EXHIBIT A
IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

THE AUTHORS GUILD, INC., Associational Plaintiff, BETTY MILES, JOSEPH GOULDEN, and JIM BOUTON, on behalf of themselves and all other similarly situated,

Plaintiffs,

v.

GOOGLE INC.,

Defendant.

EXPERT REPORT OF GLORIANA ST. CLAIR

May 3, 2012
1. I am the Dean of Libraries at Carnegie Mellon University in Pittsburgh, Pennsylvania, where I oversee all library activities. In addition, I am a director of the Universal Digital Library, otherwise known as the Million Book Project. This project is an ongoing effort to digitize books and make them available over the web.

2. I have worked as a cataloger at the Universities of California and Oklahoma, as Head of Technical Services (including acquisitions) at the San Antonio Public Library, as the Head of Acquisitions for libraries at Texas A&M, as the Director for Technical, Automation, and Administrative Services at Oregon State University, as the Associate Dean for Information and Access Services at Penn State. I became University Librarian at Carnegie Mellon on April 1, 1998 and have been at Carnegie Mellon since that time.

3. I also have served as the editor of College & Research Libraries and the Journal of Academic Librarianship. After Elsevier purchased JAL, I was one of the founders of portal: Libraries and the Academy, which is part of Johns Hopkins’ University Press Project Muse, a licensed digital resource for libraries.

4. My educational background, publications and additional qualifications are listed in my CV, which is attached as Exhibit A. I am being paid $500 per hour for my work on this case. I have not testified in any matter in the past four years. A list of materials provided by counsel for Google Inc. that I considered in the preparation of this report is attached as Exhibit B; other materials I considered are cited herein.

I. Summary of Opinions

5. I have been asked to provide my opinions regarding the challenges libraries and others face in identifying and finding copyright owners and regarding the practices of libraries with respect to digitization of books at the time Google began its Google Books project. In brief, my opinions are:

   a. In thinking about digitization of books, it is critical to distinguish between digitization to facilitate search to find a book and digitization for the purpose of displaying the whole text of a book. In 2004, when Google began digitizing books, library digitization efforts were modest and were
focused exclusively on the display of whole texts of works, not just snippets to help users assess relevance or the creation of a full-text index for search purposes only. Such digitization as occurred was limited to certain subsets of, almost exclusively, public domain works. No large-scale digitization projects were under way in the U.S.

b. The digitization of books helps libraries achieve their missions and serve their communities. Digitization and display of the full text of a book allows readers to read a book without having to travel to a library that has the book or wait for the book to be delivered to a local library (if that is possible) through an inter-library loan. Digitization without full display, such as for search only or for search plus display of a snippet of text, allows readers to find books relevant to their interests and possibly to buy or borrow them. In each case, digitization helps readers locate and use information, which is a core purpose of libraries.

c. In 2004 there was no prospect whatsoever that libraries would seek out copyright holders and offer to pay them money to digitize books for search purposes or for snippet view. Historically, libraries have paid for books themselves but have not paid authors and publishers additional money for the right to catalog and index them. Those services benefit both readers and in, my view, authors, whose work may be found and whose ideas may be studied. There is no reason to believe libraries will alter their traditional practice of not paying to index books and very good reason to believe that they will not. There is no market in which libraries pay to index or display snippets nor is such a market likely to come into existence.

d. It is often difficult, if not impossible, to find the copyright owner for a book a library might want to digitize; even to the limited extent it is possible to find such rights holders, the cost of doing so for any substantial number of books is prohibitive. That cost alone would prevent libraries from obtaining permission to digitize large numbers of books, even if libraries focused on obtaining permission for only search purposes or snippet views, which libraries do not.

II. Google's Book Project

6. The Google Books project began in 2004, when Google began scanning collections at libraries including Michigan, Harvard, Stanford, Oxford, and the New York Public Library. A library that has provided books to Google may download digital copies of the books it has provided. Google has scanned over 20 million books. Approximately 45,000 publishers

1 Declaration of Daniel Clancy In Support ofGoogle' Opposition to Plaintiffs' Motion for Class Certification ¶2.
3 Clancy Declaration ¶4.
participate in one aspect of Google Books, called the Partner Program. As discussed below, Google's interest in digitizing books stemmed in part from the Million Book Project, of which I am a director.

III. Digitization and the Purposes of Libraries

7. The digitization of books allows libraries to achieve their missions and serve their communities to a vastly greater extent than was possible before. Today's library user wants and expects instantaneous gratification and results. S.R. Ranganathan, a noted Indian librarian, promoted five laws for library science. His fourth law stated that libraries should save the time of the reader. Digitization does just that. In addition to saving time it makes every reader a power reader and researcher—through searching full text, new content and new connections are exposed to the reader. Realistically, such searching cannot be duplicated by paging through numerous books. Digitization also benefits the public by extending the life of old, scarce and fragile material with little damage to the original artifact.

8. 95% of funding for Carnegie Mellon libraries comes from our university administration. With their budgets libraries must provide collections to support research and teaching, facilities to serve a growing set of expectations for individual and group work, and services, such as reference, instruction, circulation, and interlibrary loan. Almost half of an academic library's budget is spent on buying journals, books, databases, and a broad variety of other formats. Much of a library's money is committed to maintaining established services; very little is available to fund new efforts.

9. Libraries have always helped students, scholars, and the general public find information. Indexing information has been an important part of that service. Some of the historical methods of indexing are discussed in Part VI. But over the history of indexing, from card catalogs to computerized MARC records, libraries have not paid authors nor sought their

4 Id. ¶6.
permission merely to index or to search through their books. Libraries do not do so now, and there is no reason to think that libraries will do so in the future. As discussed below, when libraries seek permission from publishers or authors, it is for the digital display of an entire book so that readers can read it, not for use in tools that help readers find it.

IV. Digitization Efforts Prior to Google Books

10. In 2004, when Google began its Google Books project, there was no realistic chance that libraries were going to embark on such a comprehensive project on their own. Most fundamentally, both public libraries and academic libraries have little discretionary spending. Public libraries are funded in a variety of complex mechanisms by their municipalities through various tax, millage, endowment, gift, and grant systems. With those funds, the public expects long hours of opening and multiple locations, programming for children and adults, and as large a collection as possible. In 2011, 60% of public libraries reported flat or decreased funding. Many cities face battles over branch closings and staff layoffs. Yet, within these branches, citizens are increasing their use of computers to access the Internet by 70%.6

11. For these reasons, scanning projects done by public libraries are almost always boutique offerings focused on areas of great local pride. For example, New York Public Library offers several dozen images of Victorian women, 66 photogravure portraits of artists, and thousands of examples of American popular song sheet covers, circa 1890-1922.7 Public library scanning involved very discrete projects involving primarily public domain works. Financial challenges to public libraries did not allow them to envision larger projects.

12. Before Google Books, digitization projects not affiliated with academic or local libraries generally were either modest in scope or targeted on specific topics and subsidized. Examples include:

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7 digitalgallery.nypl.org.
• Project Gutenberg, in which passionate volunteers typed in their favorite books, was the first books project with about 17,000 works.

• Library of Congress’s American Memory project brought nine million works, including many documents about the founding of the U.S., to the web beginning in 1990 with private donations.8

• Making of America brought 10,000 academic library books and 50,000 articles from 1850-1877 to the web beginning in 1995.

• The Million Book Project, discussed further below, was funded by the National Science Foundation, the government of India, the government of China, and others, began in 2000 and had 1,400,000 books scanned by 2007.9

13. At a very high level, the creation of a global digital library would serve the missions of these libraries to their citizen customers. But in their day-to-day struggle to meet demands for open facilities, providing computer access to those unable to afford their own machines, providing services for children, for advancing literacy and for helping job seekers, and meeting the general information needs of the public, public libraries had neither the funding nor the attention and time to conceive and create a large digital library.

14. In addition to their limited resources, I know from personal experience and observation that before Google began its book project, academic libraries did not have the vision to create a multimillion volume digital library.

15. In 2004, most academic libraries did not think in terms of searching for books on the web in the sense that one can search Google Books. Historically when libraries dealt with books that had been reproduced in a different medium, they dealt with rolls of microfilm or sheets of microfiche or microcards. These were kept in storage cabinets. Books reproduced in these other media were typically selected and identified through bibliographies. The reproduction and distribution of the texts did not follow the order of the bibliographies. Various guides had to be consulted to identify the correct microfilm reel. Once identified, the reel had to be correctly loaded into a microfilm reader and then threaded through glass plates. Once that

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8 Many of these works were shorter than books, so in assessing the project, I divided the nine million by 20 to achieve a book parity figure.

was successfully done, the reader then had to page through the multiple books or texts on the reel before finding the desired book. Neither the text of printed books nor microform books can be searched as one searches text in Google Books.

16. Indeed, until I began to work with the Universal Digital Library project at Carnegie Mellon, I was too constrained by the prevailing economic circumstances, conventions, history, and current practices of the public and academic libraries where I worked to see the possibility of such a collection myself. When I began at Carnegie Mellon, which emphasizes technology in its research and instruction, my conversion was instant; my efforts to convert other librarians were largely unsuccessful as the following paragraphs demonstrate.

17. Before I arrived at Carnegie Mellon, a member of its faculty, Dr. Raj Reddy, had conceived of a universal digital library that would include all the books, paintings, journals, and other materials in the world and which would be free to read so that students and citizens around the world would be able to benefit from its existence. He had begun to gather a team to help him realize this dream. I was invited to become a director of the project.

18. Working with Elaine Albright, director of the University of Maine library, I obtained funding from the National Science Foundation (NSF) to gather librarians for a discussion of digitization. The NSF includes an Office of Experimental Program to Stimulate Competitive Research (EPSCoR). States invited were Alabama, Arkansas, Idaho, Kentucky, Louisiana, Maine, Mississippi, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Puerto Rico, South Carolina, South Dakota, Vermont, West Virginia, and Wyoming. Oklahoma did not send a representative. Held in Washington, D.C., on May 25-6, 1999, seventeen of the eighteen EPSCoR states sent representatives. The objective of bringing together library representatives from each EPSCoR state to have them interact with technical representatives was accomplished. For example, the librarians were made aware of recent advances in scanning, another objective of the meeting.

19. One objective of the meeting was to create a consensus in favor of the goal of digitizing 1,000,000 books. No such consensus developed. Most librarians questioned the value
of having a predominantly digital collection and others questioned their states as sites for the work. In spring and summer of 1999, many librarians dismissed this idea even though it would have brought work to their states and even though the NSF program officer Michael Lesk made clear that NSF believed it could provide $25 million in supplemental funding for such efforts if libraries showed initiative in pursuing them.

20. Subsequently, in September 1999, the Association of Research Libraries, a group of over 100 of the largest libraries in the country, and the Online Computer Library Center (OCLC), a consortium of thousands of libraries of all sizes and types, convened a meeting in Keystone, Colorado. This group ratified a set of principles called the Keystone Principles, which reflected a modest and constrained interest in a more digital future. Participants did not envision the creation of digitized content, however, much less a million or twenty million volume digital library.

21. While I was Associate Dean of Libraries at Penn State I was part of the Digital Library Federation (DLF), and was a member of its Planning Committee from 1995 to 1997. When I moved to Carnegie Mellon I made its libraries part of the DLF as well. Under an evolving set of names, the DLF flourished with a governing policy board from 1994 to 2009. On average, I attended two meetings a year as a part of the governing board.

22. DLF members all worked towards a digital future. Indeed, six DLF members were original participants in the Google Books project. But the point of the DLF was to allow partners to work together to solve problems in the creation of digital libraries. Even in this relatively forward-thinking group I never heard a formal discussion of a project of the size and scope of Google Books.

23. Having been soundly rebuffed by U.S. librarians, Dr. Reddy, and the other directors of the Universal Digital Library, began to work with international colleagues to realize his universal library. Between 2001 and 2003, Dr. Reddy and I were the principal investigators on two funded proposals to scan a million books with partner universities in India and another million books with partner universities in China. This work was subsidized by an NSF grant and
funding from India and China. Scanning for this project has been paid for and accomplished in these and other countries. Funding was limited, however, as discussed below, and the funding we were able to obtain would not have achieved what Google has achieved with Google Books.

24. The greatest achievement of the Million Book Project was that it helped inspire Google Books. In its “frequently asked questions” pages, Google acknowledges that four projects inspired its work—The Library of Congress’s American Memory Project, Project Gutenberg, the Million Book Project, and the Universal Library (the parent umbrella for the Million Book Project). With its own initiative, Google has made significant progress toward realizing the vision that the NSF had funded with its grants for the Million Book Project work. At successive partners meetings beginning in 2007, the Universal Digital Library directors tried to convince the international partners to contribute their content to Google Books.¹⁰ Universal Digital Library directors think that Google Books offers the highest visibility, and greatest use, for the Million Book Project books and also the best alternative for sustainability and preservation.

V. The Infeasibility of Clearing Rights For the Books Google Has Scanned

25. Though the benefits of digitization are high, rights clearance poses obstacles to furthering the public good through digitization. In pursuit of the digital future, Carnegie Mellon University Libraries decided to experiment with rights clearance to see if it would be a barrier to the creation of a functional digital library.¹¹ Given our mission, we sought clearance to digitize and make available the whole text of books. We did not seek permission merely to scan books to create a comprehensive index or to display only snippets of text, as Google does for some books.

¹⁰ The Directors of the Universal Digital Library are Dr. Raj Reddy, Dr. Michael Shamos, Dr. Jaime Carbonell, and Dr. Gloriana St. Clair. Reddy and St. Clair are the Principal Investigators on the National Science Foundation grants that provided $3.6M funding for the project.

¹¹ Our efforts are recorded in Acquiring Copyright Permission to Digitize and Provide Open Access to Books by Denise Troll Covey. This work was published by the Digital Library Federation a part of the Council on Library and Information Resources in October 2005.
26. Because I believe very deeply in the public benefits of library digitization, I have subsidized Carnegie Mellon’s digitization efforts and these studies by devoting part of Carnegie Mellon’s budget to them. I elaborate on this point after describing the studies.

A. Carnegie Mellon’s Feasibility Study

27. Our first project, called here the Feasibility Study, began in 1999. We drew a random sample of books from our online catalog after consulting with a statistician to ensure that the sample would yield statistically valid conclusions. This sample contained 368 titles. 351 of the 368 titles in this study (95%) appeared to be copyright protected.\textsuperscript{12} We began to eliminate other categories of materials as follows:

- 10% were dropped because they were technical reports or theses that had been coded in a MARC field wrongly as books.
- 3% were eliminated because they appeared to have multiple rights holders, such as editors and authors of expression, maps, or other images. We knew that clearing copyright on these would be quite difficult and chose to drop them immediately.
- 8% more were rejected as the study proceeded when publishers introduced "complications from third party ownership."

The resulting set held 277 titles from 209 publishers.\textsuperscript{13}

28. In addition to the 11% of books eliminated from the study because their copyright situations were complex, the Feasibility Study showed that finding contact information for publishers is difficult and sometimes impossible. After using \textit{Global Books in Print, Literary Market Place}, and Internet search engines, we still could not find even an address for 7% of the over 200 publishers in our sample. Many letters were returned by the U.S. Postal Service as "Address unknown." Ultimately 21% of publishers, accounting for 19% of the titles in our sample, could not be found.\textsuperscript{14}

29. For publishers we could find, we sent a letter asking for non-exclusive permission to scan a book and make its text available on the web. Often we did not hear back from the

\textsuperscript{12} Id. at 12.
\textsuperscript{13} Id.
\textsuperscript{14} Id. at 13.
publisher, in which case we sent a follow-up letter designed to adduce responses. In total, 278 initial request letters and 246 follow up letters were sent. Response time averaged 101 days for permission granted letters and 124 days for permission denied letters.\(^{15}\)

30. After these efforts, only half of the publishers we could find responded to our request. Of those that responded, more than a fourth of them granted permission to scan their books and make them available on the web.\(^{16}\)

B. Carnegie Mellon’s Posner Collection Study

31. Many library digitization projects have focused on specialized collections and we also performed a study of such a project. The Posner Fine Arts Foundation has a collection of rare books collected by Henry Posner, Sr., on deposit with Carnegie Mellon University Libraries. The Posner family wishes this collection to be used for educational purposes. In 2001, Henry Posner, Jr., and his wife Helen funded a digitization and copyright clearance project for the collection. The Posner Collection differs from the random sample of books that were the subject of the Feasibility Study: the Collection includes works focused on the history of science and specially produced books on decorative arts, in which the physical beauty of the book (which cannot be reproduced by scanning) adds significant value to its content.

32. After this collection was digitized we did open for public reading on the web all the titles that were either out of copyright or whose rights had been cleared. Biologists navigating the Amazon, Jehovah’s Witnesses writing a story about Robert Hooke, and Cambridge University celebrating its mathematical prowess, among others, have used this collection. Compared with the few students who come in person or in classes to see the originals, the digital surrogates were used well over a million times annually for the last five years.\(^{17}\)

\(^{15}\) Id.

\(^{16}\) In addition, 68% of publishers granting permission did so only subject to qualifications that would be difficult for a project to accommodate. These included not granting permission for any expression within a book in which the book’s author did not control the rights, limiting the time for access or for scanning, prohibiting simultaneous use, or (6%) demanding a fee, which ranged from $50 to $300. Id. at 15. These demands pertained to full-text display of books, not to search or to display a snippet.

33. For the Posner Collection, we were unable to locate almost one-third of the relevant publishers, accounting for 13% of the books. Almost two-thirds of the publishers contacted responded, and almost half of these granted permission. Almost twice as many publishers granted permission as denied it.\textsuperscript{18}

C. The Million Books Project Study

34. A third study was done in connection with the Million Books Project. The Project organizers quickly agreed that it would be time-consuming and expensive to identify and seek permission from copyright holders, with no guarantee that those efforts would be successful. Consequently, most of the books targeted by this project are in the public domain. Of the original target of one million books, only $1/10^{th}$ were to be in-copyright works. To select these works the Project began with a bibliography entitled \textit{Books for College Libraries} (BCL), a bibliographic work compiled by librarians.\textsuperscript{19} About 5,600 different publishers published the books in the BCL bibliography. We eventually sought to close negotiations with only 364 of these 5,600 publishers. We did not attempt to find and negotiate with authors to whom rights had reverted.

35. The Project initially contacted 32 commercial publishers. Only seven of these responded; two granted permission, two explained that rights had reverted to authors when books went out of print, and three denied permission. In light of the data generated by the Feasibility Study, the Project then abandoned efforts to contact the remaining commercial publishers and instead focused on scholarly societies and university presses.\textsuperscript{20}

36. The unreliability of responses we received from publishers in these studies compounded the frustration of rights clearance. For example, Indiana University Press initially granted permission and eight months later denied it because a new director had been hired. Johns Hopkins University Press granted permission and sent a list of titles we were authorized to

\textsuperscript{18} \textit{Acquiring Copyright Permission}, supra note 1, at 26.


\textsuperscript{20} \textit{Acquiring Copyright Permission}, supra note 1, at 39.
Some time later, the head of the press wrote that rights actually had reverted to the authors. Similarly, Kent State University Press planned to participate but later said that permissions had reverted to the authors. One commercial publisher, Bowker, wrote that it would be happy to grant permission but it thought it did not hold the rights in a book it had published. Bowker explained that it had been owned by a number of parent companies and suggested the rights might be owned by one of them or might have reverted. Following Bowker's suggestion, we contacted one of the previous parent companies but found that it, too, did not own the rights.

37. Carnegie Mellon's results were not singular. In a response by Cornell University Library to the Notice of Inquiry concerning Orphan Works, Sarah Thomas, Carl A. Kroch University Librarian, reports spending over $50,000 in staff time trying to clear 343 copyrights. Permission was obtained for 98 titles and denied for 47 titles; for the remaining 198 titles no rights holder responded. Thomas noted: "Perhaps the saddest group of letters was from 38 authors who wanted their works made available as part of the project, but whose publishers (the current owners of the copyright) never responded to our inquiries." Responding to the same Notice of Inquiry, Sidney Verba, Carl H. Pforzheimer University Professor & Director of the Harvard University Library, wrote: "The expense of this sort of searching, with the tools now available, is an expense that in most cases simply cannot be borne in any significant scale. The result is that many books, whose free access through digitization projects would greatly promote the dissemination and creation of knowledge, while not damaging the interest of any copyright owner, are kept out of digital collections serving the public good. A truly lose-lose situation." 22

38. On balance, therefore, rights clearance poses significant obstacles to furthering the public good through digitization. Relying on the random sample study as the most statistically reliable, in the aggregate, copyright clearance research indicates that for approximately one-third of books, rights clearance either cannot occur at all or will not be

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attempted because the conditions, particularly the presence of multiple rightsholders, are too unfavorable to justify the effort. That fact alone would deprive the public of the benefit of being able to find with the click of a mouse books that might enrich their lives and benefit their scholarship.

VI. Google Books Is A New And Very Valuable Research Tool

39. Books themselves are wonderful things. Many, many lovers have written passionately about the look, feel, smell, and sound of interacting with a paper book. But the greatest joy of books is their content. Human ability to record ideas in books and their earlier counterparts—clay tablets, stone carvings, papyrus, and vellum—has allowed civilization to advance at a faster and faster pace. At one time in the middle ages, an educated person could have read all the extant books. Today, perhaps 100 million books exist, but as Nobel winner Herbert Simon wisely observed, human attention has not kept pace. 23

40. From the late 19th century through the first half of the 20th century, libraries used small index cards stored in file drawers. Card catalogs were expensive to create, difficult to maintain, and an arduous-to-use gateway to library collections. These cards recorded some information about a book—its title, author, publication date and publisher, and three or four general subject headings. For example, Kenneth Crews’ book Copyright, Fair Use, and the Challenge for Universities: Promoting the Progress of Higher Education would have had four cards: one under Crews, Kenneth D.; one under the title of the book (filing under the word “copyright”); one under the subject “Photocopying processes—Fair use (Copyright)—U.S.”; and one under “Universities and colleges—United States.” The only word of the title that counted was the first one. Thus, One Flew over the Cuckoo’s Nest would have only appeared under the Os and The Lord of the Rings under the Ls (initial articles in all languages are skipped in filing).

41. In the last half of the 20th century, libraries began to use computers to help scholars find their way through multimillion volume collections. In the early 1960s, local libraries purchased computers to replace the card catalog. The Online Computer Library Center (OCLC) was created; OCLC allowed libraries to know who had which books and to share the costs of cataloging those books. Readers could now access words inside the title and subject heading, could search by publisher, city of publication, date, and many other parts of the descriptive record, now called a MARC record.

42. Throughout this process, however, book content remained closed. Books could be located through OCLC's Webcat using traditional cataloging records (now called metadata). Typical access points are the names of authors, editors, illustrators, etc.; the title; the publisher; and about four subject fields. Finding any idea not captured by these fields required locating the physical book and thumbing through it or re-reading it. This process was time consuming and often failed.

43. Historically, this process was also local. The knowledge one was able to find depended on what library one could gain admission to. When I was the head of the Acquisitions Department at Texas A&M University in 1980s, the libraries employed a university car and driver weekly to transport faculty and students over to the University of Texas in Austin so that they could use the larger and differently-focused library there. In my service on A&M's small research grant committee, we often funded trips to Europe so that scholars could use collections located there. Today at Carnegie Mellon, a student doing a dissertation on the rhetoric of the debate around Darwin’s theory of evolution sits comfortably in his office reading the relevant texts on his or her computer. Not only does this student not have to travel or use the hated microforms to read books for which full display is available, but even for other books the student can work much more quickly and precisely because he can search inside the books themselves.

44. Google Books provides an immense public benefit by helping scholars and citizens find books that are responsive to their needs and interests. Google Books has transformed the way citizens and scholars worldwide can find books. Rather than paging
through row upon row of books, thumbing through index cards, spooling reels of microfilm, or searching only keywords created by others, today’s readers can search the actual text of over 20 million books to find those that best suit their needs. Time they need not spend looking is time they may spend learning or simply enjoying books they otherwise might never have known existed. That is a large part of what libraries themselves are for. The resulting benefit to the public is, in my view, enormous, and it does not come at the expense of authors, whose books and ideas are far easier to find than they otherwise would be. Helping readers find books is a service to both readers and authors.

Dated: May 3, 2012

Gloriana St. Clair
VITA
Gloriana St. Clair
February 2009

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Gloriana St. Clair

Dean of University Libraries
Carnegie Mellon University
Pittsburgh, PA 15213
Email: gstclair@andrew.cmu.edu
412-268-2447
412-268-2793 (fax)

Academic Training

University of Texas, San Antonio (Management) M.B.A., 1980
University of Oklahoma (Literature) Ph.D., 1970
University of California, Berkeley (Library) M.L.S., 1963
University of Oklahoma (English) B.A., 1962

Academic and Professional Positions Held

Library Experience

Dean, April 1998-
University Libraries, Carnegie Mellon University

The Dean reports to the Provost and is a member of the President’s Council and the Dean’s group. The University Libraries include Hunt Library, Engineering & Science Library, Mellon Institute Library, Posner Center (rare book facility), the Penn Avenue depository, and Qatar Library. Librarians are appointed and promoted under a librarian track. Software Engineering Institute librarians are on that track and that library contracts with University Libraries for library automation, acquisitions, and cataloging support. Carnegie Mellon’s library collection includes over 1 million physical volumes, 1.4 million pages of digital archival content, and a growing collection of digital books. Music listening, slide collection, audiovisual services, archives, and special collections are also in the library. The Dean has responsibility for budgets, strategic planning, advisory board, personnel resources, digital libraries, leadership of the library faculty, collections, and services. The Dean works with a special gifts officer (Advancement) to raise additional resources for the library with the assistance of a Libraries Development Board.

Director, Universal Library Digital Project, 1999-

With Dr. Raj Reddy, Dr. Michael Shamos, and Dr. Jaime Carbonell, the Dean is engaged in a million book digitization project with several U.S. partners and a broad coalition of libraries and computer scientists in India and China. The Million Book project has digitized over 1.5 million volumes, and made them available free-to-read on the World Wide Web. Many of the targeted volumes are out of copyright; some are in copyright with publishers granting permission for the digitization.

February 2009
**Library Experience (continued)**

**Associate Dean for Information Access Services, 1990-April 1998**
*Pattee Library, The Pennsylvania State University*

Planning, organizing, and directing library services in the Information Access Services Division, which includes Acquisitions, Cataloging, Access Services, and Commonwealth Campus Departments. Working with the Dean’s Council to administer the library in a productive manner. Leading the Libraries’ Continuous Quality Improvement efforts. Reallocation of resources to meet established strategic objectives. Serving on the Libraries’ Development Advisory Board, participating in meetings with University trustees, key alumni and others interested in the growth of library endowments and gift programs. Creating a program plan which will redesign user spaces for a Pattee Library addition. Serving with a small team as a liaison between Libraries Academic Council and Diversity Committee. Improving the atmosphere for scholarship within the library. Planning for the growth of the LIAS automated system including mounting several databases locally and making others available through Z39.50 connection to remote hosts. Serving on ACCES, the oversight group for the Commonwealth Campus system, ACUE, Administrative Council on Undergraduate Education, ACOR, the Associate Deans for Research group, and a newly formed oversight group for Distance Education.

**September 1997-April 1998**

Duties as above with a reconfigured relationship with newly-formed colleges and responsibility for Audio Visual Services. Expanded involvement with the Libraries’ Development Advisory Board and the Campaign for Excellence.

**Interim Dean, University Libraries, September 1996-August 31, 1997**
*Pattee Library, The Pennsylvania State University*

Report directly to the Executive Vice President and Provost. Member of Council of Academic Deans. University Libraries include the Paterno/Pattee Library, six University Park subject libraries, and twenty college/campus libraries around the state. Collections include over 3.7 million volumes as well as extensive holdings of maps, microforms, government publications, archives, computer databases, and audio-visual materials. Responsible for budgets, strategic planning, personnel resources, library automation, leadership of the Libraries’ faculty, and the development of collections, services, and programs; including audio-visual services. Play an active role in the University’s development activities with the assistance of a prestigious Libraries’ Development Advisory Board. Represent and advocate for the University Libraries, fostering cooperative participation in academic programs, consortia, government and grant-sponsored programs, and industry relationships. Member of the Committee on Institutional Cooperation (CIC) Library Directors and the National Digital Library Federation Policy Board.
**Library Experience** (continued)

Interim Associate Dean for Planning and Administrative Services, August 1996-97
Pattee Library, The Pennsylvania State University

Responsible, through coordination of library department and administrative heads, for the Libraries’ strategic planning process, budget development and implementation, library microcomputer support services, building and facilities management, human resources, audio-visual services, and public relations and publications.

Assistant Director for Technical, Automation, and Administrative Services, 1987-90
Kerr Library, Oregon State University

Justify, select, purchase, install, and operate an integrated library system; control the expenditure of a five million dollar budget; plan, organize, direct, and control Acquisitions, Serials, Accounting, Materials Preparation, Automation, and Cataloging; plan with Assistant Director for Research and Reference, Assistant Director for Collection Development, and Director for the growth, direction, and operation of the entire Library. Oversee the diverse automated programs of the Library through the agency of the Automation Advisory Council; develop policy and coordinate issues of staffing and staffing policy through the Human Resources Committee; and foster intellectual growth in faculty and staff through the Communication/Education Committee. Assist in fundraising, public relations, and campus liaison activities.

Head, Acquisitions Division, 1984-87
Texas A&M University Libraries

Control the expenditure of 2.6 million dollars in materials budget monies; monitor online acquisitions on the OCLC acquisitions subsystem; supervise serials control; produce microfiche serials list using interface with University’s Amdahl computers; organize out-of-print materials purchases for collection development; investigate alternative acquisitions systems; plan with Collection Development, Circulation, Catalog, and Interlibrary Loan Heads for systematic growth; develop two professional and 25 classified staff; and implement effective and efficient change actively.

Head, Personnel Operations, 1986
Texas A&M University Libraries

In the absence of the regular Head, handle personnel related problems, conduct a vigorous program of faculty recruitment, identify minority candidates, recruit them, and assure their success through appropriate actions, advise Director on personnel issues, supervise continuing education Focus programs.

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Library Experience (continued)

Humanities Bibliographer, 1985
Resource Development Division, Texas A&M University Libraries

On a part-time basis to fill a vacancy, select materials for purchase, review policies, justify budgetary allotment, establish collection goals and objectives with teaching faculty members.

Supervising Librarian, 1980-84
Technical Services, San Antonio Public Library

Coordinate book selection, implement computer acquisition, cataloging; plan microcomputer applications for diverse patron uses, control budget expenditures, report to the Library Director and Assistant Director, maintain staff liaison with Library Board of Trustees, ensure productivity in acquisitions, cataloging, and processing, conduct staff in-service training, supervise overall activities in Technical Services.

Cataloger, 1965-68
DeGolyer History of Science Collection, University of Oklahoma, Norman

Original cataloging (rare books), searching, filing, coordination.

Assistant Librarian, 1963-65
Water Resources Center Archives, University of California, Berkeley

Cataloging, reference, circulation, serials, filing revision, bibliography, clerical coordination, reports.

Research Assistant, 1962-63
School of Library Science, University of California, Berkeley

Research for Professor Ray Held on history of California Public Libraries.
Teaching Experience


Osher Lifelong Learning Institute (formerly Academy for Lifelong Learning), Carnegie Mellon University, 2000-

Mary Lynne Robinson’s Gilead, spring 2008.
“Author Character in Four Novels,” fall 2007.
Getting Mother’s Body and As I Lay Dying, summer 2007.
Doris Lessing’s The Fifth Child, fall 2005.
“Larry McMurtry’s Thalia Novels,” summer 2002.
“Beowulf: The Hero, the Antihero, the Observer,” spring 2001.

Adjunct Professor, 2000-02
School of Library and Information Sciences, University of Pittsburgh

Academic Library Management, team-taught with Denise Troll and Erika Linke.

Teaching Associate, 1979-81
Department of Management, University of Texas at San Antonio


Adjunct Full Professor, 1976-78
Department of Communications, Walsh College, Troy, Michigan

Business Communications, Advanced Business Communications.
Teaching Experience (continued)

Assistant Professor, 1971-76
English Department, College of Charleston, Charleston, South Carolina

- Freshman English, Survey of English Literature, Modern Drama, Modern Fiction,
- History of the English Language, Modern Grammar, Advanced Composition,
- Adolescent Literature, Old English in Translation, Chaucer, Shakespeare, Senior

Visiting Lecturer, 1975
Medical University of South Carolina

- Report Writing That Works.

Assistant Professor, 1969-71
Western Carolina University, Cullowhee, North Carolina

School of Education
- Introduction to School Libraries (graduate course).

Department of English
- Freshman English, World Literature, History of the English Language, Modern
- Grammar.
Academic Honors and Professional Recognition


Association of College and Research Libraries Resolution of Thanks.

For service as the Editor of *College and Research Libraries*, 1990-96.

Consultant to create Strategic Plan for Fairfield University for Foresight, Inc., 1995.

With Patricia Mulgrew.

The Pennsylvania Quality Leadership Foundation, Inc.

Appointment to serve in the capacity of Examiner on the 1994 Board of Examiners for the Pennsylvania Quality Leadership Awards.


Senior Fellows, University of California, Los Angeles, California, July 1991.

Charles W. Plum Distinguished Service Award for a Nonstudent, 1986.

For service as Faculty Advisor to College Bowl.

Texas Library Association Resolution of Thanks.

For service as Acting Editor *Texas Library Journal*, Fall & Winter 1985, and Guest Co-Editor Special Sesquicentennial Issue, 1986.

February 2009
Professional and Service Affiliations

Academy for Lifelong Learning. See Osher Lifelong Learning Institute (OLLI)

American Library Association (ALA)

Library Research Round Table (LRRT)

Liaison to Standing Committee on Library Education, 1987-88
Past President, 2001-01
President, 1999-2000
Treasurer, 1996-98
Vice President, 1998-99

Association of College and Research Libraries (ACRL)

Budget and Finance Committee, 1996-2000
_C&RL News_ Editorial Advisory Board, _ex-officio_, 1990-96
Contributed Papers, 2000-01
Editorial Advisory Board Chair, _College & Research Libraries_, 1990-96
Institutional Priorities and Faculty Rewards Task Force, 1996-97
Publications Committee, _ex-officio_, 1990-1996
Publications in Librarianship Board, 1989-90

Association of Research Libraries (ARL)

Diversity Committee, 1997-99
Institutional Representative, 1996-99

Bach Choir (Pittsburgh, Pennsylvania)

Board, 1999-2005
Finance Committee, 2000-04

Beta Phi Mu

Bexar County Library Association

Carnegie Mellon Human Resources Learning and Development

Advisory Board, 2002-

Coalition for Networked Information Task Force

Institutional Representative, 1996-

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**Professional and Service Affiliations** (continued)

Committee on Institutional Cooperation (CIC)
   Library Directors’ Group, 1996-99

Council of Research and Academic Libraries (CORAL)
   Standing Committee for Coordinated Acquisitions, 1983-84
   Committee for Goals, Objectives, and Priorities Technical Services Interest Group
      Advisor, 1982-84
      President, 1981-82

Digital Library Federation (DLF)
   Planning Task Force, 1995-97
   Policy Board, 1996-

Library Administration and Management Association (LAMA)
   *LA&MS* Editorial Board, 1987-91

Library and Information Technology Association (LITA)
   Resources and Technical Services Division
      Legislative Committee, 1987-91
      SISAC Test: Library Evaluation Committee, 1986

Middle States Association of Colleges and Schools

Mythopoeic Society
   *Mythlore* Editorial Board, August 1991-2001

Oakland Library Consortium (OLC)
   Board, 1998-
   President, 1998-2000, 2005-

OCLC ACQS User’s Group
   Bylaws Revision Committee, 1986-87
   Nominating Committee, 1986

Osher Lifelong Learning Institute (OLLI)
   Board, 2005-
   Curriculum Committee, 2003-04
   Strategic Planning, 2005-
   Secretary, 2008-

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**Professional and Service Affiliations (continued)**

Oregon Chapter of Association of College and Research Libraries

Oregon Library Association

Oregon State University Faculty Women’s Network

Oregon State University Faculty Women’s Writing Group, founding member

Pennsylvania Academic Library Connection Initiative (PALCI)
  - Board, 2002-04
  - Library Directors’ Group, 1996-

Pennsylvania Commissioner’s Committee on Database Development and Access, 1991-95

Pittsburgh Bibliophiles
  - Board, 2005

Pittsburgh Regional Library Center (PRLC)
  - Board of Trustees Committee, 1990-91
  - Strategic Planning Committee, 1990-92
    - Chair, 1991-92
    - Structure Committee, 1992-93

Research Library Group (RLG)
  - Institutional Representative, 1996-99

Texas Council of State University Librarians
  - Binding Contract Review Subcommittee *(ad hoc)*, 1984-85

Texas Library Association
  - Acquisitions Roundtable, Committee to Rename, 1987
  - Acting Editor, *TLJ*, 1985-86
  - Convention Treasurer, 1983
  - Council, *ex officio*, 1985-86
  - CULD Research Committee, 1986-1988; Chairman 1987-88
  - Guest Co-Editor, *TLJ Sesquicentennial Edition*, 1986
  - Publications Committee, 1985-86
  - Research and Scholarship Committee, 1985-86
  - TLA District 10 Chairman, 1983-84
  - TLA District 10 Chairman Elect, 1982-83
Refereed Publications


Refereed Publications (continued)

St. Clair, Gloriana. The Journal of Academic Librarianship. Editor (continued)


“Choosing to Choose,” C&RL 55, 3 (May 1994).

Refereed Publications (continued)

St. Clair, Gloriana. *College & Research Libraries. Editor.* (continued)

“Improving Quality: An Editor’s Advice to Authors,” *C&RL* 54, 3 (March 1993).


Other Publications

St. Clair, Gloriana. “So do all who live to see such times.” Dean’s column in *Book Ends* (library newsletter): January-February 2009.


Other Publications (continued)


Other Publications (continued)


Other Publications (continued)

Grants


St. Clair, Gloriana and Erika Linke. “Knowledge Renewal Endowment Fund.” In 2005, a $500,000 challenge grant was offered by the Eden Hall Foundation (Pittsburgh, PA) and the challenge was fulfilled by one $500,000 donor and others. As a result, the University Libraries were able to establish a $1 million endowment specifically to fund the ongoing acquisition of digital library resources.


Grants (continued)


St. Clair, Gloriana and Rose Mary Magrill. “Undergraduate Use of a University Collection.” Funded by a grant from the Research Committee for $3,000; matching funds granted by the Council on Library Resources (Cooperative Research Program), January 1987.

St. Clair, Gloriana and Marifran Bustion. “Union List of Serials for Texas A&M University Library.” Funded by a grant from the Texas State Library flow through LSCA Title III; $56,158, June 1986.

St. Clair, Gloriana and Jane Treadwell. “Science and Technology: Approval Plans Compared.” Funded by a grant from the Research Committee for student hours; $1,600.

St. Clair, Gloriana. “J. R. R. Tolkien’s Mythopoeic Sources.” Funded by a research mini-grant for student hours; $800, 1984-85. Monograph manuscript.
Addresses/Presentations/Poster Sessions


St. Clair, Gloriana and Mary Kay Johnsen. “The Library, the University, and the Changing of Ideas,” President’s Weekend, Carnegie Mellon University, September 29, 2007.


Addresses/Presentations/Poster Sessions (continued)


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Addresses/Presentations/Poster Sessions (continued)


Addresses/Presentations/Poster Sessions (continued)


February 2009
Addresses/Presentations/Poster Sessions (continued)


St. Clair, Gloriana. Conducted a discussion around intellectual property issues at the IEEE Region 2 Conference, Penn State Nittany Lion Inn, March 15, 1997.


St. Clair, Gloriana. Discussion with a graduate seminar class on Libraries’ Perspectives on Scholarly Publishing, University Park, November 14, 1996.

St. Clair, Gloriana. Brief presentation to alumni at the Penn State African American Alumni Interest Group Fall Alumni Conference, University Park, October 26, 1996.

St. Clair, Gloriana and Philip A. Klein. Presentation to the University Faculty Senate on the Library Expansion Plans and their Implications for the Faculty, University Park, October 22, 1996.


Addresses/Presentations/Poster Sessions (continued)


February 2009
Addresses/Presentations/Poster Sessions (continued)

Sandmeyer, Louise, Gloriana St. Clair, Frederick Eisele, Clare Kristofco, and Laura Raiman. Panel discussion on Continuous Quality Improvement, 312 Keller Conference Center, Penn State University, University Park, PA, February 22, 1993.


EXHIBIT B
LIST OF MATERIALS CONSIDERED

1. 10.14.2011 Fourth Amended Class Action Complaint
2. 12.12.2011 Memorandum of Law in Support of Plaintiffs’ Motion for Class Certification
3. 12.12.2011 Declaration of Joanne Zack in Support of Plaintiffs’ Motion for Class Certification (exhibits only)
4. 02.06.2012 Expert Report of Hal Poret
5. 02.08.2012 Declaration of Hal Poret in Support of Google Inc.’s Opposition to Plaintiffs’ Motion for Class Certification
6. 02.08.2012 Declaration of E. Gabriel Perle in Support of Google Inc.’s Opposition to Plaintiffs’ Motion for Class Certification
7. 02.08.2012 Declaration of Daniel Clancy in Support of Google Inc.’s Opposition to Plaintiffs’ Motion for Class Certification
8. 02.08.2012 Defendant Google Inc.’s Opposition to Motion for Class Certification
9. 02.10.2012 Transcript of Deposition of Daniel Clancy (no exhibits)
10. 02.14.2012 Transcript of Deposition of Stephane Jaskiewicz (no exhibits)
11. 04.03.2012 Reply Memorandum of Law in Support of Plaintiffs’ Motion for Class Certification
14. 04.19.2012 Transcript of Deposition of Paul Aiken (no exhibits)
15. 4.23.2012 Transcript of Deposition of Paul Courant (no exhibits)