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# My (Our) Abusive Relationship with Google and What We Can do About It

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- In the Library with the Lead Pipe - <http://www.inthelibrarywiththeleadpipe.org> -

## My (Our) Abusive Relationship with Google and What We Can Do About It

Emily Ford

February 4, 2009 @ 6:30 am



[1]

Thanks to Flickr user gynti\_46 for use of the photo.

Since October something has been weighing on my professional mind: my abusive relationship with Google. I love Google, I don't ever want to leave my Gmail, my Gchat, my GoogleDocs, my web searches, my Google Reader, but right now I wish I weren't so dependent on it.

The weight to which I am referring is the proposed Google Book Search Settlement Agreement. Google knows with whom I e-mail and chat, for what I search, what blogs I read, and on and on. With the proposed settlement Google will take a further step in controlling my (and libraries') information use and seeking behavior. Google will know what books I read, what pages I read, how long I read them, what pages I print, and what passages I copy and paste. (If you don't know what I'm talking about you should stop reading immediately and read the [2-Page Super Simple Summary](#) <sup>[2]</sup> on the Google Book Search settlement agreement produced by the ALA Office of Information Technology Policy (OITP). Then, and only then, continue here at ItLWtLP.)

For those of you who aren't going to go read this document, here's my simple recap: The American Association of Publishers (AAP) and the Authors Guild filed a class action lawsuit against Google Book Search for copyright infringement. Instead of going to trial, the parties have agreed to settle out-of-court. Google has agreed to fund a rightsholder database called the Book Rights Registry, which will be run by the rightsholders (authors and publishers). Google will sell books to individual consumers, but rightsholders will have financial stakes in the product. Libraries will be able to subscribe to gain full-text access to books via the Google Book Search Project, mimicking the same model as many other library products. The proposed settlement has far-reaching implications for use of digitized materials in libraries, the role of fair use, and the future digital market. Unfortunately, many of the agreement's facets are antithetical to the mission and purpose of libraries. In fact, some libraries, such as [Harvard](#) <sup>[3]</sup>, immediately pulled out of participation with the Google Book Search Project.

I won't provide you with a more in depth analysis of the suit in this blog post. As I mentioned in

my first sentence, this abusive relationship has been eating at my brain for many months and it's just now beginning to solidify. What I do want to share is what I think we in the library community can do about the settlement. The stakes of the settlement are enormous, and neither the rightholders or Google represent libraries in this process. But we, librarians and the library community at large, are an ornery bunch. Aren't we the community that took to court over the PATRIOT Act? Aren't we the community that instigated a public outcry when Michael Moore's publisher [pulled](#) <sup>[4]</sup> [Stupid White Men](#) <sup>[5]</sup> for being too critical of former President Bush? Aren't we "radical" and "militant?"

Because I don't want libraries, information advocates, patrons, or anyone else to be trapped in an abusive relationship with Google I would like to offer the following suggestions for what individuals and the professional community can do to protect and salvage what remains of our relationship with "the big G." (And maybe even make this Google Book Settlement Agreement a bit more reasonable.)

## Individuals

### Educate yourself.

Knowledge is empowerment. Read through blog posts, documents, and news articles about the proposed settlement agreement. The ALA Washington Office is tracking most everything that's out there and has made a nice little [portal web site](#) <sup>[6]</sup> for you to use. Particularly useful is also the [Guide to the Perplexed: Libraries and the Google Library Project Settlement](#) <sup>[7]</sup>. This longer document provides a broader view than the 2-page document. You might even consider checking out what Google has to say about the "[groundbreaking agreement](#)" <sup>[8]</sup>.

Because the settlement is so intrinsically tied to copyright law and fair use, this is an ideal time to refresh yourself on the basics. Re-read Kenny Crews's [Copyright Law for Librarians and Educators](#) <sup>[9]</sup> and Carrie Russell's [Complete Copyright](#) <sup>[10]</sup>. Subscribe to blogs that deal with copyright such as [librarycopyright.net](#) <sup>[11]</sup> or Karen Coyle's [blog](#) <sup>[12]</sup>.

### Ruminate.

Ask yourself and think about the tough questions. During the Google Book Settlement: What's in it for Libraries? panel at ALA Midwinter, Karen Coyle posed the following questions: Does the product serve my users? What will the collection be? What is the quality of the product? Panelist Laura Quilter pushed the panel participants and audience to consider the privacy issues presented by the proposed model for accessing digital materials through Google Books. As librarians we have a responsibility to protect our users. Mold and define your personal and professional values for privacy. This will be incredibly useful if you are put in a place to consider purchasing and implementing this subscription product in your library.

### Be an advocate in your community.

Let's face it. There are so many issues to follow in our profession, that chances are many of your colleagues might not know anything about this proposed settlement agreement. Talk with your colleagues and share with them what you have learned. Push your administrators to find out if any pre-emptive discussions regarding this product have occurred. What is the institutional stance on the settlement agreement and Google Books in general? By asking the hard questions of our supervisors and administrators, we are often able to generate institutional discourse.

## The Community

### Ask and discuss.

ALA has very bright and informed people working to understand the Google Book Settlement Agreement. Librarians who specialize in information policy, entire offices and committees that deal with legislation and lobbying for ALA interests. But this 300+ page legal document that is the agreement is confusing and still not fully understood by the library community. At the aforementioned Midwinter panel discussion, many things came to light that we (or at least I) did not previously know about the settlement. For example, the settlement will not allow for a subscriber library's users to login via remote access and access their library's subscription to the

Google Books database. Users who are community members of a subscribing institution will only be able to access the resource "on campus." Another fine example is how Google will serve public libraries with this product. Google will allow public libraries one access station to the product. Only one.

We need more fora in which to engage to find out exactly what the settlement agreement means to us and our users. Professional organizations, ALA, SLA, PLA, ARL and others should consider hosting more web-hosted seminars for their members on the subject. Moreover, hosting other kinds of discussion fora to ask questions and commiserate within the library community such as BBS or wikis or even blogs will be helpful to those of use who struggle to understand the issues inherent with the settlement.

It is also of import to note that during the panel at Midwinter Dan Clancy, Engineering Director for the Google Book Search Project, said he would like to be able to be available to the library community for more discussion. State libraries, consortia, or other large groups should consider contacting Dan and schedule a telecon about concerns.

### **Educate Google.**

I would like to give Google the benefit of the doubt. However, the fact remains that Google is a business and will not implement policy or procedure based upon it being "the right things to do." Rather, Google will make policy, and change procedure, as it is beneficial to business and the deep Google pocketbook. That being said, I think Google would attempt to take more responsibility for "doing the right thing" if the company were to realize that the proposed settlement model is not one upon which libraries will willingly spend their money. Just because Google will have a monopoly on the digitized books, does not mean that we should lower our standards for offering resources to patrons that are easy to use and ethically implemented. We, as a community, need to share with Google the ethical principles and best practices that we have worked so hard to develop—of particular relevance, the [Principles for Digital Content](#) <sup>[13]</sup>, and the [Principles for a Networked World](#) <sup>[14]</sup>.

### **Develop position statements, draft and pass resolutions, or take other governmental action.**

A unified voice of librarians can be a powerful thing. Moreover, if professional organizations such as ALA, whose membership is purported to be 65,000 (according to the [ALA Annual Report](#) <sup>[15]</sup>), use their position as the good stewards of knowledge and information, we have the ability to put up a good fight that might yield some positive results. Currently the Washington Office is working to gather ALA membership input so that it can issue a position statement or take other action on the settlement. (I don't even know the proper channels to let ALA where I stand on this issues. To this end, ALA should consider creating a system that enables soliciting and gaining membership comment when warranted.)

ALA Council should also consider passing a resolution regarding the Google Book Search Settlement Agreement. It is not out of the question that this kind of political activity will help the organization to retain its integrity and ethics regarding privacy, information policy, and what best serves libraries and patrons.

ALA and other library organizations should consider future legal action. It seems to me that libraries would have a good case to bring forth their own class action lawsuit. This might be a last case resort, but I do not think we should not sit idly by if a large market-driven product were to threaten the library community's ability to best serve the public.

### **Create support materials and documents for libraries to use.**

Shortly after the court "okays" the Google Books Settlement agreement, libraries will face a "purchase or not to purchase" question for the Google Books subscription product. Navigating the ins and outs of the legalese in the settlement will be daunting for any library system, consortium, or lone library that chooses to buy the product. Having FAQs handy or even an ALA Toolkit on best implementation practices for Google Books would be a great service.

### **It doesn't have to be a waiting game.**

If we work now to understand what we can about the proposed settlement, if we start to

evaluate the effect purchasing this product will have on our libraries and patrons, if we create a unified voice and foster discourse, then we will better be able to keep fires under control and perhaps keep our brains in our heads. Google is a powerful company, but powerful, too, is the voice of libraries and librarians. I firmly believe that if we continue to put our efforts toward understanding everything encompassed by the Google Book settlement issue, then we will better be able to serve our communities, and perhaps inform positive changes that will let us sit in better peace with our friend and enemy. This is my call to you, colleagues, to engage, think, debate, and defend library values. Take control and save yourself from this abusive relationship. Google can be a reference librarian's best friend, but right now, with the proposed settlement, it is looking as if we are subject to continued abuse.

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Thanks to Laura Quilter for her editorial comments; Todd Hannon for a close read; and Brett Bonfield, Ellie Collier and Hilary Davis from ItLWtLP for reading this post and offering feedback.

### You might also be interested in:

- [\(The Universal Interrogative Participle\)\\* is going on with the Authors Guild?](#) <sup>[16]</sup>
- [A Conversation with Kristin Antelman](#) <sup>[17]</sup>
- [Google, stupidity, and libraries](#) <sup>[18]</sup>
- [A Useful Amplification of Records That Are Unavoidably Needed Anyway](#) <sup>[19]</sup>
- [Revisiting the ALA Membership Pyramid](#) <sup>[20]</sup>

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6 Comments To "My (Our) Abusive Relationship with Google and What We Can Do About It"

6 Comments ([Open](#) | [Close](#))

#### #1 Comment By [Ellie](#) On February 4, 2009 @ 11:03 am

Thanks Emily! I hadn't bothered to read over the settlement yet and didn't know it included anything about a database subscription. I think an important distinction is that the books in this database are generally the in-copyright, not commercially available category. The concept of limiting this to a specific terminal definitely bothers me, but the fact that it doesn't seem to impact the out of copyright books makes me happy. I've been reading Free Culture and am fascinated by the battle for "fair use." I'm also glad that this seems to continue to allow the snippets feature in the freely searchable Google books search, so that discovery option is not removed. I also wonder whether this will help fuel more print on demand projects with the scanned text more readily available. Lots of interesting questions!

#### #2 Comment By [Kristin Antelman](#) On February 4, 2009 @ 2:04 pm

I'd like to make a couple factual corrections to this post:

Google will not "know" what you read, copy, print, etc. At the ALA session, Clancy said that Google intends (in fact, would have to) work with whatever authentication mechanisms libraries currently use to pass users through to content. That may be EZproxy now, but will be something like Shibboleth in the future, where only a "token" is passed to the information provider saying person x is authorized to get the content. If our systems pass an IP address, and we are not happy with that, there are steps we can take to, in essence, anonymize that before the request hits Google's servers. But as we talk about the privacy of use data issue, I would hope that we aren't setting ourselves up to look like hypocrites. Do our libraries' licenses for ejournals constrain what use data publishers can store? Do they specify how quickly those logs are scrubbed, and what data the vendor is permitted to track and keep and to what purpose? And, if the publisher refuses these terms, do we refuse to buy their content?

You say "Harvard immediately pulled out of participation." That is not true. Darnton addressed this "rumor" in the NYT this week ("Contrary to many reports, Harvard has not rejected the settlement," Mr. Darnton wrote in an e-mail message, [...] "It is studying the situation as the proposed accord makes its way through the court." NYT 2/2/09). Google continues to scan out-of-copyright books from Harvard, which is scope they've had from the beginning.

You write, "the settlement will not allow for a subscriber library's users to login via remote access." This would obviously be an enormous concern to an academic library, but it is not the case. It is true that the proposed agreement doesn't explicitly say off site uses are permitted for higher education institutions, but it \*does\* explicitly say they are prohibited without BRR approval for 3 of the 6 categories institutional subscribers (K-12, government, public libraries).

See p. 42 of the agreement. See also Q 7 in the Google settlement FAQ (<sup>[21]</sup>): "The Institutional Subscription will allow users to search, read online (including through remote access) and print books made available through this agreement."

**#3 Comment** By [Emily Ford](#) On February 4, 2009 @ 3:00 pm

@Ellie. Yes, but there are issues. What if Google thinks something is copyrighted but a library thinks it is in public domain? Do we then get access to this book? Do we have to pay for it? What is the process via which we can challenge the registry? These answers are unclear.

@Kristin. Thanks so much for pointing these things out! I find all of the technicalities very cumbersome, and am glad that you have been able to clarify some of them.

I am confused about the authentication process and what really is going to happen with this. I think we need more clarification. Did Clancy not point to the fact that they would have to look into remote access and try their best to not allow it? Am I confusing this with something else? Maybe I confused this with public libraries, where remote access will not be available, or with the cross-border issue. I also found that many of Clancy's answers were nebulous about this. In effect, I don't think we or Google yet know how exactly these things are going to be implemented. The fact that you and I got different messages listening to the panel points to the fact that we need more clarification on the matter.

Regarding privacy, I agree that this is a good time for us to review the agreements we already have. In terms of Google, I am afraid that any data they keep might then reflect on the library. So if someone from such and such library was looking at such and such book and a subpoena comes for that data, what do we do? Even though we have the ability to technically anonymize data, I wonder if every library will. What happens then?

Privacy, then, becomes a greater issue for the individual user who logs in and buys a book as an individual consumer. I think libraries can play a key role in educating the public about this model of private data storage.

And on to Harvard. The article to which I linked states that they aren't participating in the digitization of in-copyright works. I should have been more clear, so thanks for pointing this out! The reason I use Harvard as an example is that I think they have done us (libraries and librarians and the public) a great service by saying that they need more time to look at the agreement to see how they will continue to participate. Other libraries did not do this, but it is discourse we need.

**#4 Comment** By [Hilary Davis](#) On February 4, 2009 @ 5:28 pm

Emily – thanks for tackling this tough and timely topic. What I'm learning from this post and following-up on the references that you point to is that there are many more questions than answers at this point. Just this week, at my library we had a seminar on the Google books product and it generated a lot of questions and very divergent perspectives.

Some additional points that people raised from the discussion at my library that I'm still ruminating over are (1) could this settlement could have an impact on ebook providers like ebrary and netlibrary (which I think could be bad for diversifying the marketplace); (2) Google is making more content snippets available than are currently available (which I think it a good thing); (3) Google may find this venture to not be profitable one day and shut down the service leaving libraries/info providers empty-handed (which I think would be a bad thing); (4) the future of library catalogs could drastically change in a world with Google Books serving up 7+ million books (I don't know if this is good or bad); (5) the Books Rights Registry is only proposed to be composed of industry people with no library representation (which I think is probably a bad thing); (6) it's confusing as to what would happen to books or publishers interested in participating for content published after January 5, 2009.

**#5 Pingback** By [Wednesday Links « Bib-Laura-graphy](#) On February 11, 2009 @ 12:11 pm

[...] always-educational In the Library with the Lead Pipe has a detailed breakdown of what librarians need to know about the Google books [...]

**#6 Pingback** By [Google Book Settlement Link Dump Awesomeness at pureinformation.org](#) On February 16, 2009 @ 4:26 pm

[...] In the Library with the Lead Pipe: My (Our) Abusive Relationship with Google and What We

Can Do About... [...]

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- [1] Image: **<http://flickr.com/photos/7891209@N04/2951368555/>**
- [2] 2-Page Super Simple Summary: **<http://wo.ala.org/gbs/2-page-super-simple-summary/>**
- [3] Harvard: **<http://www.thecrimson.com/article.aspx?ref=524989>**
- [4] pulled: **<http://dir.salon.com/story/books/feature/2002/01/07/moore/index.html>**
- [5] Stupid White Men: **<http://www.librarything.com/work/2138>**
- [6] portal web site: **<http://wo.ala.org/gbs/>**
- [7] *Guide to the Perplexed: Libraries and the Google Library Project Settlement*:  
**<http://wo.ala.org/gbs/alaarl-summary-document/>**
- [8] groundbreaking agreement: **<http://books.google.com/googlebooks/agreement/>**
- [9] *Copyright Law for Librarians and Educators*: **[http://www.alastore.ala.org/SiteSolution.taf?\\_sn=catalog2&\\_pn=product\\_detail&\\_op=1858](http://www.alastore.ala.org/SiteSolution.taf?_sn=catalog2&_pn=product_detail&_op=1858)**
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- [11] librarycopyright.net: **<http://www.librarycopyright.net>**
- [12] blog: **<http://kcoyle.blogspot.com/>**
- [13] Principles for Digital Content: **<http://wo.ala.org/gbs/past-issue-briefs/>**
- [14] Principles for a Networked World:  
**<http://www.ala.org/ala/aboutala/offices/wo/referenceab/principles/principles.cfm>**
- [15] ALA Annual Report:  
**<http://www.ala.org/ala/aboutala/governance/annualreport/annualreport/aboutala/aboutala.cfm>**
- [16] (The Universal Interrogative Participle)\* is going on with the Authors Guild?:  
**<http://www.inthelibrarywiththeleadpipe.org/2011/authorsguild/>**
- [17] A Conversation with Kristin Antelman:  
**<http://www.inthelibrarywiththeleadpipe.org/2009/a-conversation-with-kristin-antelman/>**
- [18] Google, stupidity, and libraries:  
**<http://www.inthelibrarywiththeleadpipe.org/2008/google-stupidity-and-libraries/>**
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- [20] Revisiting the ALA Membership Pyramid:  
**<http://www.inthelibrarywiththeleadpipe.org/2011/revisiting-the-ala-membership-pyramid/>**
- [21] : **<http://books.google.com/googlebooks/agreement/faq.html#q7>**

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