

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

CAMBRIDGE UNIVERSITY PRESS,  
et al.,

Plaintiffs,

-vs.-

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

Defendants.

Civil Action File  
No.1:08-CV-1425-ODE

**NUNC PRO TUNC CERTIFICATE OF GOOD FAITH NEGOTIATION**

Counsel for Defendants MARK P. BECKER, in his official capacity as Georgia State University President, et al. (collectively, “Defendants”), comes before the Court and, pursuant to Fed. R. Civ. P. 26(c), certifies that counsel made a good faith effort to resolve the dispute in Defendants’ Motion for Protective Order (Dkt. 58) without Court action. In support of this certification, counsel shows:

1. Defendants first attempted to resolve this matter consensually via a letter dated February 20, 2009, in which Defendants informed Plaintiffs of the adoption of the new copyright policy and indicated that there was no longer a need

to conduct further discovery into Georgia State University's ("GSU") "practices and procedures" prior to adoption of the new policy.

2. In a February 23, 2009 teleconference, counsel for Defendants again addressed the cessation of discovery into GSU practices and procedures prior to adoption of the new policy, and explained Defendants' position that an open discussion of the adequacy of the new policy could provide a basis for resolving the matter. In that teleconference, counsel for Plaintiffs indicated that discovery into past GSU practices remained necessary.

3. In a letter dated February 27, 2009, Plaintiffs refused Defendants' offer of an open discussion and insisted that the parties move forward with broad discovery because Plaintiffs contend they are seeking relief beyond a satisfactory copyright policy. Plaintiffs did postpone certain depositions in light of the new Regents' policy, but proceeded to depose two senior members of the Copyright Committee, William Potter and Nancy Seamans.

4. During those depositions, counsel for Plaintiffs questioned the witnesses regarding the former copyright guidelines over counsel's objection to the relevance of such questions. (Potter Depo. at 59:22-60:12). Counsel for Plaintiffs disagreed with Defendants' objection and proceeded to question the witnesses regarding practices and policies no longer in effect. (Id.)

5. In a letter dated March 13, 2009, Defendants again set forth their position that discovery should be limited to ongoing activity in accordance with the doctrine of sovereign immunity under the Eleventh Amendment. (Dkt. 61 at 9). As of March 17, 2009, Plaintiffs had not agreed to limit discovery accordingly, thereby necessitating the instant motion.

6. Because the parties were unable to resolve their dispute despite the good faith efforts of counsel to do so, Defendants filed the pending Motion for Protective Order.

This 10th day of April 2009.

THURBERT E. BAKER                    033887  
Attorney General

R. O. LERER                                446962  
Deputy Attorney General

DENISE E. WHITING-PACK 558559  
Senior Assistant Attorney General

MARY JO VOLKERT  
Georgia Bar No. 728755  
Assistant Attorney General

/s/ Kristen A. Swift

King & Spalding LLP

Anthony B. Askew

Georgia Bar No. 025300

Special Assistant Attorney General

Stephen M. Schaezel

Georgia Bar No. 628653

Kristen A. Swift

Georgia Bar No. 702536

*Attorneys for Defendants*

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

CAMBRIDGE UNIVERSITY PRESS,  
et al,

Plaintiffs,

-vs.-

CARL V. PATTON, in his official  
capacity as Georgia State University  
President, et al,

Defendants.

Civil Action No.  
1:08-CV-1425-ODE

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on this 10th day of April 2009, I have electronically filed the foregoing ***NUNC PRO TUNC CERTIFICATE OF GOOD FAITH NEGOTIATION*** with the Clerk of the Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following attorney of record:

Edward B. Krugman  
krugman@bmelaw.com  
Georgia Bar No. 429927  
Corey F. Hirokawa  
hirokawa@bmelaw.com  
Georgia Bar No. 357087

BONDURANT, MIXSON &  
ELMORE, LLP  
1201 West Peachtree Street NW

R. Bruce Rich  
Randi Singer  
Todd D. Larson

WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, New York 10153  
Telephone: (212) 310-8000  
Facsimile: (212) 310-8007

Suite 3900  
Atlanta, GA 30309  
Telephone: (404) 881-4100  
Facsimile: (404) 881-4111

*/s/ Kristen A. Swift*

Kristen A. Swift  
(Ga. Bar No. 702536)