Google, authors go head to head over digital books

Grant McCool, Reuters

(Reuters) - Google Inc, in a long-running legal dispute over its plans to create a digital library of books, argued in court on Thursday that associations of authors and photographers should not be allowed to sue the company as a group.

Manhattan federal judge Denny Chin did not make an immediate decision, but noted during oral arguments that "it would take forever" to resolve cases brought by individual authors and it "seems to make sense" to consider the lawsuits as a group.

The judge reserved decision on Google's motions to dismiss the lawsuits by the Authors Guild and the American Society of Media Photographers. They accused the search-engine giant of copyright infringement when it signed contracts with libraries for scanning, distributing and displaying about 20 million books.

Authors Guild lawyer Joanne Zack said Google was an "intimidating defendant" for individuals. "This action does call out for a mass litigation to adjudicate the mass digitization."

The litigation stems from a seven-year legal dispute over Google's desire to create the world's largest digital library. In March 2011, Chin rejected a settlement between Google, the Authors Guild and the Association of American Publishers Inc, citing antitrust and copyright concerns.

He has urged that the pact be amended to include only books whose copyright owners agree to the arrangement, rather than require authors to "opt out."

The Authors Guild decided to litigate further and Google and the publishers say they are still hopeful of reaching agreement, perhaps sometime this year.

On Thursday, while Google lawyer Daralyn Durie was arguing the company's case, Chin asked: "I guess it's hoping individual authors won't come forward?" to which Durie responded that Google was prepared to litigate three original individual claims.

"We care institutionally about whether the law is being applied correctly," Durie said. "The correct application is not to certify a class."

Chin was elevated in 2010 to the federal appeals court in New York but kept jurisdiction over the Google case, which he began overseeing as a trial judge.

Amazon.com Inc, Microsoft Corp, some academics and authors are among those

who say the settlement appeared to violate copyright and antitrust law. The U.S. Justice Department's antitrust division has also opposed the settlement.

The cases are The Authors Guild et al v Google Inc in U.S. District Court for the Southern District of New York 05-08136 and The American Society of Media Photographers Inc et al v Google Inc No. 10-02977

(Reporting By Grant McCool, editing by Dave Zimmerman)

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