

Carlos Marin-Burgos
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Intellectual Property and the Google Library Project

This paper conducts a critical examination of the intellectual property issues raised in the article “A Risky Gamble With Google,” where the author questions the last endeavor by Google, the Library Project. The first part of this essay presents the position and arguments of the author against this web application. A criticism of the author’s argument follows, including mistakes or fallacies in the subject explained from my point of view. The next part of this paper consists of how the author would respond to the critique in defense of his position. Finally, this essay will expose my views on the intellectual property subject.

Google Library Project represents one of the company’s newest projects. This new application works as a virtual book catalog where users can search through books in an online library. According to the article “A Risky Gamble With Google” by Silva Vaidhyanathan, this virtual library consists of books published before 1923, those under no copyright, and government works.¹ The article explains that Google collaborated with several institutions including Harvard University, The University of Michigan at Ann Arbor and Stanford University to form its online collection. The University of Oxford and the New York Public Library will further contribute to the catalog of public domains works. Google plans to visit these institutions and scan the appropriate works using an innovative technology. The author explains that Google will provide a digital copy of each book to these institutions as the only compensation. This controversial project, according to Vaidhyanathan, has both pros and cons. For example, expanding the available research resources on the internet represents one of the most important benefits of the Google library. This library offers an alternative to the current online research databases, such as the very expensive Proquest, which only provide information indexed in periodicals, government and legal documents, or dissertations. Google Library project will therefore provide a new and important service – the ability to search books online in addition to the already available journals and specialized documents.

Another advantage of Google’s new project consists of the opportunity that Google Library presents to those that do not belong to the university community. Universities and colleges allow only faculty and students to access their libraries and document databases. It would be impossible for researchers outside of these institutions to access any information. Google Library will provide information and knowledge to those outside the scholastic world with just the help of a computer and a web browser, thus expanding the access to knowledge beyond the exclusive gates of higher education.

Although the author exposes the benefits of using this online library, legal issues such as privacy, privatization, and property make the author of this article doubt the potential success of the Google Library Project. Gmail users know that Google reads their emails in order to target ads to the users. Vaidhyanathan writes that this invasion in our privacy will similarly occur by

using the Google Library application. The privacy policy in Google states that this company may give personal information to law enforcement investigators to “satisfy any applicable law, regulation, legal process or enforceable government request.”² Vaidhyanathan questions if Google actually will report to law agencies any suspicious search behavior from the users, but indicates that he finds this possibility of infringement into the personal lives and behaviors of its users frightening.

According to the writer of this article, another reason to doubt the success of this Google project relates to the issue of privatization. Relying on a for-profit technology company to store such large volumes of important information proves risky. Vaidhyanathan explains how often technology companies fail and change. As a consequence, the rapid change of status of these technology companies could be dangerous for the future of these online libraries. What happens to that data if Google closes for business? The author suggests that institutions such as universities or colleges should be in charge of the Library Project instead of a new technology company with an uncertain future.

The last issue that the author discusses in the article is how Google deals with the laws of copyright material. Vaidhyanathan describes several cases where companies fought for the right to distribute copyright material. One example explained in the article consists of the case of *Metro-Goldwyn-Mayer Studios Inc v. Grokster Ltd*. The latter company produced search engines where users searched for copyright music files. Grokster Ltd helped people to find copyright media, similar to Google helping users to search for copyright text files. Though both companies have the same purpose, one of these enterprises infringed upon the law -- Grokster Ltd. The Supreme Court ruled against Grokster in this case. The author argues that the law protects Google against problems with copyright because of the fair use on the Web for their material. According to one of the lectures in class, copyright is restricted if the use of the material appears fair. The factors that substantiate fair use include the purpose and character of the use, nature of the copyrighted work, amount and substantiality of the portion taken and the effect of the use upon the potential market for the original.³ The author sites several west coast cases which ruled in favor of fair use on the web.

In writing the article, “A Risky Gamble With Google,” the authors expresses his worries and doubts about the consequences of a big corporation such as Google running a project like Google’s Library. First, I agree with the author of this article about all the benefits of having an application like Google Library Project. I assent that a free and non-restricted research tool proves very useful for the public. Users will not need to pay fees or enroll in universities or colleges in order to read or research. Google will handle this. The universal accessibility appeals to my egalitarian nature. However, I disagree with the author of this article when he states that we should not rely on a big corporation like Google to undertake a project as important as the virtual library. I would like to ask to Vaidhyanathan whom else should we entrust this cutting edge technology to maintain this sophisticated a project. Google, in my opinion, represents the perfect candidate for running and developing an online library. First, this company possesses the resources, including money and advanced technology needed for a project involving storing and scanning millions of books. I do not think that universities or colleges would have the technology and capital to develop a project like Google Library. Finally, regarding the fear of what the future holds for a new company like Google, I believe the fear proves unfounded.

Every institution willing to collaborate with the Library Project will receive a digital copy of the material, and therefore backup copies of the books will exist. Therefore, regardless of Google's financial future, the virtual library will persist. Privatization does not represent an obstacle to Google's embarking on the Library Project.

Privacy represents one of the problems that the writer of this article exposes against this Google project. The text describes the case of Gmail and the use of Google's right to scan our emails in order to insert potentially applicable advertisements in the graphic user interface. Vaidhyathan worries whether Google will alert law enforcement agencies of any suspicious behavior witnessed during internet searches of the virtual library. For example, imagine a user decides to research a manual about what chemical elements are necessary to build a bomb, and this search entry then fires some alarm on Google. This company can submit the personal information of the researcher to one of the law enforcing companies because of the subject matter of the search. I do not find this infringement of privacy concerning. In today's society, safety represents a very important value for me. In my opinion, Google would help to prevent some crimes if suspicious information is delivered to government agencies such as the Federal Bureau of Investigation or the Central Intelligence Agency. With the information given, these institutions could investigate and possibly prevent a potential terrorist attack. Furthermore, these types of security agencies currently scan email all over the Internet without asking permission to the user anyway, so I do not think that the public in general will worry about another form of breaking of privacy. Therefore, this privacy topic described by the author would not affect in the success of Google Library project.

Another concern that the author expresses regarding the Google Library project consists of the possible extinction of libraries. The writer suggests that libraries will disappear if readers and researchers decide unanimously to use the Library project instead of visit public institutions to check out written works. According to Vaidhyathan a computer generated book will substitute libraries. The author emphasizes the growing impersonal nature of the world, and feels that the Google library further threatens our sense of community and our interconnectedness as human beings. However, I believe that the Library Project will not contribute to the extinction of libraries. In my opinion, a virtual copy cannot substitute a physical book. The act of flipping pages and touching book spines represents too important an act. Reading texts on the screen proves too difficult, especially for students who want to highlight and annotate. Also, I think that Google's virtual library project can be very useful for people without access to public institutions, for example those that live in remote small towns. Thus, knowledge can be brought to every home with just a connection to the Internet. Also elderly people will appreciate reading books without the necessity of moving from home. Therefore, as a consequence of this Google Library project more people will have access to reading and researching material. The benefits of the virtual library outweigh its risks, and I do not think that physical library will cease to exist as a function of having access to virtual libraries.

On the other hand, the author of the paper might argue with my above criticisms. For example, he may say that a corporation such as Google represents precisely the wrong business to take on a project like the Library Project. A company whose main purpose includes making profit for their stakeholder probably would not fairly represent the user's necessities or

preferences. The selection of books and documents to be part of the Library Project might not be motivated by intellectual freedom and curiosity but rather by profit. Stakeholders of the publisher companies might motivate the selection of books instead of the general public and choices might be made in order to help the bottom line instead of enhancing our wealth of knowledge and access to knowledge. If we entrust private companies to represent the gamut of human interests in a project like the virtual library, we run the risk of being overly influenced and potentially biased by corporations'. Furthermore, the virtual library will not be a complete library; pertinent missing elements include copyrighted works written after 1923. Therefore physical libraries will need to persist in order for the public to continue to have universal access to written works. Therefore, the author would argue that privatization plays an important role in a project like Google Library. Institutions like university and public libraries should select because of their lack of bias and knowledge about what really readers look for.

Furthermore, the author would argue people should have the right to keep their personal information, including their internet activities, private. As mentioned before, Gmail scans emails with the purpose of inserting advertisements related to the email conversations. These paid advertisements generate incomes for Google. As mentioned in the paragraph above, corporations' motivation consists of earning profits. As a consequence of this quest for incomes, the client suffers a lack of privacy from the service. For example, users who look for adult content online might feel uncomfortable knowing that their searching habits could be stored in Google databases, and may harbor an ever-present doubt of how or where else this information may be used. This recording of our searching habits represents a clear intrusion into the privacy of the users. Spying and judging users based on their internet searches, especially when motivated by profit, embodies a violation of trust. This intrusion into the private lives of users should be clearly explained before signing up for and using an internet service or search engine. Warnings about invasion in the privacy of users should be stressed more explicitly, and not just in user agreements, which rarely get read. Therefore, the author would argue that the potential invasion of privacy represents another important problem with the Google Library.

After closing the music file sharing service Napster in 2001, I developed an interest in the subject of intellectual property. The issue brings up important arguments regarding privatization, privacy and copyright. On one side, music fans support the sharing of everything through the web, while on the other side artists argue that a fee must be paid for every piece of media obtained on the web. As a movie lover I understand that if every Internet user decided to download the last Clint Eastwood movie from a file sharing service, this will result in economic devastation for the film industry because of the lack of profit for the show business. I therefore do understand that copyrighted material should be restricted for illegal downloading to ensure the continuation of the film and music industry.

On the other hand, the high prices for downloading media provoke the public to visit online services where music and movies can be obtained for free. I propose that websites like iTunes lower their prices for the media to a more reasonable price. For example, the average price for downloading a movie from the Apple music store costs around \$10 dollars. Legal downloading therefore costs the customer about the same amount as buying a DVD in any video store. The difference lies in the fact that when downloading, the customers miss out on the case and special features that accompany the store bought DVD. Users believe it unfair to pay the

same price for less service, so they prefer to obtain movies for free in any free file-sharing site. However, this material downloaded from the web falls under copyright, which under American laws represents an illegal activity if obtained without paying the corresponding fee.

Despite the potential to violate copyright material, I do not think that Google Library Project breaks any law. First of all, in my opinion a service that provides knowledge to people should not be considered illegal. I do not agree with the Authors Guild and the Association of American Publishers who accuse Google for copyright infringement. The Library project claims fair use of the material distributed. According to the 17 USC, the US Copyright Act, four factors determined fair use of copyrighted material: the purpose and character of the use, the nature of the copyrighted material, the amount and substantiality of the part taken and the effect of the use of the work.⁴ Following the first rule, the character of the use of this Library Project follows educational purposes. Also, the virtual library will not display entire works of copyrighted material. Only small sections will be viewable if under copyright. Thus, the project will maintain and protect copyright laws.

Additionally, publishers and authors should be very grateful to Google Library project because it helps the public to get to know their work. This virtual library represents the best advertisement for authors, especially novel writers. Users will discover new writers and snapshots of their work. As result, readers interested in the new author will follow their work, and will buy full length copies in bookstores. Furthermore, publishers could make a profit by selling the short excerpts of the copyrighted work to Google so this company can add the material to their indexed library. Google ensures, through the excellent work of programmers, that this copyrighted material cannot be downloaded in its entirety or printed by the user. As a consequence, the copyrighted work will not be distributed illegally, and therefore publisher and authors will not lose any profit.

In my opinion, debates regarding the fair use of copyrighted material should not be used to block projects like Google Library, whose main purpose consists of stressing the importance of information availability to everybody. Access to knowledge empowers and Google library helps millions of people to obtain information in an alternative way to the traditional. We have to accept new options without the fear of losing old traditions. While issues such as privacy and privatization do present potential problems related to intellectual property, I do not think that they should prevent Google from continuing to pursue this important project. Laws can be established to prohibit illegal invasions of privacy. Furthermore, the concern regarding entrusting a project to a private company appears unfounded when Google offers to provide backup copies of the works it will scan. Additionally, by partnering with Universities, Google maintains an air of intellectual neutrality, thus negating the criticism that privatization impedes the egalitarian sharing of information. The Google Library project represents an alternative to current research methods with more benefits than problems.

Works Cited

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