

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CAMBRIDGE UNIVERSITY
PRESS, *et al.*,

Plaintiffs,

v.

MARK P. BECKER, in his official
capacity as Georgia State University
President, *et al.*,

Defendants.

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Case No. 1:08-CV-1425-ODE

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

COME NOW all Defendants in this action and file this Motion for Summary Judgment, pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Civil Rule 56.1, N.D. Ga., with respect to each claim alleged in Plaintiffs' First Amended Complaint. As more fully discussed in the accompanying Statement of Undisputed Facts, Memorandum of Law and the accompanying exhibits filed contemporaneously herewith, Defendants are entitled to summary judgment with respect to Plaintiffs' claims as follows:

1. That Defendants, having been sued in their official capacities, are entitled to sovereign immunity under the Eleventh Amendment and could only be liable for any ongoing and continuous acts of alleged copyright infringement, which are denied;

2. That Plaintiffs have not and cannot establish direct copyright infringement by the Defendants because Defendants have not committed any act of direct infringement in violation of the Copyright Act, 17 U.S.C. §106 *et seq.*;
3. That Defendants have not committed any act of ongoing or continuous direct infringement with respect to the copyrights in the four works remaining at issue (SAGE 2, SAGE 4, Oxford 3, and Oxford 4);
4. That Plaintiffs have not and cannot establish contributory infringement because Defendants have not induced, caused, or materially contributed to any act of alleged ongoing and continuous direct infringement;
5. That Plaintiffs have not and cannot establish vicarious infringement because Defendants have not profited from any act of alleged ongoing and continuous direct infringement; and
6. Plaintiffs request for injunctive relief is not sufficiently specific to justify injunctive relief against the administrators of Georgia State University and the Board of Regents of the University System of Georgia, a constitutional department in the Executive Branch of the State of Georgia.

WHEREFORE, there being no genuine issue of material fact and being entitled to judgment as a matter of law on the issues addressed herein, Defendants pray that this Court grant their Motion as to all counts alleged by Plaintiffs, pursuant to Rule 56 and Local Civil Rule 56.1.

Respectfully submitted this 26th day of February, 2010.

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CERTIFICATE OF COMPLIANCE

I hereby certify, pursuant to L.R. 5.1B and 7.1D of the Northern District of Georgia, that the foregoing Defendants' Motion for Summary Judgment complies with the font and point selections approved by the Court in L.R. 5.1B. The foregoing pleading was prepared on a computer using 14-point Times New Roman font.

/s/ Katrina M. Quicker _____
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(Ga. Bar No. 590859)

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Case No. 1:08-CV-1425-ODE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this 26th day of February, 2010, I have electronically filed the foregoing **Defendants' Motion for Summary Judgment** with the Clerk of the Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following attorneys of record:

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