I leave it to you to decide whether you feel the safeguards in place are sufficient to guarantee broad access. If these digitized books do reach the full breadth of academic institutions, from the Ivy League through community colleges, then access will advance the public good.

Sincerely,

Gregory Crane
Professor and Chair
Editor in Chief, Perseus Project