



THE NEW ZEALAND
SOCIETY OF AUTHORS
(PEN NEW ZEALAND INC) TE PUNI KAITIHI O AOTEAROA

75 years of working for writers

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Google Book Settlement - NZSA says it's not time to celebrate yet

The removal of New Zealand from the proposed Google Book Settlement is welcomed by the New Zealand Society of Authors (PEN NZ Inc.) whose objection to the settlement, filed with the US Court earlier this year, was instrumental in securing New Zealanders' rights. The Society warns however this isn't a complete resolution to the issues faced by New Zealand rights-holders.

Google still claims that copying, but only displaying limited amounts of work online, constitutes fair use in the United States, and, since it is not copying any books or inserts in New Zealand and is not making them available online in New Zealand, New Zealand copyright law doesn't apply. It has therefore previously said that it will keep copying books without permission, no matter what.

Even if a rights-holder asks Google not to copy its book and not to display it online, there is no guarantee that Google will abide by that request. Nor is there any guarantee that Google will remove from its database New Zealand books that it has already copied without permission and which are now outside the settlement.

The New Zealand Society of Authors (PEN NZ Inc.) has therefore sought assurances from Google that it will remove any New Zealand work from its database if it does not have the consent of the rights-holder, until such time as consent is obtained in writing, or an appropriate settlement has been negotiated. We have requested an opportunity to negotiate a fair arrangement that would enable New Zealand authors to opt into having their books or inserts displayed on the Google platform.

"The Society's position has always been that, for some authors, the Google platform could be advantageous" says Tony Simpson, President, "but the terms of the Settlement were unacceptable. We would welcome an opportunity to work towards a fairer opt-in rather than an opt-out agreement, which would solve a lot of the problems and potentially benefit New Zealand as a whole".

Rick Shera from Lowndes Jordan, who has been advising the Society on the Settlement issues, comments "It was a great irony in the original settlement that it allowed Google to copy New Zealand books without the consent of the individual rights-holder but, because display online would infringe New Zealand copyright, those copies were not going to be made available here. A fair opt-in agreement could solve most of the issues surrounding the Settlement. If an agreement could be reached that didn't breach New Zealand copyright law or give Google a de facto monopoly, there is no reason why Google could not then make its Book Search Facility fully available here, for the benefit of all New Zealanders".

The New Zealand Society of Authors (PEN NZ Inc.) will continue to liaise with the Ministry of Economic Development and industry partners to ensure a way forward. The advent of digital publishing platforms plus developments in digital book readers and print on demand facilities make this an exciting time for authors.

The NZSA acknowledges the ongoing support of Lowndes Jordan.

ENDS

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