

**Authors Guild, Inc. v. Google Inc.,
No. 13-4829-cv (2d Cir. Oct. 16, 2015)**

Year	2015
Court	United States Court of Appeals for the Second Circuit
Key Facts	Defendant Google, Inc. collaborated with several major research libraries to digitize their collections for the Google Books project. Plaintiffs, the Authors Guild, Inc. and individual copyright owners, complained that Google scanned more than twenty-million books without permission or payment of license fees. Google made the digital copies available to its library partners. It also maintained copies on Google servers and on backup tapes, created an electronic index, and displayed “snippets” of text in search engine results. Plaintiffs alleged that Google infringed by using copyrighted books without permission. The United States District Court for the Southern District of New York held that Google’s digitization and subsequent use of the copyrighted works was fair use and granted summary judgment in Google’s favor. The Authors Guild appealed the district court’s ruling.
Issue	Whether it was fair use to digitally copy entire books from library collections, without permission or payment, and to make the digital copies available for library collections and for the public to search electronically using a search engine.
Holding	<p>The Second Circuit agreed with the district court’s ruling that Google’s digitization and subsequent use of the copyrighted works was fair use. In concluding that Google’s use was transformative, the circuit court found that “Google’s making of a digital copy to provide a search function . . . augments public knowledge by making available information <i>about</i> [p]laintiffs’ books without providing the public with a substantial substitute for matter protected by the [p]laintiffs’ copyright interests in the original works or derivatives of them.” The court likewise found that “Google’s provision of digital copies to participating libraries, authorizing them to make non-infringing uses, is non-infringing, and the mere speculative possibility that the libraries might allow use of their copies in an infringing manner does not make Google a contributory infringer.”</p> <p>Regarding the “amount and substantiality” of the works used, the circuit court agreed with the district court’s finding that Google’s copying of entire texts to enable the Google Books “full-text search function” was not dispositive of a finding of fair use because Google limited the amount of text it displayed to users in search engine results. Regarding the Google Books project’s potential to impact the market for or value of the copyrighted works, the circuit court held that—despite the search function’s potential to cause “some loss of sales”—the brevity of the snippet search results and the “cumbersome, disjointed, and incomplete nature of the aggregation of snippets made available through snippet view” make it unlikely that Google’s use could “provide a significant substitute for the purchase of the author’s book.”</p>
Tags	Second Circuit; Education/Scholarship/Research; Format shifting/Space shifting; Internet/Digitization; Textual work
Outcome	Fair use found