

## **PENGUIN GROUP (USA) ON THE GOOGLE SETTLEMENT**

To Our Penguin Group (USA) Authors:

You may have questions about the tentative class-action settlement reached between Google and book publishers and the Authors Guild. Penguin Group (USA) ("Penguin USA") was one of the named publisher plaintiffs in the lawsuit and participated actively in the settlement negotiations. Penguin USA accordingly supports the settlement and will not opt out or file objections.

The settlement still needs final court approval. At the request of the parties, the Court has set November 9, 2009 as the date for the filing of an amended Settlement Agreement and a motion for preliminary approval of the settlement as amended. If the court finally approves the settlement, we intend to register with the settlement-established not-for-profit Book Rights Registry as the rightsholder for those books that we believe we control under the settlement. The settlement allows registered book rightsholders to prohibit outright Google's display of those books, or, alternatively, to control the manner in which Google may display. There is no need at this time to make final decisions about what uses we might permit Google to make of any of our books, and of course when we do make those decisions, we will give careful consideration to whether any particular Google use will be in the best overall interest of a book.

If Google has scanned a book covered by the settlement before the specified May 5, 2009 deadline and if the settlement is finally approved, then a cash payment (\$60 or perhaps more) for the scanning will be due from Google to the Registry to be paid to the registered rightsholders of that book. (But if more than one book has the same basic "principal work" content, e.g. different editions of the same textbook, only one scanning payment will be made for that content.) To accommodate the new schedule for approval of the settlement, the parties have extended to June 5, 2010, the date for completing a **Claim Form** [http://www.googlebooksettlement.com/r/select\\_claim\\_method](http://www.googlebooksettlement.com/r/select_claim_method) to be eligible for **Cash Payments** <http://www.googlebooksettlement.com/help/bin/answer.py?answer=118722&hl=en>

Any such scanning cash payments for an In-Print book claimed by us, and any payments by Google for uses of an In-Print book (if those are allowed by us), will be paid to us by the Registry to be shared with the authors of that book as appropriate under their author contracts. (Note: Prior editions of a commercially available In-Print book are also considered to be In-Print.)

Any scanning payments for an Out-of-Print book for which we are a rightsholder, and any payments by Google for any uses of such an Out-of-Print book that are allowed under the settlement, will be divided and paid by the Registry directly to us as the rightsholder publisher, and to any author rightsholders who have separately registered their claims, in percentage shares stated in the settlement.

It is not necessary for authors to take action under the settlement in order for Penguin USA to make claims and exercise control over Google's possible uses under the settlement for the books we control. But authors also have the right to register separately as rightsholders under the settlement with respect to their copyright interests in their books, whether In-Print or Out-of-Print. And registration of Out-of-Print books by authors is necessary for them to receive directly from the Registry their shares of any payments made by Google for those books, as mentioned above. (If all rights to a book have been reverted by us to an author we will of course not claim that book, and so only the author or a new publisher authorized by the author will be able to register a claim for that book.)

The settlement is quite complex and it is not possible for us to cover all questions about it. If you do have further questions, you may find it helpful to visit the settlement website at <http://www.googlebooksettlement.com>. The site includes a lengthy section entitled FAQ or Frequently Asked Questions and it explains how authors may register their claims as rightsholders. You also may want to consult with your attorney to understand better the implications of the settlement for you personally.