

[US] Google Books Legal without Compensating Authors

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On 14 November 2013, the United States Court of Appeals for the Second Circuit recently dismissed a long-running lawsuit filed against Google for scanning copyrighted books for its Google Books project without compensating the authors. The Court found that Google's actions are protected as fair use under 17 U.S.C. § 106 of the Copyright Act because the copying at issue promotes the Act's purpose of promoting the progress of science and useful arts while maintaining respectful consideration for the rights of authors and other creative individuals, and without adversely impacting the rights of copyright holders.

The Court found that Google's use of the copyrighted work was transformative, thereby satisfying the key characteristic of the fair use defense. In order to be transformative the use must not merely supersede or supplant the original creation but must instead add something new with a further purpose or different character by altering the first with a new expression, meaning, or message. The Court found that Google's use of the works to provide snippets of text to act as pointers directing users to a broad selection of books is a new and efficient way for readers and researchers to find books and transformed the text of the books into data for research such as data and text mining. The Court also concluded that Google's actions did not supersede or supplant the authors' books because Google only provides snippets of the text, does not sell the books or run ads alongside them, and takes security measures to prevent users from viewing a complete copy of the book. It explained that the copying will actually benefit the authors by creating new audiences and sources of income.

The Court also upheld Google's right to provide full digital copies to libraries because it serves several important educational purposes. By doing so, it allows researchers, students, teachers, scholars, data scientists and underserved populations like disabled people to access the works. It noted, for example, that Google Books has already become such an important tool for researchers and librarians that it has been integrated into the educational system and is taught as part of the information literacy curriculum to students at all levels.

Google hailed the decision in a statement affirming that "Google Books is in compliance with copyright law and acts like a card catalog for the digital age - giving users the ability to find books to buy or borrow". The executive director of the Authors Guild expressed their disappointment with the decision and confirmed that they will appeal.

Decision of the United States District Court (Southern District of New York) of 14 November 2013 (05 Civ. 8136 DC)

[http://www.internetcases.com/library/cases/2013-11-14 google book search decision.pdf](http://www.internetcases.com/library/cases/2013-11-14_google_book_search_decision.pdf)

