

SUGARMAN, ROGERS, BARSHAK & COHEN, P.C.

Attorneys at Law

National Federation of the Blind - Deposition Assistance
 Matter No.: N065-27397
 Invoice Number: 89580

Hathitrust

Case # 120.336
 G/L Acct. _____
 Approved [Signature]
 Check # _____

June 15, 2012
 Page 3

COSTS

<u>Description</u>	<u>Quantity</u>	<u>Amount</u>
Photocopying	4	0.88
In-House Charges		\$0.88

<u>Description</u>	<u>Date</u>	<u>Amount</u>
Service to The Copyright Clearance Center by Michael B. Fixman on 05/01/12	5/01/12	<u>137.00</u>
Disbursements (Advances)		\$137.00

Cost Summary

In-House Charges	0.88
Disbursements (Advances)	<u>137.00</u>
Total Current Costs	\$137.88

TOTAL OF CURRENT INVOICE

Total Current Fees	4,650.00
Total Current Costs	<u>137.88</u>
TOTAL THIS INVOICE	<u>\$4,787.88</u>

Court of Appeals

REQUEST FOR CERTIFICATE OF GOOD STANDING (FOR ATTORNEYS ONLY)

You may send a letter or use the form below to request a Certificate of Good Standing. Include a \$7.00 check made payable to the

Clerk, Court of Appeals

Send your letter or if you are using the form below, you can complete the information requested using your computer, print the page and send **with payment** and a **self-addressed, stamped envelope** to:

Maryland Court of Appeals
Robert C. Murphy Courts of Appeal Building
361 Rowe Boulevard
Annapolis, MD 21401

FIRST NAME	Jessica
MIDDLE NAME	Paulie
LAST NAME	Weber
ADDRESS	120 E. Baltimore Street, Ste. 1700
	Baltimore, MD 21202
PHONE	410-962-1030

Once the request is received, court officials verify the information and check to ensure that no disciplinary action has recently been taken against the applicant. The certificate is good for 60 days, and it is usually mailed to you within a week after the request is received.

Peter Jaszi
5402 Surrey Street
Chevy Chase, MD 20815
Social Security # 220-50-5163

INVOICE

For professional services to National Federation of the Blind in connection with
Authors' Guild v. Hathi Trust
November 2011 – February 24, 2011

Reviewing pleadings, meeting with counsel for defendants, consulting with NFB co-counsel and local counsel, developing strategic approaches to NFB's proposed intervention, research and drafting portions of motion to intervene, including section addressing Sec. 121 (Chaffee Amendment)

24.5 hours @ \$475/hr. = \$11,637.50

Case # 1120.336
G/L Acct. _____
Approved _____
Check # _____

Peter Jaszi
5402 Surrey Street
Chevy Chase, MD 20815
Social Security # 220-50-5163

INVOICE

For professional services to National Federation of the Blind in connection with
Authors' Guild v. Hathi Trust
February 24 – July 12, 2012

Reviewing pleadings, meeting with counsel for defendants, consulting with NFB co-counsel and counsel for HathiTrust defendants, developing case theory and strategic approaches, research and drafting Opposition to Judgment on the pleadings, participation in planning interrogatories and deposition, reviewing discovery, drafting portions of Motion for Summary Judgment relating to Sec. 121, editing other sections of MSJ, reviewing Plaintiff's MSJ and supporting materials, planning for Opposition to Plaintiffs' MSJ.

162.75 hours @ \$475/hr. = \$77,306.25

with 10 percent discount = \$7,000

**The Law Office of
Robert J. Bernstein**

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Email: rjb@robert-bernsteinlaw.com

June 30, 2012

Via Email (dfg@browngold.com)

NATIONAL FEDERATION OF THE BLIND (NFB)
c/o Daniel F. Goldstein
Brown, Goldstein & Levy, LLP
120 E. Baltimore Street, Suite 1700
Baltimore, MD 21202

Re: The Authors Guild, Inc. v. HathiTrust, 11 Civ. 6351 (HB) (SDNY)

All legal services set forth in this statement were rendered by Robert J. Bernstein ("RJB") at his regular rate of \$500/hour. This invoice covers all legal services rendered for National Federation of the Blind, Blair Seidlitz and Courtney Wheeler (collectively, "NFB") from May 1 to 31, 2012 in connection with the above matter.

LEGAL FEES (for the period June 1 to 30, 2012):

<u>Date:</u>	<u>Description</u>	<u>Time</u> (hrs.)
June 1:	conference call (TC) with Joe Beck (JB), Alex Fonoroff (AF) and Joe Petersen (JP) re deposition ("Dep") of Copyright Clearance Center (CCC); review documents ("Docs") and prepare exhibits for CCC dep; emails ("EMs") with Daniel Goldstein (DG), Laura Abelson (LA) and Peter Jaszi (PJ) (collectively, "NFB Team") re same and re J. Band filing amicus brief for library; EMs with NFB Team re market definition and accessibility; association; Ems with Rob Potter (RP) re CCC Dep; EMs with J. Band re Motion for Summary Judgment (MSJ) briefing schedule and re Judge Chin's opinion on associational standing and class certification;	4.5
June 2:	preparation for CCC Dep, including drafting outline and questions, Reviewing Docs produced by CCC, reviewing background materials on CCC and CCC website, preparing exhibits, web research re TIGAR, prepare memorandum to file re legal issues on 4 th factor and CCC Dep and EMs re same;	7.8

RJB DRAFT 06/30/2012

<u>Date:</u>	<u>Description</u>	<u>Time</u> (hrs.)
June 3:	continued preparation for CCC Dep, including review of draft declarations of George Kersher (GK) and LA notes of TCs with Jim Fruchterman (JF), Cal State report on CCC "Get it Now Program," EMs re same, and CCC Order Form Docs belatedly produced; plan strategy and order of question for Dep; further review of TIGAR materials; go over and mark up key Docs to be used as exhibits	2.7
June 4:	final preparation for and taking of CCC Dep.; conferences with RP re same; TC with NFB Team reporting on results of same and discussing draft GK Declaration ("Decl"); review letter for Edward Rosenthal (ER), counsel for the Authors Guild (AG) re impact of Judge Chin's decision on pending motion for partial summary judgment; review EMs from J. Band and LA re summary judgment papers; review summary of CCC Dep testimony circulated by RP and EMs re confidentiality designation for summary	6.4
June 5:	review order entered by Judge Harold Baer (HB) and EM to J. Band re same; review JP letter to HB re Judge Chin decision; EM to JP re same; review portion of CCC Dep transcript re CCC "RightsLink" program and EM to Ariane Newell (AN), CCC counsel, requesting Docs re same	1.2
June 6:	review further correspondence from ER and JP to HB re impact of Judge Chin decision; EMs with PJ and LA; review HB amended order re briefing schedule;	0.4
June 7:	further EMs with AN re my request for documents concerning "RightsLink"	0.2
June 9:	fair use research; EM to NFB Team and HathiTrust (HT) Team re experts' declarations and possible additional experts; review transcript of CCC Dep	2.8
June 10:	conference with JP, joined by PJ by telephone, re possible new experts on use of HathiTrust Digital Library (HDL) by scholars; EMs with PJ re same; EMs with DG and LA re meeting with JP and possible new expert (S. Katz)	1.4
June 11:	EMs with PJ re S. Katz; review S. Katz website, articles and curriculum vitae; conference with JP and TC with PJ re possible retention of S. Katz as expert	2.5
June 12:	TC with S. Katz, EMs and TC with JP, and EM to NFB Team re retention of S. Katz as HT expert	1.0

RJB DRAFT 06/30/2012

<u>Date:</u>	<u>Description</u>	<u>Time</u> (hrs.)
June 13:	prepare detailed agenda for next day's NFB Team conference call to discuss MSJ papers, and EM to NFB Team re same; EMs with JB re S. Katz; prepare detailed outline of fair use section of MSJ brief and EM to NFB Team re same; review strategy EMs from DG and PJ	3.2
June 14:	EMs with NFB Team re GK Decl; review PJ's EM commenting on my fair use outline; review <i>iParadigms</i> , <i>Bill Grah Archives</i> , <i>Arriba Soft</i> and <i>Hoffheinz</i> decisions in light of PJ's comments; EM to PJ responding to his comments on fair use outline; conference call re MSJ papers with NFB Team (now including Meghan Sidhu (MS), General Counsel of NFB); review EMs re GK Decl;	3.6
June 15:	initial review draft GK Decl and suggest organizational revisions; initial review of JF draft Decl; EMs to NFB Team re GK and JF draft Decls; EMs with court reporter re exhibits to CCC deposition	2.2
June 16:	detailed review of GK and JF Decls; legal research for fair use section of brief; factual research, including review of HathiTrust website; begin drafting fair use section	7.6
June 17:	continued work on fair use section of brief, including revising outline, research and drafting; review of House Report on 1976 Copyright Law Revision; review fair use sections of prior NFB briefs in this case; EMs with DG and PJ re research assignment for law clerk; EMs with PJ re third factor approach in light of <i>Blanch v. Koons</i> ; EMs with JP re S. Katz Decl	6.5
June 18:	review draft Wilkin Decl sent by JP, and EMs with NFB and HT Teams re same; review statement on accessibility submitted to WIPO by U.S., and EMs with DG re same; further emails with NFB Team re research assignments for law clerk; EMs with NFB Team re revisions to GK and JF Declarations	4.7
June 19:	further legal research, including <i>Field v. Google</i> , <i>Perfect 10 v. Google</i> , <i>Sega v. Accolade</i> , <i>Sony v. Connectix</i> , and later cases, particularly in Second Circuit and SDNY, citing these cases and/or <i>Arriba Soft</i> or <i>iParadigms</i> ; re-reading Supreme Court fair use cases to extract best language on fair use serving the constitutional purpose of copyright; various EMs with NFB and HT Teams re "good faith" and fair use and the A.G.'s "fruit of the poisonous tree argument; research re same; review revised GK and JF Decls; strategy EMs with NFB team; work on Preliminary Statement to MSJ brief; brief review of PJ's § 121 outline	7.3

RJB DRAFT 06/30/2012

<u>Date:</u>	<u>Description</u>	<u>Time</u> (hrs.)
June 20:	continued work on fair use section of MSJ brief including research, drafting, and revising; review PJ's suggested revisions to draft Preliminary Statement and EMs with PJ re same; EMs with LA re protective order; review latest revisions to GK and JF Decl	8.2
June 21:	review <i>Ty</i> , <i>SunTrust</i> and <i>Nunez</i> fair use opinions; EMs and TC with DG re his proposed revision of Preliminary Statement and addition of paragraph on Americans with Disabilities Act (ADA); continued work on fair use section of MSJ brief; EMs re HT Team comments on NFB fair use argument	6.5
June 22:	EMs with Andrew Pequignot (AP) and JP re NFB argument on transformative use; continued work on fair use section of MSJ brief; initial review LA draft of Statement of Facts; complete first draft of fair use section and EMs with PJ re same; initial review of Dr. Maurer's Decl	8.6
June 23:	detailed review of PJ draft of § 121 section with DG comments; EM to NFB Team with my edits; review EMs from PJ and DG re § 121 section; review DG comments on draft fair use section; review PJ and DG comments on draft ADA section; EM to NFB Team commenting on ADA section; further EMs with PJ and DG re revisions to fair use section;	4.5
June 24:	review EMs from NFB Team re latest drafts of MSJ documents; initial review of PJ comments on fair use section; EMs with re same; EMs with DG re logistics	1.8
June 25:	EM to AN re obtaining signature page and specific confidentiality designations for CCC Dep; review SDNY local rules re filing redacted and unredacted versions; EMs with LA re same; review revisions made by JF to his declaration and EM to Team re same; detailed review and edits of draft Statement of Facts; prepare second draft of fair use section in light of comments received from PJ and DG, and with additional RJB revisions and citations; prepare second draft of preliminary statement to MSJ brief in light of comments from PJ and DG; put together consolidated version of all sections of MSJ brief and EM to HT and NFB Teams re same;	8.3
June 26:	EM to Team re finalizing brief and logistics; EMs with HT and NFB Teams re JP comments on Chafee "authorized entities" and status of HathiTrust as referred to in NFB § 121 section; EMs with LA re Notice of Motion, Attorney's Decl, redaction and filing redacted and unredacted versions; EMs with ER and JP re filing sealed documents, service of unredacted papers by email, and contacting HB law clerk re filing sealed	

RJB DRAFT 06/30/2012

<u>Date:</u>	<u>Description</u>	<u>Time</u> (hrs.)
June 26 (cont'd):	copies; review CCC Dep transcript and select pages to cite and include as exhibits; review plaintiffs' interrogatory answers and select answers to cite and include as exhibits; review final declarations of GK, JF and Dr. Maurer forwarded by LA; review next draft of memorandum of law forwarded by LA; review Jack Bernar's comments on 121 section;	8.2
June 27:	review HT draft brief circulated by AP; EM to HT and NFB Teams commenting on HT draft brief; review LA draft (including DG comments) of Local Rule 56.1 statement of material facts; EMs with PJ re his suggested change to factor two section and revise same; EMs with PJ re using <i>Blanch v. Koons</i> quote in factor 3 section and revise same; review declaration of Dr. Stanley Katz forwarded by JP; EMs with LA re her Decl. and Notice of Motion; review LA Decl.; EMs with LA re CCC confidentiality designations and review same and errata sheet; emails re whether to make reference to OPAC in brief or declarations; EMs and TC with JP and EM with ER re their request for 30-page briefs; revise and circulate latest draft of brief; review DG comments on HT draft brief and EM to HT Team re same; EM to DG re further revisions to fair use section; EMs with J. Band re his amicus brief;	7.4
June 28:	revise LA draft of Notice of Motion and EM to her re same; review PJ proposed further edits to fair use section and EMs to Team re same; review DG final edits to fair use section and preliminary statement; review revised HT draft brief and EM to HT Team re same;	6.5
June 29:	review HB letter endorsement permitting sealed filing and 30-page briefs; EM to LA re same; review revised notice of motion and EM to LA re same; review of final clean copy of fair use section and make final revisions to same; TC with LA and DG re same; download copies of 42 ECF filings made by the parties on their summary judgment motions; review EM from PJ re final edit of section 3 discussion in brief, and further revise same	3.6
Total RJB time for June 2012:		129.6 hrs.
Total Amount of Legal Fees in June (129.6. hrs. x \$500/hr):		<u>\$64,800</u>
Courtesy Discount of 25%		(\$16,200)
<u>Total Amount Due for Fees in June:</u>		<u>\$48,600</u>

(Disbursements on page 6)

DISBURSEMENTS:¹

Court reporter for CCC deposition and transcript	\$291
Video Reporter for CCC deposition and DVD	\$684
Photocopies	\$264
<u>Total Disbursements:</u>	<u>\$1,239</u>
<u>TOTAL AMOUNT DUE</u> (fees and disbursements):	<u>\$49,839</u>

¹ Supporting invoices for each disbursement are attached.