



Written by [Steven J. DuBord](#) on September 18, 2009

Five States Throw the Book at Google

The Attorneys General from at least five states have filed briefs critical of Google's proposed settlement with book publishers and authors, MarketWatch reported on September 17. The attorneys general have copyright concerns regarding Google's plans to create a huge database of out-of-print books. (For background information on these plans, see our September 9 article "Many Filings on Google Books Settlement.")



This latest chorus of concern adds to the most recent agency of the federal government to register a complaint: the U.S. Copyright Office. On September 10, the head of the Office, Marybeth Peters, gave a written deposition to the House Judiciary Committee stating that the Google Books settlement would run afoul of copyright law, which comes under the jurisdiction of Congress. Peters believes the deal's potential copyright encroachment would be a serious matter.

Now — coming from the state-government perspective — Missouri, Connecticut, Pennsylvania, Massachusetts, and Washington have raised their voices. The terms of Google's settlement with the Authors Guild and the Association of American Publishers include the establishment of a nonprofit Book Rights Registry. Google would pay \$125 million to establish the registry. The Book Rights Registry would in turn use the funds to reimburse copyright holders whose works are being included in Google's online library, or it would retain the money if a holder can't be located. It is this retained money that irks the states.

The Attorneys General for Pennsylvania, Massachusetts, and Washington contend that treating unclaimed payments in this manner would violate state unclaimed property laws and would "constitute a misdemeanor which carries a penalty ranging from \$1,000 to \$10,000 and up to 12 months imprisonment."

Missouri's Attorney General Chris Koster filed an individual brief declaring that state law requires the unclaimed author payments to be deposited with the State Treasurer because they are abandoned property. Koster pointed out that groups like the American Society of Composers, Authors, and Publishers routinely contribute to the State Treasury in cases where copyright holders can't be located.

Lastly, Connecticut Attorney General Richard Blumenthal echoed the U.S. Copyright Office in his filing. He noted that Google's settlement apparently brings up "objectionable issues" regarding both antitrust and copyright laws.



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Still absent from the debate but expected to weigh in soon is the U.S. Justice Department. They will likely express an opinion on the antitrust ramifications of the proposed deal.

U.S. District Judge Denny Chin is in charge of the case, and he has noted that “approximately four hundred submissions,” both for and against, have come in to the court. Owing to this large number of submissions and the “apparent public interest in the case,” he has set a cutoff for those who want to speak at the upcoming October 7 hearing. Interested parties must submit a formal request by September 21 or they will not have a chance to speak.

Among the interested parties are those which helped get the ball of opposition rolling in the first place: Microsoft and Yahoo. Their perspective can be found in our August 24 article “[Microsoft, Yahoo Oppose Google Books.](#)”

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