

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

SKYRIVER TECHNOLOGY SOLUTIONS, : Case No. 2:10-CV-1017
LLC, et al., :

Plaintiffs,

: Judge Watson
: Magistrate Judge Kemp

vs.

OCLC ONLINE COMPUTER LIBRARY
CENTER, INC.,

Defendant.

PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE

Pursuant to Rule 201 of the Federal Rules of Evidence, Plaintiffs SkyRiver Technology Solutions, LLC and Innovative Interfaces, Inc. (“Plaintiffs”) request that the Court take judicial notice of the following documents, true and correct copies of which are attached hereto as Exhibits A and B, respectively.

Exhibit A “Academic Libraries: 2008 First Look,” published by the National Center for Education Statistics (“NCES”) printed from the NCES website at
http://nces.ed.gov/pubs2010/2010348/tables/table_a3.asp

Exhibit B “Number of Libraries in the United States: ALA Library Fact Sheet 1,” published by the American Library Association (“ALA”) printed from the ALA website at
<http://www.ala.org/ala/professionalresources/libfactsheets/alalibraryfactsheet01.cfm>

Judicial notice of each of these documents is proper under Rule 201(b)(2), which provides that a court may take judicial notice of an adjudicative fact “not subject to reasonable dispute in that it is . . . capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.”

Respectfully submitted,

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EXHIBIT A


Academic Libraries: 2008
First Look

 NCES 2010-348
December 2009

Table 1. Total circulation, interlibrary loan transactions, and documents received from commercial services at academic libraries, by control, level, size, and Carnegie classification of institution: Fiscal year 2008

Institutional characteristic	Total number of libraries	Circulation		Interlibrary loan transactions and documents received from commercial services							
		General collection	Reserve collection	Loans provided to other libraries			Loans and documents received				
				Total	Returnable	Non-returnable ¹	Total	Returnable	Non-commercial services ²	From commercial services ²	
All U.S. academic libraries	3,827	138,102,762	40,663,408	11,095,168	6,722,510	4,372,658	10,695,342	5,535,056	4,224,658	935,628	
Control											
Public	1,576	88,140,474	27,745,430	6,969,185	4,055,965	2,913,220	6,386,661	3,212,660	2,609,690	564,311	
Private	2,251	49,962,288	12,917,978	4,125,983	2,666,545	1,459,438	4,308,681	2,322,396	1,614,968	371,317	
Level ³											
Total 4-year and above	2,393	120,659,016	34,858,810	10,224,099	5,906,554	4,317,545	9,590,300	4,983,340	4,145,816	461,144	
Doctor's	721	88,575,059	24,553,121	7,672,219	4,126,298	3,545,921	6,948,306	3,479,113	3,116,616	352,577	
Master's	911	21,614,197	6,788,944	1,833,711	1,249,443	584,268	1,920,870	1,051,301	773,188	96,381	
Bachelor's	730	10,167,574	3,333,073	646,045	477,095	168,950	696,503	433,742	250,931	11,830	
Less than 4-year	1,434	17,443,746	5,804,598	871,069	815,956	55,113	1,105,042	551,716	78,842	474,484	
Size (FTE enrollment) ⁴											
Less than 1,000	1,455	7,254,621	1,309,653	478,677	319,192	159,485	433,184	234,577	164,209	34,398	
1,000 to 2,999	1,136	19,700,007	6,072,357	1,733,162	1,186,090	547,072	2,075,379	1,024,631	629,254	421,494	
3,000 to 4,999	475	11,348,108	3,802,823	1,004,578	737,372	267,206	1,250,549	570,980	345,551	334,018	
5,000 to 9,999	405	17,603,179	7,147,469	1,606,989	1,011,634	595,355	1,466,773	805,270	638,360	23,143	
10,000 to 19,999	238	30,324,749	10,941,609	2,366,472	1,370,518	995,954	2,271,595	1,197,314	1,014,968	59,313	
20,000 or more	118	51,872,098	11,389,497	3,905,290	2,097,704	1,807,586	3,197,862	1,702,284	1,432,316	63,262	
Carnegie classification ³											
Doctoral/Research	275	73,067,019	19,929,179	6,193,270	3,333,160	2,860,110	5,478,954	2,836,010	2,391,647	251,297	
Master's I and II	603	23,803,770	7,856,874	2,055,420	1,279,380	776,040	2,249,835	1,077,664	1,019,840	152,331	
Baccalaureate	557	13,877,587	4,774,230	1,300,092	988,402	311,690	1,338,889	871,651	444,607	22,631	
Baccalaureate/Associates	96	951,931	270,388	50,998	45,988	5,010	46,598	35,222	11,356	20	
Associates	1,474	18,788,529	6,056,288	905,467	842,863	62,604	1,128,355	564,219	82,151	481,985	
Specialized	645	7,337,352	1,712,195	579,703	227,666	352,037	435,868	142,510	266,072	27,286	
Not classified	177	276,574	64,254	10,218	5,051	5,167	16,843	7,780	8,985	78	

¹ "Non-returnables" refers to materials that the supplier/lending library does not expect to have returned. Examples of non-returnables include photocopies or facsimiles, fiche-to-fiche copies, print copies from microfilm, electronic full-text documents, and gratis print copies of unpublished reports and/or departmental working papers.

² "Documents delivered from commercial services" refers to all documents from commercial document delivery services received by the library's users. This includes all transactions that the library pays for, even if library staff is not involved in the transaction.

³ While "level" and "Carnegie classification" are similar, there is not complete overlap in the two classifications. "Level" refers to the highest level of any degree offered by the institution. The "Carnegie classification" is based on criteria such as institutional mission and research funding in addition to highest level of degree awarded. The Carnegie classification was developed by the Carnegie Foundation for the Advancement of Teaching and published in *A Classification of Institutions of Higher Education, 2005 Edition*.

⁴ Full-time equivalent (FTE) enrollment is calculated by adding one-third of part-time enrollment to full-time enrollment.

NOTE: The number of doctoral, master's, and bachelor's level institutions does not sum to the total number of 4-year and above institutions because there are 4-year and above institutions that grant "other" degrees and are thus not included in the breakdown.

SOURCE: U.S. Department of Education, National Center for Education Statistics, Academic Libraries Survey (ALS), 2008.

EXHIBIT B



Number of Libraries in the United States

ALA Library Fact Sheet 1

There are an estimated 122,101 libraries of all kinds in the United States today. No annual survey provides statistics on all types of libraries.

Figures for public, academic, and school libraries come from surveys by the National Center for Education Statistics (NCES) and the Institute of Museum and Library Services (IMLS). Specifically, the public libraries numbers come from the IMLS Public Library Survey, from the latest report in the series, Public Libraries in the United States: Fiscal Year 2008 (2010). The numbers for academic and school libraries come from the NCES Schools and Staffing Survey and the Library Statistics Program surveys: Academic Libraries: 2008 First Look (2010); Characteristics of Public and Bureau of Indian Education Elementary and Secondary School Library Media Centers in the United States: Results from the 2007-08 Schools and Staffing Survey for the number of school library media centers in public and BIA (Bureau of Indian Affairs) schools; and Table 421. Selected statistics on school libraries/media centers, by control and level of school: 1999-2000 and 2003-04 from the 2008 Digest of Education Statistics for the number of school library media centers in private schools (more recent library media center data for private schools have not been collected because of NCES budget constraints).

Figures for special libraries, armed forces libraries, and government libraries come from the *American Library Directory™ 2010-2011*, which is a two-volume set currently published by Information Today, Inc. Find out more about this annual publication, now in its 63rd edition, at the Information Today, Inc. web site, at: <http://books.infotoday.com/directories/American-Library-Directory.shtml> (Information Today, Inc., Attn: Customer Service, 143 Old Marlton Pike, Medford NJ 08055-8750; telephone: 1-609-654-6266; fax: 1-609-654-4309; e-mail: custserv@infotoday.com; online database version: <http://americanlibrarydirectory.com>).

Numbers of Libraries in the United States

Public Libraries (administrative units)			9,221
	Central Buildings*	9,042	
	Branch Buildings	7,629	
	Total Buildings	16,671	
Academic Libraries			3,827
	Less than four-year	1,434	
	Four-year and above	2,393	
School Libraries			99,180
	Public schools	81,920	
	Private schools	17,100	
	BIA (Bureau of Indian Affairs)	160	
Special Libraries**			8,476
Armed Forces Libraries			284
Government Libraries			1,113

Total	122,101
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* The number of central buildings is different from the number of public libraries because some public library systems have no central building and some have more than one. Public Libraries in the United States: Fiscal Year 2008 (2010) specifically explains in a footnote to Table 3: Of the 9,221 public libraries in the 50 States and DC, 7,469 were single-outlet libraries and 1,752 were multiple-outlet libraries. Single-outlet libraries are a central library, bookmobile, or books-by-mail-only outlet. Multiple-outlet libraries have two or more direct service outlets, including some combination of one central library, branch(es), bookmobile(s), and/or books-by-mail-only outlets.

* * Special libraries include Corporate, Medical, Law, Religious, etc.

NOTE from *American Library Directory™ 2010-2011* (page xii): "Branch records for academic and government libraries are no longer counted within these breakdowns, causing some discrepancy when comparing figures with previous editions. This does not affect the total number of libraries listed in the *American Library Directory™*." Please contact Lauri Rimler at Information Today, Inc. with any questions regarding this.

For the purposes of ALA Library Fact Sheet 1, this counting difference actually most affected the *American Library Directory's Total Special Libraries* number; the 2009-2010 edition reported 8,906 Total Special Libraries, while the 2010-2011 edition reported 8,476 Total Special Libraries.

NOTE: Previous versions of this fact sheet can be accessed via the Internet Archive Wayback Machine using the *original* URL <<http://www.ala.org/library/fact1.html>>. And this URL *still works* as a "shortcut" link to this web page.

Additional questions about libraries in the United States might be answered on one of these fact sheets: ALA Library Fact Sheet 2 - Number Employed in Libraries, ALA Library Fact Sheet 3 - Lists of Libraries and ALA Library Fact Sheet 5 - Marketing to Libraries, and ALA Library Fact Sheet 22 - The Nation's Largest Libraries. A Listing By Volumes Held.

Last updated: August 2010

For more information on this or other fact sheets, contact the ALA Library Reference Desk by telephone: 800-545-2433, extension 2153; fax: 312-280-3255; e-mail: library@ala.org; or regular mail: ALA Library, American Library Association, 50 East Huron Street, Chicago, IL 60611-2795.

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CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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