

# Google Books Settlement: What Does It Mean for Libraries?

*Submitted by Karen M. Albert, AHIP, Chair, Ad Hoc Committee for Advocating Scholarly Communications*

One of the most complex and significant challenges facing libraries today is how to handle online books, a realm currently dominated by the Google Books project and impending settlement. The original agreement reached October 28, 2008, with the Authors Guild and the Association of American Publishers (AAP) was based on litigation over Google's scanning project, which is producing a vast online database of books provided by major research libraries and other sources [1]. The far-reaching settlement would create an enormous digital library controlled by Google and has important implications for libraries of all types.

Understanding the project and terms of the settlement is no easy task. It is currently under review by the Federal District Court in Manhattan, and Google and other parties involved have been given until November 9, 2009, to submit a revised agreement for the court to examine. A final hearing could take place in late December or early January. Objections of interested parties, such as librarians, academics, authors, and public interest groups stimulated reassessment of the original agreement [2]. According to the American Library Association (ALA) website devoted to this project and settlement ([www.wo.ala.org/gbs/](http://www.wo.ala.org/gbs/)), "there is a chance the proposed agreement will change substantially. The parties are now in renegotiation of the Settlement terms" [3].

## **Important Elements for Libraries**

ALA's *Guide for the Perplexed: Libraries and the Google Library Project Settlement* indicates that "the settlement presents significant challenges and opportunities for libraries" [1, 2]. The guide outlines the settlement's provisions and focuses on sections that stand to directly affect libraries. The following are some of the major areas of impact detailed in this document.

- A Book Rights Registry (BRR) will be created to provide a mechanism for Google to use to pay rights holders for permission to display more text of books than is currently displayed online via Google Books. Google will also generate income via advertising and sales to individual users for access to full text. Google will retain a portion of these funds, with another portion going to the BRR.
- The settlement addresses three categories of books:
  - in copyright, commercially available
  - in copyright, not commercially available
  - public domain
- The settlement will primarily impact the in-copyright books that are no longer commercially available, estimated by Google to encompass 70% of all books. Different rules for the amount of access provided are spelled out for each category of book, with public domain books being available for complete full-text display and more limited displays provided for the other categories. Users will be able to purchase online access to full text of in-copyright, not commercially available books, with the ability to copy and paste or print the entire book.
- Google will provide free public access service (via terminals) to each public library and not-for-profit institution of higher education that requests it, up to a specified limit.

- Google will make available institutional subscriptions to the entire in-copyright, not commercially available books, or to discipline-specific subsets, with Google and BRR setting the price for these subscriptions.

See the complete ALA document for more detail for each of the bullet points above [1].

### ***Pros and Cons from a Library Perspective***

Pamela Samuelson, an intellectual property expert, says, “In the short run, the Google Book Search settlement will unquestionably bring about greater access to books collected by major research libraries over the years. But it is very worrisome that this agreement, which was negotiated in secret by Google and a few lawyers working for the Authors Guild and AAP (who will, by the way, get up to \$45.5 million in fees for their work on the settlement—more than all of the authors combined!), will create two complementary monopolies [Google and the BRR] with exclusive rights over a research corpus of this magnitude. Monopolies are prone to engage in many abuses” [4].

Also, the Electronic Frontier Foundation’s attorney Cindy Cohn writes on the Deep Links Blog (<https://www.eff.org/deeplinks/2009/09/google-book-privacy-policy-good-start-more-needed>) that the policy “still falls well short of the privacy protections that readers need, there is no guarantee that the privacy policy will be permanent and readily enforceable by readers” [5].

Steven Bell, associate university librarian at Temple University, thinks Google is trying to answer complaints through an updated agreement it recently made with the University of Michigan. Bell says, “I don’t think this new agreement with the University of Michigan is going to totally mitigate the concerns of the library community about Google’s monopoly ownership of these millions of digitized books. There is still going to be a subscription cost to access the collection and there’s no way of knowing how it’s going to be priced or controlled and that’s an ongoing cause for concern.” At the same time, Bell thinks that “since I find that Google Books can be tremendously helpful for my own research and for assisting library users, I believe it is preferable to have the materials than not having them despite some of the complications we are working through.” He added that he remains “optimistic that this can be a good thing for the preservation and accessibility of these collections” [6].

No matter what form the final Google settlement takes, it will undoubtedly have a considerable impact on all types of libraries in terms of book usage and electronic access [7, 8].

### ***Significance for Health Sciences Libraries***

Lucretia McClure, AHIP, FMLA, MLA’s Copyright Referent and Special Assistant to Harvard’s Countway Library Director, notes:

“The prospect of having thousands of the world’s best books available online for all to read and use is a stunning idea. But there are real concerns. Health sciences libraries make their books available to all their faculty, students, researchers, and health professionals and not just those who can pay. Students, in particular, will be harmed if access is dependent upon payment. How can a library give up purchasing books when Google controls the access to these books and also the right to establish payment? It is not in the best interest of the medical community to allow one

company to hold a monopoly on an enormous digital library that is in a sense a monopoly on access to the content of so much of the medical information and literature.

“Both as health sciences librarians and as citizens, we need to study and understand the impact this Google settlement could have on our collections and our ability as librarians to provide the best information and literature to our users.”

## **References**

1. Band J, American Library Association. A guide for the perplexed: libraries and the Google Library Project settlement [Internet]. The Association; 2008 [cited 22 Oct 2009]. <<http://www.wo.ala.org/gbs/wp-content/uploads/2008/12/a-guide-for-the-perplexed.pdf>>.
2. Rich M. Judge sets Nov. 9 deadline for revised Google book settlement [Internet]. The New York Times. 2009 7 Oct. (Available from: <<http://www.mediadecoder.blogs.nytimes.com/2009/10/07/judge-sets-nov-9-deadline-for-revised-google-book-settlement/>>. [cited 22 Oct 2009].)
3. American Library Association. Google books settlement: an informational site for the library community: the Google books settlement: who is filing and what are they saying? [Internet]. The Association [cited 11 Oct 2009]. <<http://wo.ala.org/gbs/the-google-books-settlement-who-is-filing-and-what-are-they-saying/>>.
4. Samuelson P. Legally speaking: the dead souls of the Google booksearch settlement [Internet]. [cited 11 Oct 2009]. <<http://radar.oreilly.com/2009/04/legally-speaking-the-dead-soul.html>>.
5. Electronic Frontier Foundation. Google book privacy policy: good start, much more needed [Internet]. The Foundation [cited 21 Oct 2009]. <<http://www.eff.org/deeplinks/2009/09/google-book-privacy-policy-good-start-more-needed>>.
6. Jaschik S. The evolving Google library [Internet]. 2009 [cited 2 Jul 2009]. <<http://www.insidehighered.com/news/2009/05/21/google/>>.
7. Band J, American Library Association. A guide for the perplexed part II: the amended Google Michigan agreement. The Association; 2009 [cited 2 Jul 2009]. <<http://www.wo.ala.org/gbs/wp-content/uploads/2009/06/google-michigan-amended.pdf>>.
8. Open Book Alliance. The proposed Google book search settlement: fact vs. fiction. The Alliance [cited 12 Sep 2009]. <<http://www.openbookalliance.org/wp-content/uploads/2009/08/Google-Book-Settlement-Fact-and-Fiction.pdf>>.