

September 4, 2009

The Honorable Denny Chin  
United States District Judge  
Daniel Patrick Moynihan Courthouse  
500 Pearl Street, #1020  
New York, NY 10007

In Re: The Authors Guild, et al. v. Google, Inc., Case Number 1:05 ev 8136 (S.D.N.Y.)

Dear Judge Chin:

The Committee on Institutional Cooperation (CIC) has been working for over fifty years to support cooperative academic endeavors among its member universities. Together, these universities enroll 385,000 graduate and undergraduate students, employ more than 35,000 faculty, and award 15% of the PhDs granted in the United States each year. CIC universities engage in \$6 billion in funded research annually, and faculty and researchers are responsible for some of the most significant advances and innovations in science, medicine, engineering, humanities, and the social and behavioral sciences.

Among the assets shared by our universities are their notable library collections, most tracing their origins back to the 1850s. With over 80 million combined book volumes, CIC library holdings are more than twice that of the University of California system, and some 30% greater than the collective holdings reported by the Ivy League Universities. These extensive, culturally rich and carefully selected collections are an asset not only to affiliated faculty and students, but serve scholars and general readers worldwide. The investment of our universities over 150 years to select, acquire, organize, store and preserve these collections is inestimable, but collective 2008 expenditures for CIC library acquisitions and operations alone approached a half billion dollars.

In 2007, the CIC entered into an agreement with Google to digitize up to ten million volumes from across our university libraries. This agreement constitutes the largest commitment of volumes to the Google Book Search initiative to date. At the time the 2007 Agreement was executed, our universities offered the following rationale to our interested constituents:

*“CIC members are partnering with Google to digitize millions of bound volumes in their library collections. This is an important step to preserve the libraries' print legacy collections, and to provide present-day and future users with in-depth access to historically significant print resources. The initiative will preserve in digital form deteriorating 19th century books included in this project, make historic collections more accessible to scholars, and make the ideas and references within books more discoverable through computerized "search and retrieve" capabilities.”*

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We chose to enter into the 2007 Agreement because it advanced such basic values as making campus resources more accessible to the general public; harnessing new search technologies to make it easier for researchers and students to find needed information within books; preserving the scholarly record; and archiving copies of the digital content in trusted repositories managed by universities and libraries so as to assure its availability for future generations.

Now, faced with the need to amend the 2007 Agreement to take account of the Settlement terms proposed by Google and the Authors' Guild, CIC attorneys, librarians, and senior campus administrators have spent many months assessing if the new terms will serve the goals our institutions set out to achieve through the prior digitization agreement. We have concluded that the amended agreement continues to advance the education, public service, and preservation goals of our universities. As was the case in 2007, continued participation under the new Settlement allows for library digitization at a scale and scope not possible with the limited means available to individual CIC universities. As a result of the Google collaboration, our universities can digitize collections that otherwise would require hundreds of years and hundreds of millions of dollars to complete. We believe this digitization to be essential if the expansive library resources of our universities are to be accessible and consulted in the years to come.

To be sure, there are concerning aspects of the Settlement that we suggest bear closer scrutiny. Pricing for the Institutional Subscription remains an open question, particularly with regard to the ability of libraries around the world to afford the product. Additionally, libraries and universities place a very high value on individual privacy, and we therefore urge the court to consider if the proposed terms go far enough to assure an individual's right to privacy when consulting the proposed commercial product. It will be important to ensure that the status of so-called "orphan works" is fairly administered so as not to preclude others—including libraries and scholars—from digitizing and distributing these publications. Finally, we are concerned that the laudable goal of offering widespread public access to the digitized corpus of books might not be realized through the means proposed in the Settlement. To attenuate these concerns, and other risks associated with the new and untested business models contemplated by the Settlement, we encourage vigilant and ongoing court oversight to ensure that the parties, libraries and public achieve a judicious balance in how the benefits of this groundbreaking initiative are distributed.

While fully cognizant of the attendant shortcomings of the Settlement terms, we believe that our campus interests--and those of the academy in general--are best served by allowing the agreement to move forward. There is some urgency attached to the digitization of legacy print library collections, and interrupting the processes now in place could result in irreparable losses

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of scholarly content. We are satisfied that the end-product of our work with Google will preserve the rich historical library collections of the CIC for use by future generations. At the same time, digital access will advance scholarship and instruction on our campuses, improve public access to library materials, facilitate inter-university sharing, and support new methods of linguistic and cultural research.

We encourage the court to accept the Settlement terms put forth by the parties to this case, while remaining attentive to the concerns we have raised.

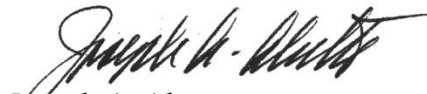
Respectfully submitted,



Rodney A. Erickson  
Executive Vice President and Provost,  
Pennsylvania State University



Kim A. Wilcox  
Provost and Vice President for Academic Affairs  
Michigan State University



Joseph A. Alutto  
Executive Vice President and Provost  
Ohio State University



Wallace D. Loh  
Executive Vice President and Provost  
University of Iowa



Daniel I. Linzer  
Provost  
Northwestern University



R. Michael Tanner  
Provost and Vice President for Academic Affairs  
University of Illinois at Chicago



William R. Woodson  
Executive Vice President and Provost  
Purdue University



E. Thomas Sullivan  
Senior Vice President for Academic Affairs and Provost  
University of Minnesota



Karen Hanson  
Provost and Executive Vice President  
Indiana University



Robert A. Easter  
Interim Provost and Vice Chancellor for Academic Affairs  
University of Illinois at Urbana-Champaign

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