

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

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April 4, 2012

**Via Email ([dfg@browngold.com](mailto: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 from March 1 to 31, 2012 in connection with the above matter.

**Legal Services** (for the period March 1 to 31, 2012):

<b><u>Date:</u></b>	<b><u>Description</u></b>	<b><u>Time</u></b> (hrs.)
March 1:	detailed review of brief in support of plaintiffs’ motion for judgment on the pleadings (“Plaintiffs’ Motion”); emails (EM) to Dan Goldstein (DFG), Laura Abelson (LA) and Peter Jaszi (PJ) (collectively, “Team”) re same; review Jonathan Band article; consider strategy for opposition brief; review correspondence to Judge Baer	2.3
March 2:	preparation for conference call with Team re opposition to Plaintiffs’ Motion; conference call with Team re same; review Patry excerpt on Sections 107/108	1.8
March 5:	review PJ initial outline of brief in opposition to Plaintiffs’ Motion; EMs with DFG re same; conference call with Team, Joe Beck and Joe Petersen; consider strategy in opposing Plaintiffs’ Motion; review Kevin Smith Blog commenting on Plaintiffs’ Motion	3.2
March 7:	consider Joe Beck’s question re whether to file summary judgment motion now; EM to team in preparation for conference call re same	1.0

<u>Date:</u>	<u>Description</u>	<u>Time</u> (hrs.)
March 8:	review LA draft of initial disclosures; EM to Team re same; EM to DFG and LA responding to request for summary of law re “transformative use”	1.8
March 9:	review PJ EM and attachments re “transformative use”; further EM to Team discussing transformative use and strategy as to summary judgment motion; further EMs with PJ re issues to consider on whether to file summary judgment motion	2.7
March 12:	conference call with Team re strategy as to opposition to Plaintiffs’ Motion and whether to file summary judgment motion; fair use research in connection with same; conference call with DFG, Joe Beck and Joe Petersen re strategy in responding to Plaintiffs’ Motion and re how to argue transformative use; follow-up telephone conference (TC) with DFG; review DFG EM summarizing conference call; further EM to Team clarifying how to present transformative use argument	4.5
March 13:	review PJ EM commenting on transformative use discussion with HahtiTrust counsel; preliminary review of parties’ discovery requests and responses to date sent by Rob Potter	1.4
March 14:	EMs with DFG re market experts and draft fair use brief	0.2
March 15:	review PJ revised outline for brief in opposition to Plaintiffs’ Motion; EMs with Team re same; EMs with DFG re draft fair use brief and re Scheduling; review EMs with plaintiffs’ counsel re scheduling	0.8
March 30:	work on draft fair use brief	2.8
March 31:	review PJ draft brief in opposition to Plaintiffs’ Motion; detailed comments on and revisions to PJ draft; work on draft fair use brief and related legal research	6.3
Total RJB time for March 2012:		28.8 hrs.
<b><u>Total Amount Due Legal Services in March</u></b> (28.8 hrs. x \$500/hr):		<b><u>\$14,000</u></b>
<b><u>Disbursements:</u></b>	None	000
<b><u>TOTAL AMOUNT DUE:</u></b>		<b><u>\$14,400</u></b> ✓

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May 2, 2012

**Via Email ([dfg@browngold.com](mailto:dfg@browngold.com))**

NATIONAL FEDERATION OF THE BLIND (NFB)  
c/o Daniel F. Goldstein  
Brown, Goldstein & Levy, LLP  
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**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 from April 1 to 30, 2012 in connection with the above matter.

**Legal Services** (for the period April 1 to 30, 2012):

<u>Date:</u>	<u>Description</u>	<u>Time</u> (hrs.)
April 1:	emails (EM) with Peter Jaszi (PJ) and Laura Abelson (LA) re edits to his draft Memorandum of Law in Opposition to Plaintiffs’ Motion for Judgment on the Pleadings (“Opp. Memo”)	0.3
April 2:	work on draft fair use section; conference call with PJ and LA re Opp. Memo; EMs with LA and PJ re serving discovery requests on publishers; work revisions to Opp. Memo	3.3
April 3:	work on alternate version of fair use section for Opp. Memo.; EMs with LA and PJ re same	4.2
April 4:	EMs with LA re interrogatories and Local Rule 26.3	0.2
April 5:	EMs with PJ, LA and Daniel Goldstein (DG), (collectively, “Team”), re subpoenas, interrogatories and document requests to publishers; revise LA draft of interrogatories; review revised interrogatories and document requests, and EM to Team commenting on same; EMs with LA re subpoenas	1.5

<u>Date:</u>	<u>Description</u>	<u>Time</u> (hrs.)
April 6:	multiple emails with Team re strategy for responding to Authors Guild argument that § 107 is not available to libraries; review DG edits to draft Opp. Memo.; EMs with DG commenting on same	2.7
April 7:	EMs with PJ and DG re PJ revisions to discussion of Copyright Office 1983 report and legislative history in draft Opp. Memo; review PJ revisions	0.6
April 8:	EMs with DG re experts and deadline for their disclosure	0.2
April 9:	further EMs with DG re experts disclosure and scheduling order; review DG EM re possible experts and their attached resumes	0.7
April 10:	conference call with Team re latest draft of Opp. Memo and preparing next version; review of prior drafts and comments in preparation for call	2.8
April 11:	review LA's final drafts of subpoenas on publishers and attached discovery requests; EMs with LA re same	0.5
April 12:	prepare service copies of subpoenas and discovery requests and arrange for service of same; TC with LA re same; EMs with LA re Order granting motion to intervene and filing answer; review docket sheet re same	0.8
April 13:	EMs with DG re Jonathan Band (JB) draft brief for ALA and impact on our strategy; EMs with DG and PJ re edits to discussion in Opp. Memo. of 1983 Copyright Office Report; review DG EMs to potential experts	1.5
April 14:	review of DG latest edited version of Opp. Memo, and LA comments thereon; prepare revisions to and comments on DG/LA edits, including intro, fair use and other sections; EM to team re same; review PJ edits to DG revision and EM to Team re same; review PJ comments on my revisions and EM to Team re same; EMs with DG re using Maurer Declaration as support for factual assertions in Opp. Memo	6.2
April 15:	review JB draft brief for ALA; EMs with JB re same; review further revisions to draft Opp. Memo as circulated by DG for comments by HathiTrust counsel; multiple EMs with PJ and DFG re draft circulated to HathiTrust counsel; review PJ question on Viacom v. YouTube re preservation of our argument to be entitled to make a full record on fair use and EM to PJ and DG re same	4.2
April 16:	review sections I – III of DG 4/15 revision to Opp. Memo; review George Kersher's CV and participate in conference call with him and DG; review Jim Fruchterman's CV and participate in conference call with him and DG;	

<u>Date:</u>	<u>Description</u>	<u>Time (hrs.)</u>
	further revisions to DG 4/15 draft of Opp. Memo; EMs with DG and PJ re possible discovery of CCC; review articles forwarded by J. Fruchterman; review EM from Joseph Beck re discovery;	6.4
April 17:	review EMs from Alex Fonoroff (HathiTrust counsel) and PJ re discovery of CCC; review EM from J. Beck (HathiTrust counsel) re same; review PJ email re his TC re A. Fonoroff; conference call with J. Beck, J. Petersen, A. Fonoroff, DG and PJ re HathiTrust comments on NFB draft Opp. Memo; conference call with DG and PJ re revising our Opp. Memo in light of HathiTrust comments, and re discovery of CCC; review comments of Jack Bernar, UM General Counsel, re NFB draft Opp. Memo	3.5
April 18:	conference call with PJ and DG re revisions proposed by Jack Bernar; revise and reorder Opp. Memo in light of comments received from HathiTrust; EM to Team re same; review Denise Altobelli comments and questions on draft Opp. Memo and EM to her and Team responding to same; review DG EM re new edits and reread entire Opp. Memo	4.8
April 19:	review HathiTrust draft brief and EM to J. Beck re same; review DG edits to my reordered and revised version of Opp. Memo. pursuant to HathiTrust comments; numerous EMs with Team re corrections and further edits; review PJ edits to latest version; EM to DG re “transformative fair use” in fn. 40; EMs with A. Fonoroff and PJ re CCC subpoena; review PJ outline of areas for discovery of CCC; further EMs with Team re final edits of Opp. Memo; review EMs from J. Beck and DG re discovery of CCC; EMs with PJ re “safe harbor” language in HathiTrust brief; EM to JB re question on PHV motion	5.3
April 20:	final reading of Opp. Memo and EM to Team re same	1.8
April 21:	EMs with DG and PJ re CCC deposition and document production; review of Gervais Declaration in Google case and consideration of his use of CCC to support opinion	1.4
April 23:	EMs with DG and PJ re CCC discovery; EM to HathiTrust counsel enclosing and commenting upon Gervais Declaration and CCC	0.2
April 24:	conference call with A. Fonoroff, DG and PJ re discovery of CCC	0.8
April 26:	conference call with J. Bernar, J. Beck, J. Petersen, DG and PJ re proposed discovery of CCC and re possible experts	1.0
April 27:	EMs with Team re interrogatories and document requests to CCC; review	

<u>Date:</u>	<u>Description</u>	<u>Time (hrs.)</u>
	J. Petersen EM re same and re interrogatories served by HathiTrust and plaintiff's voluntary disclosures; further EMs re same	0.4
April 28:	review of PJ draft 30(b)(6) notice of deposition of CCC and subpoena duces tecum; EM to PJ suggesting edits	0.3
April 29:	EMs with PJ commenting on new draft of CCC discovery requests	0.2
April 30:	multiple emails with Team and with HathiTrust counsel re CCC discovery in light of revisions proposed by J Petersen et al.	0.8
Total RJB time for April 2012:		56.6 hrs.
<b><u>Total Amount Due Legal Services in April</u></b> (56.6 hrs. x \$500/hr):		<b><u>\$28,300</u></b>
<b><u>Disbursements:</u></b>	None	000
<b><u>TOTAL AMOUNT DUE:</u></b>		<b><u>\$28,300</u></b>

# CHECK REQUEST

Date: 4-16-12

Person Requesting  
Check:

Denise Altobelli

Authorizing Partner:

Initials JSM Date 4/16/12

Amount of Check:

\$67.00

Made Payable To:

John McMurtry

Reason

Service on National Geographic \$65 + \$2 meter parking

Our Case Reference:

1120.336

**1099 Information:**

Federal ID or SS number \_\_\_\_\_  
W9 on File - Yes or No (for accounting purposes only)

Note: Please be sure that any supporting documentation, cover letter, receipts, etc. are given to Accounting Office for placement in the fee billing files. Thank you.

Please mail check \_\_\_\_\_ Or return check to JSM

**\*\*\* IF THIS CHECK IS NEEDED THE SAME DAY PLEASE BRING  
CHECK REQUEST DIRECTLY TO THE BOOKKEEPER\*\*\***

It's Your Serve

134 N. LaSalle Street #750  
Chicago, IL 60602  
312 855-0303

# Invoice

DATE	INVOICE#
4/16/2012	1204462

BILL TO
Brown Goldstein & Levy, LLP 120 E. Baltimore St. #1700 Baltimore, MD 21202 Attn: Denise Altobelli

TITLE & CASE#
The Authors Guild, Inc. vs. Hathitrust, et al 11cv 6351

CLIENT #	TERMS
1120.336	Due on receipt

DATE	SERVICE	DESCRIPTION	AMOUNT
4/13/2012	Rush serve	Service to Academy Chicago Publishers  Case # <u>NB/ALP/ST</u> G/L Acct. <u>                    </u> Approved <u>[Signature]</u> Check # <u>                    </u>	95.00
TaxID# 36-3929726			<b>Total</b> \$95.00





# Legal Images of Baltimore, LLC

The Document Production Company

7 East Redwood Street, Suite 800 Baltimore, Maryland 21202

**DATE**

April 26, 2012

**INVOICE #**

92313

**BILL TO :**

Brown, Goldstein & Levy  
 120 East Baltimore Street  
 Suite 1700  
 Baltimore, MD 21201  
 USA

Denise Altobelli  
 120 East Baltimore Street  
 Suite 1700  
 Baltimore, MD 21201

**\*\*\* INVOICE \*\*\***

WORK ORDER #	TERMS	SALES REP.	SHIP DATE	SHIPPED VIA	CLIENT REFERENCE #
89689	Net Due	Peter	4/26/12	Hand Deliver	1120.336

QUANTITY	ITEM CODE	DESCRIPTION	UNIT PRICE	EXTENTION
2,300	Scan.02	Conversion To TIFF	0.15	345.00
2,300	ScanOCR.01	Full Document OCR	0.06	138.00
1	Disk.03	CD Burn Master	15.00	15.00

Case # NFB/Altobelli  
 G/L Acct. [Signature]  
 Approved [Signature]  
 Check # \_\_\_\_\_

**Celebrating our 20th year, Thank You Baltimore**

Your signature below is an agreement that the above described work has been authorized and received. The party above assures payment of this invoice within 30 days. All invoices are due upon receipt.

**Please Pay From This Invoice. -Please- Include Invoice # With Payment.**

Received By: \_\_\_\_\_ Date \_\_\_\_\_

<b>Taxable Invoice</b>	498.00
<b>Sales Tax</b>	29.88
<b>Non-Taxable invoice amt.</b>	0.00

**Total Due 527.88**

**Federal Tax ID Number: 68-0506038**

Telephone Number: 410-727-0505

Fax Number: 410-727-6839



**BROWN GOLDSTEIN LEVY**

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NATIONAL FEDERATION OF THE BLIND  
200 EAST WELLS STREET  
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BALTIMORE MD 21230

ATTN: DR. MARC MAURER

HATHITRUST

Page: 1  
June 13, 2012

ACCOUNT NO: 1120-336M  
INVOICE NO: 32504

FEES

		Rate	Hours
05/01/2012			
DMA	Review e-mails re: CCC subpoena	155.00	0.10
DMA	Conference with Daniel F. Goldstein and Theo Thomas re: subpoena to CCC and service	155.00	0.30
BGT	Edits to subpoenas and emails re: same	155.00	0.20
LA	Finalize Copyright Clearance Center subpoena	250.00	0.30
DFG	Telephone call to J. Fruchterman and then conference call with J. Fruchterman and J. Beck	475.00	0.50
05/02/2012			
JLH	Extracted documents and saved individually;	120.00	0.30
05/03/2012			
LA	Follow up on outstanding responses to publisher subpoenas	250.00	1.10
DMA	Conference with Daniel F. Goldstein preparation for argument on Motion for Judgment on Pleadings	155.00	0.10
LA	Review plaintiffs' discovery responses	250.00	1.00
DFG	Conferred with Denise M. Altobelli re: organizing for argument	475.00	0.10
05/04/2012			
DMA	Conference telephone call with Peter Jaszi, Mehgan Sidhu, Daniel F. Goldstein, Bob Bernstein and Laura G. Abelson re: planning for briefing and Motion for Summary Judgment	155.00	1.50
LA	Review Plaintiffs' discovery responses and documents produced	250.00	2.20
LA	telephone call with Bob Bernstein, Daniel F. Goldstein, Denise M. Altobelli, Peter Jaszi, and Mehgan Sidhu re: strategy for Motion for Summary Judgment	250.00	1.50
DMA	Load AG 004434 -6167 documents from CD to server (royalty statements from Faye Weldon and Writer's Union of Canada)	155.00	0.10
DMA	E-mail complaint and briefing on Plaintiff's motion for partial summary judgment on the pleading to Mehgan Sidhu	155.00	0.10