

EXHIBIT 72

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THE AUTHORS GUILD, INC., ET AL.,

Plaintiffs,

v.

HATHITRUST, ET AL.,

Defendants.

Case No. 11 Civ. 6351 (HB)

**SUPPLEMENTAL RESPONSE
TO PLAINTIFFS' FIRST SET OF
INTERROGATORIES TO
DEFENDANT HATHITRUST**

Defendant Mary Sue Coleman (“Defendant”), in her official capacity as President of The University of Michigan (the “University”) and on behalf of the HathiTrust service, hereby supplements Defendant’s Responses to Plaintiffs’ First Set of Interrogatories to Defendant HathiTrust, served on Plaintiffs on February 8, 2012 (the “Initial Responses”) by stating the following supplemental response to Interrogatory No. 2 of Plaintiffs’ First Set of Interrogatories to Defendant HathiTrust (“Interrogatories”) pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure (“FRCP”) and the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York (the “Local Rules”) and based upon information provided to her by employees of the University with personal knowledge of the relevant facts. Defendant incorporates by reference the “General Objections and Limitations” and the “Specific Objections and Limitations” asserted in the Initial Responses as if such objections were fully stated herein.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2

2. For each Work listed on Schedule A, provide the following information with regard to the Master Digital Copy, Master University Copy and all Secondary University Copies, HathiTrust Digital Copies and Third Party Digital Copies of the Work:

- (a) the title and author of the Work;
- (b) the date the digital copy was created;
- (c) the identity of the source of the digital copy;
- (d) a description of the equipment and method used to create the digital copy;
- (e) a description of the means by which the digital copy was transferred from its source;
- (f) the type of media (*e.g.*, DVD, flash drive, internal/external hard drive, tape backup, etc.) on which the digital copy is stored;
- (g) the identity of any computer system connected to media on which the digital copy is stored;

- (h) the identity of any computer network to which a device storing the digital copy is connected;
- (i) the Physical Location of the digital copy;
- (j) the Virtual Location of the digital copy;
- (k) the identities of the individual(s) who authorized, directed, supervised, facilitated and/or participated in the creation of the digital copy, including each such individual's name and current address, as well as his or her employer (at the time of the digitization), job title and role in the creation of the digital copy;
- (l) the identities of the individual(s) who currently have authorized access to the Physical Location and/or Virtual Location of the digital copy, including each such individual's name and current address, as well as his or her current employer, title and job description.

RESPONSE: Defendant incorporates by reference each of the general and specific objections made to Interrogatory No. 2 in the Initial Responses as if such objections were fully stated herein. Defendant further objects to Interrogatory No. 2 on the grounds that it is vague and ambiguous to the extent that it seeks responses regarding digital copies containing “substantially all” of a Master Print Copy of a Work listed on Schedule A to the Interrogatories (“Schedule A”) in that “substantially all” is not defined and the meaning of such term is not clear in the context of the Interrogatories, and to the extent it leaves unclear whether automatically generated binary index files, created to facilitate the full-text search functionality over the shared repository of digital collections of institutions participating in the HathiTrust Service (the “HathiTrust Digital Library” or “HDL) are responsive to the Interrogatories, particularly where the information sought in certain Interrogatories is inapplicable to such types of files or is unduly burdensome to collect and aggregate given the nature of such files.

Subject to the foregoing general and specific objections, and without waiving the same, Defendant responds that the University employs, for purposes of providing effective search functionality, an application that automatically generates binary index files. A set of these index

files is created at the HathiTrust server location in Ann Arbor, Michigan and is automatically synchronized to the HathiTrust server location in Indianapolis, Indiana.

With respect to subpart (a), Defendant refers Plaintiffs to her response to Interrogatory No. 2(a) in the Initial Responses, which identifies the title and author information requested.

Defendant objects to subpart (b) on the ground that it is unduly burdensome to the extent that it seeks a specific date on which each Work on Schedule A was automatically indexed. The index files are updated and synchronized continuously to reflect the contents of the HDL.

For subparts (c) – (f) and (i) Defendant responds that the index files at Ann Arbor and at Indianapolis are automatically created by operation of Solr Large-Scale Indexing Processors based on various file components of the digital works incorporated into the HDL at Ann Arbor. These index files are stored on Isilon Network Attached Storage at the Michigan Academic Computing Center (“MACC”), Room 100, 1000 Oakbrook Drive, Ann Arbor, Michigan and at the Informatics & Communications Technology Complex (“ICTC”), Room IT 024, 535 West Michigan Street, Indianapolis, Indiana. The University has entered into written agreements with four companies—EBSCO Publishing, Inc., Ex Libris Ltd., OCLC Online Computer Library Center, Inc., and ProQuest LLC—that make digital databases and related search capabilities available to specified educational institutions (the “Search Entities”). Under these agreements, the Search Entities obtain binary index files from the University through secured network transmission for the limited purpose of search only.

For subparts (g) – (h), Defendant responds that the Isilon Network Attached Storage server hard drives in Ann Arbor are connected to HathiTrust indexing servers, search servers, production web servers, ingest servers, development web servers, the HathiTrust private computer network, and the University campus computer network; the Isilon Network Attached

Storage server hard drives in Indianapolis are connected to HathiTrust search servers, production web servers, data set prop/repository validation servers, the HathiTrust private computer network, and the Indiana University-Purdue University Indianapolis campus computer network.

Defendant objects to subpart (j) on the ground that it is not reasonably calculated to lead to the discovery of admissible evidence and is unduly burdensome in that the index is fragmented into individual shards stored across numerous servers and determining the location of the index files associated with a particular work would be unduly burdensome.

For subpart (k), Defendant responds that the index files are created and synchronized automatically. For subpart (l), Defendant responds that the following individuals, all of whom are employed by the University and may be contacted through Defendants' counsel, have some form of access to the virtual location of the indexes at Ann Arbor and Indianapolis, and that the Search Entities obtain index files through rsync.

- Ezra Brooks, System administrator and programmer
- Tom Burton-West, Programmer
- William Dueber, Programmer
- Aaron Elkiss, System administrator and programmer
- Roger Espinosa, Programmer
- Phil Farber, Programmer
- Nasir Grewal, Programmer
- Brian Hall, Programmer
- Seth Johnson, Programmer
- Sebastien Korner, System administrator and programmer
- Tom Mooney, System administrator and programmer
- Chris Powell, Programmer
- Timothy Prettyman, Programmer,
- Ryan Rotter, System administrator and programmer
- Pranay Sethi, Programmer
- Cory Snavely, System administrator and programmer
- Peter Ulintz, Programmer
- Jeremy York, Special projects librarian

The individuals with access to the physical location of the indexes at Ann Arbor and Indianapolis are those identified in Interrogatory No. 2(l) in the Initial Responses.

DATED: April 9, 2012

Respectfully Submitted,



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Attorneys for Defendants

VERIFICATION

I, Paul N. Courant, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am University Librarian and Dean of Libraries at The University of Michigan (the "University").
2. All of the information provided in the attached Supplemental Response to Plaintiffs' First Set of Interrogatories to Defendant HathiTrust has been gathered from various employees of the University.
3. I am informed and believe that the best efforts of those employees have been employed in procuring the information, and on that basis I am informed and believe that the information is true and correct.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 9th day of April, 2012.



Paul N. Courant