



Irish Copyright Licensing Agency

WHY THE GOOGLE SETTLEMENT MATTERS TO YOU

Nearly every book published before January 5th, 2009 is covered by the Google settlement agreement.

As a copyright owner, you should understand how the Google Book Settlement may affect you.

We strongly urge you to review the short summary below. We will be holding information seminars during March which will take you through this complex settlement agreement and provide you with guidance as to why the settlement matters to you.

Where did it all begin?

In 2004 Google first announced its intention to undertake a massive project to digitise books and make them available to users. Academic libraries, including Harvard and Oxford, entered into partnerships with Google to digitise the libraries' collections of works. However, in many cases the digitisation was done without the permission of the copyright owner.

In 2005, the Authors Guild of America and certain authors and publisher representatives of the Association of American Publishers separately sued Google for copyright infringement.

In 2008, the parties reached a settlement agreement, which, if approved by the court in a hearing scheduled for June 11th 2009, may affect almost every book in the world, and consequently, almost every copyright owner (creator, publisher, heir or other rightsholder) who has copyright in one or more books. In fact, the settlement notice advised copyright owners to "*assume that you own a U.S. copyright interest in your book*". If this applies to you, you are considered part of the settlement class for this agreement.

What does the Settlement Agreement cover?

The settlement would allow Google, on a non-exclusive basis, to digitise nearly every book ever published before **January 5th, 2009**. This is literally millions of works, and most likely will include **your** works.

If you are part of the settlement class for this agreement, you have two options:

OPTION ONE: BE PART OF THE SETTLEMENT

As a part of the settlement, Google must pay out a total of US \$125million.

This includes US \$34.5million to fund and establish a Book Rights Registry, a non-profit entity established to create and maintain a database of copyright owners and their works locate and distribute payments to copyright owners, assist in resolving disputes between rightsholders, and represent the interests of rightsholders with respect to the settlement and other commercial arrangements.

Google must also pay a minimum of US \$45million to the Registry to fund cash payments to eligible rightsholders, or at least US \$60 per book digitised by Google by **May 5th 2009**. To be eligible for a cash payment, you must file a claim for your books by **January 5th, 2010** (a claim form is available online at www.googlebooksettlement.com).

You are not eligible for the cash payments if you opt-out by **May 5th 2009** or remove your books from the settlement by **April 5th 2011**, unless your work has not yet been digitised.

The settlement enables Google to:

- index your work;
- display up to 20% of your work;
- display short excerpts of your work;
- display bibliographic content; and
- allow printing, copying and pasting, and annotations of your entire work, at a fee, and all subject to varying limitations.

Through the Book Rights Registry, Google will pay copyright owners 63% of all revenues earned for specific commercial uses. To receive revenues from these future income streams, you must submit a claim form for your books, although this may be done at a later date.

Google can sell subscriptions to the digital library to institutions, such as colleges and universities, sell online access to books to individual consumers, sell advertising on pages from books, and make other uses or create new revenue models, such as a print-on-demand service. Google's commercial projects may provide you with a new distribution channel and income stream. Depending on the circumstances, either the author, the publisher or both together will be able to instruct Google as to whether a book is to be part of all, some or none of Google's commercial offerings and, at times, set some pricing options for the use of the book in Google's programs.

Google will also be able to provide free public access to the digital library to libraries and colleges, on a restricted basis, and allow your work to be used for non-consumptive research, again with certain limitations.

OPTION TWO: OPT OUT OF THE SETTLEMENT

If you do not want to participate in the settlement you must opt out of the settlement by May 5th 2009. By opting out, you will retain control over your works and you will have the right to sue Google for any infringement of your copyright. If you want to participate in Google's Book Search program even though you have opted out of the settlement, you may still be able to do so through Google's Publisher Partner program.

Please visit www.googlebooksettlement.com for more information about opting out.

If you make neither a claim nor opt out of the settlement agreement, your works will automatically be bound by the settlement.

What isn't covered?

The settlement agreement does not cover the works of copyright owners who have chosen to enter into separate agreements with Google, through Google's Partner Program. The settlement does not cover works that were first published in the United States but were not registered with the U.S. Copyright Office as of January 5th 2009. The settlement does not cover works in the public domain, U.S. government publications, pictorial works (such as photographs, illustrations, *except illustrations in children's books*, maps and paintings) contained in books. If your books are published after January 5th 2009, or you are a copyright owner of periodicals or sheet music, your work is not covered by the settlement agreement.

ICLA, the Irish Copyright Licensing Agency, is mandated to protect and advance the interests of Irish authors and publishers who have legal rights in copyright protected works that are subject to reproduction. As part of this continuing responsibility to you, ICLA has volunteered to work with the notice providers for the Google settlement to ensure that you receive proper notice of the settlement.

DISCLAIMER: Nothing in this document is intended to be of legal or business strategic advice. You are encouraged to consult the official Google Book Settlement documents, which are available at www.googlebooksettlement.com and to consult with a lawyer for advice on your rights.

IMPORTANT DATES:

January 5th 2009: Nearly every book published before January 5th 2009 is covered by the settlement agreement.

May 5th 2009: Google must pay a cash payment for every work digitised before May 5th 2009 or which Google reasonably anticipates will be digitised in the near future.

May 5th 2009: If you wish to preserve your rights to sue Google for infringement, you must opt out of the Google settlement by May 5th 2009.

January 5th 2010: If you wish to claim a cash payment for works already digitised by Google, you must complete a "cash-payment books" form by January 5th 2010.

April 5th 2011: If you want Google to delete your book from all servers, you must make a removal request by April 5th 2011.

RESOURCES:

Google Book Settlement Site

www.googlebooksettlement.com

Use this site for more information on the settlement, including:-

- Notice of Claim Settlement;
- a summary of this notice;
- a claim form; and
- a place to provide your own contact information to ensure the receipt of timely updates on this issue by email.

ICLA will be speaking about the Google Book Settlement and what it means for Irish copyright owners at the Dublin Book Fair on March 6th and at other seminars which will be arranged for the month of March.