



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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## **Ministry of Economic Development refuses to get involved in the Google Settlement**

The New Zealand Society of Authors (PEN NZ Inc.) is stunned at the lack of support the New Zealand Government is showing its writers.

For about 5 years, Google has been scanning books (digitizing is the description Google uses) and putting them into a vast database. It is estimated that it currently has 10 million books in its database (including books by New Zealand authors). It has done this in two ways – with the permission of rightsholders who have contracted with Google through its Partner Program; or without permission. As you might expect, authors and publishers of books that Google has scanned without permission became increasingly concerned over Google's plans for their books. Eventually, the Authors' Guild and the Association of American Publishers together with certain individual authors and publishers sued Google claiming that its digitization without permission was copyright infringement. Google's primary defence was that digitizing books but making only excerpts of the digital copies available online amounted to fair use (a general defence to a claim of copyright infringement in the US, unlike the limited *fair dealing* defences we have here in NZ). A settlement was reached out of court.

The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, first accepted in Berne, Switzerland in 1886. New Zealand is a signatory to the The Berne Convention, and ironically this international treaty that was established to protect copyright is the mechanism being used to force this proposed settlement on New Zealand authors and over ride New Zealand Copyright Law.

It is our understanding from conversations with the office of the Minister of Commerce that the Ministry of Economic Development claims to not have the mechanism to intervene in the Google Settlement because it is a civil matter under United States law. The New Zealand Society of Authors (PEN NZ Inc.) says that this is incorrect. The Berne Convention is a copyright treaty and clearly falls under the jurisdiction of the MED.

It is outrageous that the MED is trying to hide behind bureaucracy to avoid involvement in an issue that affects every book ever published in New Zealand before 5 January 2009.

We urge the Minister to reconsider his position for the good of New Zealand literature.

END

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