

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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THE AUTHOR'S GUILD et al.,

Plaintiffs,

- against -

GOOGLE, INC.,

Defendant.
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ORDER

05 Civ. 8136 (DC)

CHIN, District Judge

On September 22, 2009, plaintiffs moved for an adjournment of the fairness hearing currently scheduled for October 7, 2009. Defendant Google, Inc. does not oppose the motion.

Plaintiffs' motion is based on ongoing negotiations with the Department of Justice ("DOJ") that, according to plaintiffs, will result in significant changes to the existing settlement agreement. Plaintiffs suggest that, in light of the negotiations with DOJ, they will not seek approval of the current settlement. (See Pl. Mem. at 3 ("To continue on the current schedule would put the Court in a position of reviewing and having participants at the hearing speak to the original Settlement Agreement, which will not be the subject of a motion for final approval.") (emphasis added)).

The current settlement agreement raises significant issues, as demonstrated not only by the number of objections, but also by the fact that the objectors include countries, states, non-profit organizations, and prominent authors and law professors. Clearly, fair concerns have been raised.

On the other hand, the proposed settlement would offer many benefits to society, as recognized by supporters of the settlement as well as DOJ. (See DOJ Statement of Interest at 1 ("The Proposed Settlement has the potential to breathe life into millions of works that are now effectively off limits to the public.")). It would appear that if a fair and reasonable settlement can be struck, the public would benefit.

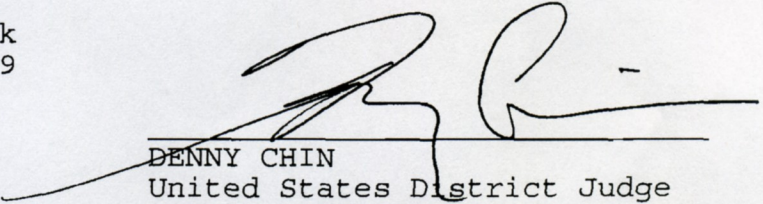
Under all the circumstances, it makes no sense to conduct a hearing on the fairness and reasonableness of the current settlement agreement, as it does not appear that the current settlement will be the operative one. Accordingly, the Court will not proceed with the fairness hearing on October 7, 2009.

The Court will, however, conduct a status conference on October 7 at 10:00 a.m. to determine how to proceed with the case as expeditiously as possible, as this case has now been pending for over four years. The parties shall attend. The Court will not hear argument from any objectors, supporters, or amici -- including those who emailed requests to be heard -- at this conference, though they are free to attend.

The parties shall post a copy of this order on the settlement website forthwith.

SO ORDERED.

Dated: New York, New York
September 24, 2009



DENNY CHIN
United States District Judge