# Google wants authors group out of NY library case

LARRY NEUMEISTER - Associated Press - Associated Press

Google Inc. urged a judge Thursday to toss The Authors Guild and an organization representing photographers out of 6-year-old litigation over the future of the world's largest digital library, a move that would force authors and photographers to individually fight the online search engine giant.

Google attorney Daralyn Durie told Judge Denny Chin in federal court in Manhattan that authors and photographers would be better off fending for themselves because their circumstances varied so widely.

Joanne Zack, a lawyer for The Authors Guild, countered that the judge should certify the authors as a class because millions of them would not have the money to go to court and because the potential financial reward for doing so would not be high enough to make it practical. She said they also might be intimidated fighting a company as large as Google.

"A lot of them don't even know their books have been digitized," she said.

Zack said Google's widespread practice of copying books so it can offer snippets of text online ultimately threatens the security of books and makes it more likely they will be pirated and displayed in full on the Internet.

The arguments came a year after Chin rejected a $125 million deal that would have settled the case. He tossed out the settlement between Google and representatives of The Authors Guild and publishers after studying objections from Google rivals, consumer watchdogs, academic experts, literary agents, the Department of Justice and even foreign governments.

A challenge to The Authors Guild and the American Society of Media Photographers Inc. as litigants seemed unusual so many years after lawsuits were first filed, Chin said.

"Now all of a sudden Google is saying, 'You don't have standing,'" the judge said.

Durie responded that most of the time since lawsuits were first filed had been spent negotiating a settlement and that it was not unusual to put off pretrial challenges while talks are going on.

Although negotiations appeared to have broken down with the authors, they were still proceeding with publishers and the photographers. Attorney James McGuire said outside court on behalf of the photographers: "We talk, but I wouldn't characterize them as serious."

In court papers, Google said the groups representing authors and photographers "are not owners of the copyrights asserted in this case, and the associations do not possess the facts about copyright ownership, individual economic impact, or the other individualized questions required of a plaintiff in a copyright litigation matter where ownership and fair use are at issue."

Google already has scanned more than 20 million books for the project. Under the original agreement, Google had planned to put about 130 million titles into its digital library.

In rejecting the settlement last year, Chin noted that many objections would vanish if the library only consisted of works in which authors and publishers had granted their permission rather than a system in which books were included unless Google was informed that an author or publisher objected.

The judge has supported the overall goal, saying a digital universe for books would let libraries, schools, researchers and disadvantaged populations gain access to far more books, would help authors and publishers find new audiences and new sources of income and would allow older books — particularly those out of print — to be preserved and given new life.

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