



Written by [Steven J. DuBord](#) on July 22, 2009

## Regulators Searching Google

Representatives from the European Union said on July 20 that they are investigating Google's digital book publishing project for possible violations of European copyright laws.

The U.S. Justice Department has already been scrutinizing the company ever since it reached a preliminary \$125 million settlement with the Authors Guild and the Association of American Publishers back in October 2008. [ChannelWeb](#) and the [Los Angeles Times](#) both reported on the latest developments.



At the center of the conflict is the Google Book Search program. Google is working with libraries and publishers around the world to scan, digitize, and make searchable the complete text of millions of works. Google search results could then include hits in these books. In-copyright books that are in print would only display a snippet of the text, but would provide links to libraries and bookstores where the book can be borrowed or purchased. If a book is in copyright but out of print, a preview of up to 20 percent of the text would be readable on screen along with links for purchasing a full view of the entire work. The complete text of out-of-copyright books will be available for free download.

Google's publishing effort became a concern to the Authors Guild and the Association of American Publishers because of the copyrighted material that was being included without the copyright holder's consent. Google was violating on a huge scale the commonly seen warning that no part of a certain work may be reproduced without the consent of the copyright holder. The Authors Guild [complaint](#) from 2005 states: "By reproducing for itself a copy of those works that are not in the public domain ... Google is in engaging in massive copyright infringement."

Now that a monetary settlement has been reached in their favor to the tune of \$125 million, the Authors Guild has changed its song. The Guild website sports an [article](#) titled "Unlocking a Vast Archive of Out-of-Print Books: An Outline of Google Book Settlement Benefits." The article details what the Guild sees as the advantages of giving new life to books that might otherwise remain out of print forever. Being able to find these long lost works through a searchable online database would certainly be a boon for readers and researchers.

While the Authors Guild and the Association of American Publishers are happy enough with Google's efforts to address their concerns, the U.S. Justice Department and EU representatives are still conducting their investigations. Because Google is operating on an opt-out basis, meaning that a copyrighted work will be included in the database unless copyright holders specifically ask for it not to be, they are reversing normal copyright reproduction rules. The settlement would also make Google the sole purveyor of orphan books, meaning those out of print works for which no rights holder can be found and no official permission can be obtained. If a copyright holder shows up and sues Google, the search engine giant is indemnified.

This orphan works deal is so attractive that others want to get in on it. Ars Technica [reported](#) on April



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19 that the Internet Archive is asking for its digitization project to have the same liability protection. The Internet Archive is a founding member of the Open Content Alliance, which has put its own [Open Library](#) online. Unlike Google, the Open Content Alliance has an opt-in system and focuses on public domain works. It does not sell books but provides links to sellers when they are known.

In the final analysis, the digitization of older works so that they can be made available through a searchable online database has great potential, but copyright holders must be respected. Hopefully the Justice Department and the EU will search for a way to protect copyright law without excessive regulation.



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