

Westchester Library Association

Legislative Report

October 11, 2012

Submitted by Donna Pesce

There were two items this past month.

1. According to an email sent by ALA on October 4:

The Association of American Publishers (AAP) [announced](#) today they have reached a settlement in their lawsuit filed in 2005 against Google, Inc. According to AAP's press release,

US publishers can choose to make available or choose to remove their books and journals digitized by Google for its Library Project....Apart from the settlement, US publishers can continue to make individual agreements with Google for use of their other digitally-scanned works.

The five publishers - Simon and Schuster Inc., McGraw-Hill Cos., John Wiley and Sons Inc., Penguin Group (USA) Inc. and Pearson Education Inc. - who originally sued Google, have entered into a settlement that outlines the terms and conditions for how Google can use their works in Google Book.

2. According to an email sent by NYLA on October 5:

On October 3, 2012 Governor Andrew Cuomo vetoed a NYLA 2012 Legislative Priority bill, S.7239 – which proposed eliminating the disincentive for library system mergers.

The NYLA Legislative Committee is exploring options for revising the language of this bill, and evaluating reintroducing the item during the 2013 session.

According to Governor Cuomo, the bill was vetoed because merged libraries would still receive the same state aid at pre-merger levels.

(Please see below for text of emails.)

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US publishers can choose to make available or choose to remove their books and journals digitized by Google for its Library Project....Apart from the settlement, US publishers can continue to make individual agreements with Google for use of their other digitally-scanned works.

The five publishers - Simon and Schuster Inc., McGraw-Hill Cos., John Wiley and Sons Inc., Penguin Group (USA) Inc. and Pearson Education Inc. - who originally sued Google, have entered into a settlement that outlines the terms and conditions for how Google can use their works in Google Book. The terms seem (based on what scant information we have) similar to the original settlement and Google's existing voluntary arrangement with publishers.

Since the settlement only applies to the five publishers, questions do remain. The orphaned works situation (when copyright holders cannot be identified or located) is not yet resolved within Google Books. Also, the class action lawsuit brought against Google by the Authors Guild in 2005 for copyright infringement for scanning and digitizing books and making snippets available continues. Currently, the lawsuit is before the U.S. District Court Southern District of New York. Recently, the American Library Association (ALA), as part of the Library Copyright Alliance (LCA), along with the Electronic Frontier Foundation (EFF) filed an amicus curiae or *friend of the court* [brief](#) (pdf). In the brief, the LCA and EFF defend the scanning of books for indexing and snippet view in Google Book as permissible under the doctrine of fair use.

Corey Williams  
Associate Director, Office of Government Relations  
American Library Association

(Email received 10/4/12 from ALA)

VETO MESSAGE - No. 171

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 7239, entitled:

On October 3, 2012 Governor Andrew Cuomo vetoed a NYLA 2012 Legislative Priority bill, S.7239 – which proposed eliminating the disincentive for library system mergers.

The NYLA Legislative Committee is exploring options for revising the language of this bill, and evaluating reintroducing the item during the 2013 session.

"AN ACT to amend the education law, in relation to state aid to  
libraries and library systems"

NOT APPROVED

While it is laudable to incentivize mergers by library systems, this bill includes a hold-harmless clause that would let merged library systems receive the same amount of State aid that each individual library received in the year immediately preceding the merger regardless of the availability of funds. If library systems merge, costs should decrease, thereby making the merged systems less expensive to operate.

This bill however, would maintain the level of funding for the merged systems at pre-merger levels despite such efficiencies. For this reason, I must disapprove this bill.

The bill is disapproved. (signed) ANDREW M. CUOMO

(email received 10/5/12 from NYLA)