

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

IN RE LITERARY WORKS IN ELECTRONIC
DATABASES COPYRIGHT LITIGATION

MDL No. 1379

AMENDMENT TO THE SETTLEMENT AGREEMENT

1. Paragraph 4.b of the Settlement Agreement shall be amended by adding the following before the period:

; except that any claim that would otherwise be a valid Category B claim shall be reclassified and paid as a Category A claim if the claimant registered copyright in the Subject Work prior to the licensing and delivery of that Subject Work, by any defendant, to Amazon.com or Highbeam (aka Highbeam Research). A schedule of the dates of availability is being delivered to the Claims Administrator and to Class Counsel.

2. Paragraph 13.b shall be amended by adding the following after the final period:

The parties to this Settlement Agreement expressly confirm that the license conveyed by this Settlement Agreement permits each Participating and Supplemental Participating Publisher and their permitted licensees (including the Database Defendants), successors and assigns, to electronically license on a nonexclusive basis any Subject Work that was allegedly infringed by it to any person, including parties who are not Defense Group Members, and to grant such licensees a right to sublicense.

3. All class members who submitted claims and who did not exercise their "takedown" rights under Paragraph 5.a. as to all Subject Works for which they have submitted claims, will be notified with respect to this Amendment to the Settlement Agreement, and will thereafter be afforded a second opportunity to exercise their takedown right, so long as the second takedown right is exercised by September 30, 2005. This paragraph is subject to the provisions of Paragraph 5 of the Settlement Agreement.

