

EXHIBIT B

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Edward H. Rosenthal
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September 13, 2011

BY EMAIL AND FEDEX

Suellyn Scarnecchia, Esq.
Vice President and General Counsel
University of Michigan
Central Campus Legal Office
5010 Fleming Bldg.
503 Thompson Street
Ann Arbor, MI 48109

Re: *The Authors Guild, Inc. v. HathiTrust, et al.*, 11 Civ. 6351

Dear Ms. Scarnecchia:

As you probably know, yesterday our clients The Authors Guild, Inc. and a number of other organizations and individuals filed a complaint against the University of Michigan, the HathiTrust, and four other universities for copyright infringement arising out of the digitization of copyrighted works, as well as the defendants' announced plan to make so-called "orphan works" available to students, faculty and other users of various university libraries. For your convenience, we have attached a copy of the complaint.

Our intention is to file a motion for a preliminary injunction to prevent any further infringement of the copyrighted works. We are willing to hold off on making such a motion, provided that pending resolution of the issues raised in this lawsuit: (1) the University of Michigan and the other defendants agree not to engage in any further digitization, reproduction or "ingestion" into the HathiTrust digital library of any copyrighted works; (2) defendants suspend any implementation of the HathiTrust Orphan Works Project including the display or distribution of any work; and (3) defendants agree to ensure that all previously digitized works are held in escrow, offline and subject to commercial grade security protections.

Please let us know by the end of the business day on Friday September 16, 2011 whether you and the other defendants are willing to agree to the terms set forth above. If it is agreeable,

Suellyn Scarnecchia, Esq.
September 13, 2011
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our client would be happy to meet with you on the date that has been proposed (October 3) or at some other time convenient to everyone.

Sincerely yours,



Edward H. Rosenthal

Enclosure

cc: Jan Constantine, Esq.



SUELLYN SCARNECCHIA
VICE PRESIDENT AND GENERAL COUNSEL

THE UNIVERSITY OF MICHIGAN

5010 FLEMING ADMINISTRATION BUILDING
503 THOMPSON STREET
ANN ARBOR, MICHIGAN 48109-1340
734-764-0305 FAX: 734-615-8937

Friday, September 16, 2011

By Email and US Postal Service

Mr. Edward Rosenthal
Frankfurt Kurnit Klein & Selz
488 Madison Avenue
New York, NY 10022

Re: Your letter of September 13, 2011

Dear Mr. Rosenthal:

Thank you for apprising us of your intent to file for a preliminary injunction.

As your letter states, you desire to ask the court to prevent copyright infringement. Because we are not engaging in copyright infringement, discouraging you from filing your motion is not an incentive for us to cease lawful activities and we do not plan to do so.

Nonetheless, for your information, our library has decided to delay the access portion of its Orphan Works Project pilot (originally slated to commence on October 13, 2011), while it continues to assess and improve its orphan works identification process.

I should also apprise you that as General Counsel of the University of Michigan, I cannot speak for Cornell University, Indiana University, the University of California, or the University of Wisconsin. I would encourage you to contact their campuses directly, if you have not already done so.

Thank you for your offer to refrain from filing a preliminary injunction motion.

Sincerely,


Suellyn Scarnecchia

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September 26, 2011

BY EMAIL AND FEDEX

Suelyn Scarnecchia, Esq.
Vice President and General Counsel
University of Michigan
Central Campus Legal Office
5010 Fleming Bldg.
503 Thompson Street
Ann Arbor, MI 48109

Re: *The Authors Guild, Inc. v. HathiTrust, et al., 11 Civ. 6351*

Dear Ms. Scarnecchia:

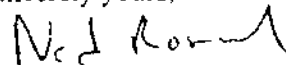
Thank you for your letter of September 16. We do need to fully understand your position with respect to the maintenance of the status quo. Specifically, will the University of Michigan and the HathiTrust agree to the conditions set forth in our prior letter that pending the outcome of this litigation: (1) there will be no further digitization, reproduction or ingestion into the HathiTrust digital library of any unauthorized and copyrighted work; (2) there will be no display or distribution of any so-called orphan work; and (3) all digitized copies of unauthorized and copyrighted works will be held in escrow, offline and subject to commercial grade security protection?

Upon receipt of these assurances from you and the other defendants, our clients will agree to hold off making a preliminary injunction motion and also would be willing to meet with representatives of the University of Michigan library to discuss the concerns of our clients. We do understand that you cannot speak for the other Universities, and will contact them directly.

I would appreciate it if you or other counsel handling this matter on behalf of the University of Michigan and HathiTrust would contact me as soon as possible, and by no later than Wednesday, September 28, 2011, with respect to the substance of this letter.

Thank you for your continued cooperation.

Sincerely yours,



Edward H. Rosenthal

cc: Jan Constantine, Esq.

October 14, 2011

By E-mail

Edward H. Rosenthal, Esq.
Frankfurt Kurnit Klein & Selz PC
488 Madison Avenue
New York, New York 10022

Re: Authors Guild et al. v. Hathitrust et al.

Dear Ned:

In view of our discussion on Wednesday, we write to provide you with further information regarding the Orphan Works Project and the steps that our clients have taken to ensure the security of the digitization project as a whole.

In terms of the Orphan Works Project, the current status is as follows:

1. As you know, The University of Michigan has previously withdrawn its initial list of orphan candidates (as you are aware, the publication of the list is a fundamental component of the process to gather information concerning orphan candidates and no orphan works will be made accessible without the prior publication of the list of orphan candidates).
2. Until further notice, our clients will provide the plaintiffs 120-days advance notice before making *any* work accessible to patrons through the Orphan Works Project.

As we did have some discussion about steps that might be taken to avoid unnecessary motion practice with respect to your stated intention of seeking a preliminary injunction, to avoid any later misunderstanding and to allay any concerns your clients may have, I want to make clear that our clients have already unilaterally committed to each and every element set forth in numbered paragraphs 1 and 2, above, regardless of whether we continue our prior discussion and regardless of whatever decision you may make with respect to the application for a preliminary injunction. Should your clients be interested in continuing our discussions, we would be happy to discuss as well a reasonable tolling agreement addressing any delay in the filing for preliminary injunctive relief after the date of this letter.

Edward H. Rosenthal, Esq.
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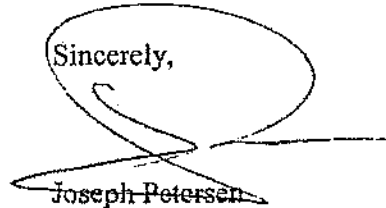
In terms of security, our clients would be happy to provide assurances on that issue in as much reasonable detail as they can without compromising security. Our clients are more than willing to host a delegation of your clients to come to Ann Arbor to discuss the Orphan Works Project and, at that time, can explain the steps our clients have taken in terms of safeguarding the data. Our clients would be glad to arrange this meeting as soon as it is practicable for your clients. We look forward to hearing from you regarding whether your clients are willing to meet in this fashion.

We trust that the foregoing allays any concerns your clients may reasonably have at this stage of the litigation.

Finally, we confirm that all of our clients are amenable to waiving service in accordance with Fed. R. Civ. P. 4(d). Please send us the appropriate waiver form and we will ensure that signed waivers are obtained from appropriate representatives of our clients and are returned to you promptly.

As we discussed yesterday, we are hopeful that we will be able to work cooperatively with one another to ensure that the issues are addressed in an efficient, reasonable manner without undue burden upon the Court and the parties. We look forward to discussing with you ways to progress the litigation in a manner that makes sense for all concerned.

Sincerely,

A handwritten signature in black ink, appearing to be "Joseph Petersen", written over a horizontal line. The signature is stylized with a large loop at the top and a long horizontal stroke at the bottom.

cc: Joseph Beck, Esq.