U.S. Appeals Panel Speaks Well of Google Book Plans

LARRY NEUMEISTER, Associated Press

NEW YORK (AP) — Judges on a federal appeals court panel spoke excitedly Wednesday about Google Inc.'s plan to create the world's largest digital library, signaling that the court has a favorable opinion about the value of the project.

Three judges on the 2nd U.S. Circuit Court of Appeals in Manhattan were considering an appeal by Mountain View, Calif.-based Google of a judge's decision last year to grant class status to authors represented in an 8-year-old lawsuit by lawyers for the Authors Guild.

The judges seemed eager to stray from the narrow legal question to talk about the merits of Google's effort, which has already resulted in the copying of more than 20 million books made available in their entirety or in snippets, generally depending on the copyright or publishers' restrictions.

Judge Pierre N. Leval said the digital library would seem a "huge advantage" for "perhaps many" authors who would want the operator of the world's largest search engine to provide snippets to potential customers who might buy their books.

Judge Barrington D. Parker cited the "enormous societal benefit" that would result when someone at home in Muncie, Ind., accessed books that otherwise would require a trip to a distant library.

Leval belittled an argument by a lawyer for the Authors Guild who suggested that people might read enough snippets of a book that they would not want to purchase it.

"And if you spend 780 hours doing this, you'll save four dollars," Leval said, adding that he was "skeptical there will be millions of Americans lining up to use this method to save $13 on a book."

The judge also referred to the "logic of the thing" as he described how an academic author eager to get a treatise read by other researchers might welcome Google copying the work rather than collecting "a few dollars in damages because Google put it in their database."

The Authors Guild is seeking $750 in damages for each copyrighted book Google copied, which would cost Google more than $3 billion, Google attorney Seth Waxman said. The guild argues Google is not making "fair use" of copyrighted material by offering snippets of works. Google has defended its library, saying it is fully compliant with copyright law.

The appeals judges said they may not rule on the class-action issue until the trial judge decides whether Google is making "fair use" of the books if it only offers snippets to the public and directs customers elsewhere to view or purchase it.

Parker at one point asked Robert J. LaRocca, a lawyer for the Authors Guild, if the litigation had "effectively scuttled this project that many want to succeed."

LaRocca said the legal issues would not take another decade or more to resolve. He said one possible outcome was that Google would be banned from going ahead with its plans, although he called that outcome "very remote" and said it was more likely that the Authors Guild, if victorious, would ask the judge to order a compulsory license requiring Google to pay $750 for each new copyrighted book it copied.

"We're not trying to sandbag Google, if that's what you're suggesting," LaRocca told the judges.

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