

MPs call for freelance rights

FOURTEEN MPs have so far signed an Early Day Motion calling for full workers' rights for freelances, including redundancy pay when contracts are cancelled. Encourage your MP to sign: contact them through www.theyworkforyou.com and direct them to EDM 1961 at <http://edmi.parliament.uk> – and it's just as important to contact your MP to thank them if they have signed the Motion, to let them know they're not working in isolation, and that somebody does care.

This, and a report by the All-Party Parliamentary Group on the Freelance Sector accepting the need for "dependent workers" to have stronger rights, culminated the NUJ's Freelance Month of July. (In future, perhaps we won't hold the month in the peak period for freelances who work shifts as holiday cover for others – or when the lucky few are out of the country ourselves.)

The Professional Contractors' Group, formed to oppose the Inland

Revenue's "IR 35" rules by computer contractors who typically work shifts for one company for years on end, is not happy. The *Freelance* would like to reassure them that entitlement to workers' rights is just one of the tests that the Revenue apply in deciding whether we're entitled to deduct a self-employed person's expenses before paying tax. IR 35 is designed to collect full PAYE tax from anyone whose working relationship is, in fact if not in name, employment.

General 'confesses' to Gongadze murder

Prosecutors in the Ukraine allege that Oleksiy Pukach has confessed to the murder of independent online journalist Gyorgy Gongadze, ten years after his headless body was left in a ditch outside Kiev. Pukach was General in charge of the interior ministry's surveillance department at the time of the killing, and was arrested on 21 July. Three others were jailed last year in connection with the killing, but it will be alleged when he comes to trial that he personally strangled Mr Gongadze. For more see www.londonfreelance.org/gongadze

Monetizing the interwebs – google in doo-do

MUCH excitement in the media followed Rupert Murdoch's announcement that News International and the *New York Times* will – in a way as yet unspecified – charge for access to newspapers. Could it save the institution of journalism from death by a thousand cut-and-pastes? Or should we be looking for the answer to that puzzle in New York District Court on 7 October?

That's when Judge Denny Chin will open consideration of the Google Books settlement. This may only directly affect you if you have written a book, or at least a chapter. But Google's mission statement – "Organize All The World's Information" – gives a clue that it could set a pattern for all media.

Google's model for book distribution online is the same as it has imposed for music and video through its YouTube service: first they copy work and make it available without permission, then they offer a share of the revenue from advertising, or the option to take your work off their servers, if you should happen to find it (see June and July *Freelances*). In the case of YouTube, Google has refused to open the books to show how payments are calculated – a key demand that the European Federation of Journalists is putting to the European Commission.

Better some money than none, you may say. This writer will be registering book chapters with www.googlebooksettlement.com before 10 January 2010 – but the money will take ages to arrive.

We've read the first chunky submission to Judge Chin, from Scott

Gant, who is objecting in his role as author of the book *We're All Journalists Now: The Transformation of the Press and Reshaping of the Law in the Internet Age*. It is significant that he is an antitrust (competition and anti-monopoly) lawyer with some very significant clients. He offers a lot for a court to chew over. He points out that the settlement offers \$60 for past illegal copying of entire books – whereas the minimum statutory damages for copying a work registered with the US Register of Copyrights are \$750. He says it is illegitimate to intertwine a future business model with compensation for past copying, and much else more technical.

The National Writers Union, which represents US freelances, opposes the settlement outright. "Google is essentially saying, 'We are going to steal your work and sell it under terms we dictate unless you tell us not to', NWU president Larry Goldbetter said.

As we predicted, the US Justice Department formally announced on 2 July that it is investigating the proposed deal. Google rivals Microsoft, Yahoo, and Amazon.com in mid-August announced a coalition to oppose the settlement.

Meanwhile, the Microsoft-funded "Initiative for a Competitive Online Marketplace" is preparing a public relations assault on what it says is Google's monopoly of the online advertising business. Based at public relations firm Burston-Marsteller, the campaign calls for transparency and open standards for advertising software – which will amuse those who followed anti-trust lawsuits

brought against Microsoft. The Justice Department is investigating this possible advertising monopoly, too.

It seems probable that it will take years for this to work out – it may well go as far as the US Supreme Court. It was the newest member of the Supremes, Sonia Sotomayer, who ruled, in New York District Court, that the *New York Times* could copy freelances' work, under



the exception to copyright intended to cover dictionary publishers (see the September 1997 *Freelance*). The Supreme Court overturned that in 2001. The proposed settlement of \$11 million net is going back to the Court (April *Freelance*), by coincidence on 7 October. The Court could rule that the settlement cannot include works not registered with the US government – which would mean you could get nothing from the Google settlement. Either way, the *Tasini v Times* settlement goes back to the court of appeal.

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"Stop using my image" says the blindfold: only a "thin" copyright belongs to Matt Salusbury, who cannot claim fair dealing because the artwork by an unknown artist that appeared beside the Regent Canal as it passes through Dalston, north London, is not "incidental" in his photograph.

'Let me steal or I sue'

NEW DEPTHS of misunderstanding about copyright are revealed by an email sent to the musician who owns www.shapelessmass.com. It's from 2005, but worth repeating. "I must say I am quite upset," it begins: "I have been using images from

your web site on my web site for along time now and suddenly they are gone and I am concerned. I am using my web site to build up my business which is not easy and you changed the location or deleted them or something."

So? So the anonymous alleged businessperson said: "If you do not upload the images again I might have to contact my lawyer."

After a little gentle education about copyright, the aggrieved image leech did apologise.