

Impact of the Google Book Settlement on Libraries

Revised Version

Ricky Erway
Senior Program Officer
OCLC Research



A publication of OCLC Research

Impact of the Google Book Settlement on Libraries

Impact of the Google Book Settlement on Libraries (Revised Version)

Ricky Erway, for OCLC Research

Revision notes

11 Mar 2009

Section and page: Types of Google Services, p.7

Description of changes: Under the settlement agreement, Google can no longer show snippets of in-copyright, commercially available books (unless the rightsholder authorizes it), but Google can display more of books that are in copyright, but not commercially available (unless the rightsholder indicates otherwise).

Section and page: Free Service, p. 7

Description of changes: The free service includes searching the full text of all the books; viewing citations and indexing for in-copyright, commercially available books; and partial displays of in-copyright, not commercially-available books.

© 2009 OCLC Online Computer Library Center, Inc.

All rights reserved

March 2009

OCLC Research

Dublin, Ohio 43017 USA

www.oclc.org

ISBN: 1-55653-407-8 (978-1-55653-407-2)

OCLC (WorldCat): 317128301

Please direct correspondence to the author:

Ricky Erway, Senior Program Officer, ricky_erway@oclc.org

Suggested citation:

Erway, Ricky. 2009. Impact of the Google Book Settlement on Libraries (Revised Version).

Report produced by OCLC Research. Published online at:

www.oclc.org/programs/publications/reports/2009-01.pdf

Disclaimer:

Google Library Partners will have to make a decision on how to respond to the Google Book Settlement. They will have their counsel pore over the documentation and the new agreements they have the option to sign. This is not intended for them. This is an informal, inexpert distillation of the settlement documentation intended for other people curious about how it will impact libraries.

The Google Book Settlement

Google is a for-profit entity that has entered into an agreement to make portions of US in-copyright, not commercially-available books freely accessible on a for-profit site—and to make the complete copies available for a fee, a large portion of which is paid into a Books Rights Registry on behalf of rightsholders. The Google Book Settlement does not pertain to public domain books, or— for the most part— to in-copyright and commercially available books.

This settlement offers Google Library Partners four options:

1. Sign a Fully Participating Agreement
2. Sign a Cooperating Agreement
3. Sign a Public domain Agreement
4. Sign none of the three agreements (opt out of the settlement)

The libraries that may choose to sign one of the three agreements (or choose to be an Other Library) include:

Columbia University
Cornell University
Harvard University
New York Public Library
Princeton University
Stanford University
University of California
University of Michigan
University of Texas
University of Virginia
University of Wisconsin

Committee on Institutional Cooperation:

- Indiana University
- Michigan State University
- Northwestern University
- Ohio State University
- Penn State University
- Purdue University
- The University of Chicago
- University of Illinois at Chicago
- University of Illinois at Urbana-Champaign
- The University of Iowa
- University of Minnesota

Types of library-registry agreements

Fully Participating Library (FPL) Agreement

FPLs contribute in-copyright books and may receive digitized copies of the books they contributed to Google Book Search (the Library Digital Copy). In certain cases, they can receive digital copies of books that are in their collections, but that were scanned from another library's collection.

FPLs may only:

- Preserve the Library Digital Copy.
- Make a replacement print copy of a book if it is determined that an unused copy is not available at a fair price.
- Provide special access to users with print disabilities.
- Develop finding tools that allow better discovery of books in the Library Digital Copy, but offer only snippet viewing.
- Allow non-consumptive research of the Library Digital Copy, if approved by Google and the Books Rights Registry and if that research is for non-commercial use.
- Allow faculty and research staff to read, print, download or otherwise use up to 5 pages, if the book is not commercially available—for scholarly use, classroom use, as long as they track and report such use upon request.
- Ask another FPL or a third party to host their Library Digital Copy, but they may only access their own Library Digital Copy.

FPLs may not:

- Sell books or access to books.
- Use the digital copies for ILL.
- Use the digital copies for e-Reserves or course management systems.
- Use the digital copies in any ways that violate copyright law.

FPLs must:

- Remove books within 90 days of request by rightsholders (within 27 months of agreement).
- Develop an approved security plan, including reporting requirements, authentication, access control, annual audit, marking of files, forensic analysis, encryption, inventory and disposal and risk assessment. They must implement the plan on or before the effective date and before receiving or making use of the Library Digital Copy. The requirements may be revised every two years for technological changes.
- Report each book used in the Research Corpus with a description of the type of use made and the amount of pages used.

- Be represented by a designated representative for all FPLs and CLs and be bound by their decisions.
- Delete all of their copies if they wish to terminate their agreement.

In return, FPLs are released from liability for their role in infringement as part of the Google Library Project. (However, in the event of a security breach, FPLs may be liable for amounts varying widely, but, at the most extreme, up to \$7.5 million, depending on the nature of the breach.)

Cooperating Library (CL) Agreement

CLs contribute in-copyright books for scanning, but do not receive the digital copies, unless authorized by the rightsholder. They must delete any copies received under the prior agreement. In exchange, they are released from infringement liability as a result of their role in the Google project. They must be represented by a designated representative for all FPLs and CLs and be bound by their decisions.

Public Domain Library (PDL) Agreement

PDLs contribute only public domain books to the Google Book Search Project. They must destroy any in-copyright digital copies they may have received from Google.

Other Libraries

Libraries that choose not to sign one of these agreements are not absolved from future claims and are considered Other Libraries (having previously signed a Google digitization agreement, but not having signed a library-registry agreement). They can keep any digital copies of books provided by Google, but are subject to infringement charges. This is pretty much the deal they had in their original Google agreement. They get the books and use their own judgment as to what they are legally allowed to do with them.

Research Corpus

A Research Corpus, consisting of all the books made in connection with the Google Library Project, may be hosted by up to two host sites and Google. Host sites can only enter into agreements with qualified users to use the Research Corpus for Non-Consumptive Research (and to reviewers and challengers of such use).

Commercially available works must be removed from the research corpus on request of rightsholders. Public domain books and books obtained with the authorization of the rightsholders may be added to the corpus. Non-consumptive researchers may not read portions of the protected books to understand the content, but may read that which is reasonably necessary to carry out the research. Researchers may extract only a limited amount of material necessary to explain or discuss the research.

Prior to using the research corpus, the researcher must submit the research agenda, an agreement between the host site and the user that make the user liable for

breach of terms, and a letter from an FPL, CL, the Books Rights Registry, Google, or the Host accepting responsibility for that user. The host site must abide by all the security requirements of an FPL and host site audits will be conducted no more than once a year.

Types of Google Services

Under the settlement agreement, Google can no longer show snippets of in-copyright, commercially available books (unless the rightsholder authorizes it), but Google can display more of books that are in copyright, but not commercially available (unless the rightsholder indicates otherwise).

Free Service

The free service includes searching the full text of all the books; viewing citations and indexing for in-copyright, commercially available books; and partial displays of in-copyright, not commercially-available books.

The user has the option to buy the book (at a price specified by the rightsholder or agreed to by Google and the Books Rights Registry), in which case it is put on the user's virtual shelf indefinitely, but the user may not download the book. The user may also:

- copy/paste up to 4 pages at once,
- print up to 20 pages at once (with a visible encrypted watermark that identifies the authorized user) and
- make annotations and share them with up to 25 identified users.

Institutional Subscriptions

All libraries can subscribe to the Google service. A subscription is based on the number of full-time-equivalent students or public library patrons and allows access to in-copyright, not commercially-available books not excluded by rightsholders. Discipline-based collections may also be offered. Subscriptions allow:

- searching all the full text,
- viewing all the books,
- using copy/paste with up to 4 pages at once,
- printing up to 20 pages at once (with a visible encrypted watermark that identifies the authorized user) and
- making annotations.

In addition, links to books can be included in e-Reserves. Access is limited to the subscription period. (When the institution stops subscribing, nothing is left.) Google and the Books Rights Registry will agree on the pricing. The pricing strategy may change in 2 or 3 years.

Public Access Service

On request, access is free on one terminal at each not-for-profit higher education institution and public library. Access does not include downloading. Printing portions of in-copyright, not-commercially-available-books is available at a fee to be split between Google and the Books Rights Registry. There is no copy/paste or annotation. Institutions may be able to pay a fee for more terminals.

Within 5 years, Google has to provide free access to 85% of counted library display books, including preview or snippets and a library link and 85% of all books authorized to be included in institutional subscriptions with search services, including preview and snippets, and library link. If Google fails to do this then FPLs and CLs may seek third parties to do so and Google must supply that third party with a copy of the scans. Failing this, the FPLs and CLs may provide the service themselves.

More information

The official Google Book Settlement documentation and selected related commentary are available from the OCLC Research Public/Private Mass Digitization Agreements resource page at

www.oclc.org/programs/ourwork/collectivecoll/massdigresourcelist.htm.