

Google rebuts DOJ objections to digital book deal

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Google Inc. wants the digital rights to millions of books badly enough that it's willing to take on the U.S. Department of Justice in a court battle over whether the Internet search leader's ambitions would break antitrust and copyright laws.

The stage for the showdown was set Thursday with a Google court filing that defended the \$125 million settlement of a class-action lawsuit the company reached with U.S. authors and publishers more than 14 months ago.

Google's 67-page filing includes a rebuttal to the Justice Department's belief that the settlement would thwart competition in the book market and undermine copyright law. The brief also tries to overcome a chorus of criticism from several of its rivals, watchdog groups, state governments and even some foreign governments.

Google revised its original book agreement in November in an attempt to win the Justice Department's support, only to have the nation's top law enforcement agency reiterate its opposition last week.

This time, though, Google decided to dig in its heels and attempt to persuade U.S. District Judge Denny Chin that the Justice Department and the settlement's other opponents are wrong. Oral arguments are scheduled for Feb. 18 in a New York court hearing.

"The purpose of copyright law is to promote the creation and distribution of expressive works," Google's lawyers wrote in Thursday's filing. "The (settlement) advances this purpose as much as any case or agreement in copyright history."

The decision to fight the Justice Department rather than seek another compromise represents a calculated risk for Google. The company's domination of Internet search and its expansion into other markets have already been drawing more regulatory scrutiny.

Locking horns with the Justice Department raises the specter of antitrust regulators magnifying their focus on Google's search engine, which fuels an online advertising system that generates virtually all the company's revenue.

Efforts to reach the Justice Department late Thursday were unsuccessful. Most federal government offices in Washington D.C. have been closed this week because of snow storms.

In its opinion filed last week, the Justice Department described the settlement as "a bridge too far." The agency also applauded the settlement for trying to make hard-to-find books more accessible, but said more revisions had to be made to comply

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with the law.

The Justice Department's concerns include the possibility of Google gaining an unfair advantage over its smaller Internet search rivals if it wins the right to a digital database of books that it built up by ignoring copyright laws.

Google, which is based in Mountain View, countered that argument by pointing out rivals Microsoft Corp. and Yahoo Inc. both made digital copies of books only to abandon their efforts after concluding the projects didn't make good business sense.

Microsoft and Yahoo are a part of a group trying to persuade Chin to reject the book agreement.

"It is well within Microsoft's reach to resume scanning books if it so chooses," Google said in its documents.

Google has made digital copies of more than 12 million books during the past five years "at an enormous cost," according to Thursday's filing. But the company has only been able to show snippets from most of those books because of a copyright dispute that culminated in the lawsuit filed in 2005 by groups representing U.S. authors and publishers.

The proposed settlement would unlock Google's electronic library and allow the company to sell the titles in competition with Amazon.com Inc. and other merchants. Most of the money from the sales would go to the publishers and authors.

The Justice Department believes this arrangement could create a literary cartel that would drive up prices, a notion that Google dismissed in its filing.

"Google is a new entrant and currently has zero percent share in any book market," the company's lawyers argued. "It does not have monopoly power and there is no 'dangerous probability' that it will acquire such power."

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