

Update on proposed Google Book Search settlement

On February 18, 2010, U.S. District Court Judge Denny Chin held the much anticipated final fairness hearing on the proposed Google Book Search (GBS) settlement that would potentially end the 2005 lawsuit filed by the Association of American Publishers (AAP) and the Author's Guild against Google.

Before hearing statements from parties who either supported or opposed the proposed settlement, the judge indicated he would make no ruling that day. Given the voluminous nature of more than 500 filings with the court over the past several months, it is difficult to predict when a ruling from the judge on the case is likely.

In the meantime, the Library Copyright Alliance (comprised of ACRL, the ALA, and the Association of Research Libraries), commissioned an NCAA March Madness-inspired diagram that explores the many possible routes and outcomes of the Google Book Search settlement.

Now that the fairness hearing on the Google Books Settlement has occurred, it is up to Chin to decide whether the amended settlement agreement, submitted to the Court by Google, the Authors Guild, and AAP, is fair, reasonable, and adequate.

As the diagram shows, however, Chin's decision is only the next step in a very complex legal proceeding that could take a dozen more turns before reaching resolution. Despite the complexity of the diagram, it does not reflect every possible twist in the case, nor does it address the substantive reasons why a certain outcome may occur or the impact of Congressional intervention through legislation. As Jonathan Band, who developed the diagram, states, "the precise

way forward is more difficult to predict than the NCAA tournament. And although the next step in the GBS saga may occur this March, many more NCAA tournaments will come and go before the buzzer sounds on this dispute."

To view the diagram, please visit www.librarycopyrightalliance.org/bm-doc/gbs-march-madness-diagram-final.pdf

Additional information about the proposed settlement can be found in the "Washington Hotline" column from May and June 2009 and, more recently, from the February and March 2010 issues.

Update on USA PATRIOT Act—One-year extension

As follow-up to "Washington Hotline" coverage of the U.S. PATRIOT Act bill in the November 2009 issue, in late February, Congress extended for one year three expiring provisions of the USA PATRIOT Act that were originally to "sunset" on December 31, 2009. Specifically, the Senate voted to pass the House-passed bill, H.R. 3961, "An Act to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and Intelligence Reform and Terrorism Prevention Act of 2004 until February 28, 2011."

Passage of this bill effectively postpones dealing with specific provisions, including business records, roving wiretaps, and lone wolf investigations.

While ALA lobbied for passage of the bipartisan bill in the 111th Congress, it is apparent that there were far worse alternatives that could have proceeded, such as eliminating the sunsets or pulling out some requirements for reporting and oversight. The many complex issues surrounding the USA PATRIOT Act and potential reforms must be part of a marathon effort, not a sprint—and one that will now continue into next year. *JT*

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