



January 6, 2010

United States Congress
Washington, DC

Dear Congressional Author:

You're an author. Are you 'opting in' or 'opting out' of the Google Books Settlement? If you don't know what that means – or don't know what it means for you and your book – you're in good company. Writers all over the country are hugely confused. This is not helped by the fact that the legally required notification that went out to affected authors was minimal. No attempt was made to locate the vast majority of authors, and the rest were sent emails. Of those, how many thought they were email spam and deleted them unread?

The ramifications of the amended settlement for any one author and any one book are exceptionally complex. We've talked to our members, authors like yourself. The ones who got the notice found it incomprehensible and just shook their heads in confusion. Go to the settlement website's poorly implemented database and see for yourself how tricky this is -- has your book been scanned? Is it commercially available? Should you opt out? If you do nothing, you're automatically included in the settlement. If you opt out, Google doesn't even guarantee that it won't steal your work in the future.

It isn't fair. There are millions of book authors in this country who could be locked into an agreement they don't understand and didn't ask for. The Authors Guild represents only a tiny fraction of published writers, yet the new regulatory board set up in the proposed settlement will override individual book contracts – not to mention common law and even the Constitutional protection of copyright. Mary Beth Peters, Register of Copyrights, testified before the House Judiciary Committee that the settlement would "turn copyright on its head." Nothing in the revised settlement changes that.

Have you wondered why the settlement only covers out of print books? It's because the major publishers have struck side deals with Google for their in-print books. In other words, the publishers who are negotiating for the plaintiff class have brokered a deal that will determine the digital future for books -- but they want no part of it for the books that they actually are trying to sell!

Think about it. The existing competitive marketplace is best for the books that publishers care about. It's just the rest of us they want shoved into the straight jacket of the Book Rights Registry which they and the Authors Guild are proposing.

And what about Orphan Works? The Google Book Search settlement is an affront to all on the Hill who have worked hard for consensus on Orphan Works legislation, and are striving for it now. No matter how much they amend it, the fundamental problem at the heart of the settlement -- unilaterally giving all digital rights to orphan works to Google --- remains. Legislation is needed to deal with orphan works fairly. Simply allowing Google to profit from these works without any attempt to find the rights holders makes a mockery of copyright.

Opposition to this sweetheart commercial deal from the Department of Justice and nearly 400 other interested parties radically changed the course of this debate. However, the amended version of the settlement still creates a de facto monopoly for Google at the expense of all Americans. True orphan works belong to We, The People. The Constitution says copyright is essential and gives Congress responsibility for it, not Google and a gaggle of lawyers.

As fellow authors, you know the freedom to negotiate your own book contract is basic and precious. We hope you will join us in speaking in opposition to the amended settlement. The Department of Justice detailed fundamental flaws to the Court in September. A preponderance of those flaws remain.

We urge you, as an author and member of Congress, to contact the DOJ and implore them to continue their close scrutiny of this settlement. Authors need to stick together!

Sincerely,

Larry Goldbetter
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