



Written by [Steven J. DuBord](#) on September 10, 2009

## Many Filings on Google Books Settlement

The time has expired for interested parties to file either for or against Google's proposed settlement with the Authors Guild and the Association of American Publishers. As the September 8 deadline passed, the flurry of last-minute filings indicated that Google's bid to create an unprecedented digital library had stirred up quite a storm.



It all started with Google Books. Google's intent to make the Google Books website the largest repository of in-print and out-of-print works in electronic format was initially opposed by the Authors Guild and the Association of American Publishers. They were concerned that Google's choice to scan books without permission was a copyright violation that would result in authors and publishers losing money.

Eventually a \$125-million settlement was reached whereby Google agreed to pay this sum to establish a book registry that would use its funds to compensate authors and publishers, especially those who would eventually claim ownership of the so-called orphan works whose rights holders cannot currently be located.

This seemed to close the book on opposition to Google's plans, but a whole new chapter opened up when heavyweights such as Amazon and Microsoft challenged the settlement on the grounds that it would give Google a virtual monopoly on these orphan works. Others questioned the privacy aspects of allowing a digital library to monitor user behavior and to potentially sell that information or exploit it to track readers.

Thus it was that, as of September 8, Google's proposed settlement had "prompted dozens of opposing filings from individuals, rival companies like Amazon and Microsoft, advocacy organizations, groups representing authors and publishers and even some foreign governments," the [New York Times](#) reported on September 8. On the other hand, the *Times* noted that the settlement "has also received the support of companies like Sony, civil rights groups and some antitrust and economics experts in academia."

Wading through the conflicting claims of these many filings is the job of Judge Denny Chin of the Federal District Court for the Southern District of New York. According to legal scholars, Judge Chin will have to decide on the fairness of the settlement, weigh its possible anti-competitive aspects, and evaluate how the public could benefit from having easy online access to millions of works.

"The number and quality of opposition filings is very unusual," said Jay Tidmarsh, a Notre Dame Law School professor. "The court is going to have to look at the public interest in the settlement."

Andrew Gavil, a law professor at Howard University, stated, "If the judge has some significant



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concerns, it is much more likely that he would invite the parties to address those concerns rather than reject the agreement.”

Professor Gavil believes that Judge Chin will rely heavily on the views of the Justice Department, which will render its opinion by September 18. A hearing on the case is set for October 7.



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