

Daniel F. Goldstein
dfg@browngold.com



120 E. Baltimore St.
Suite 1700
Baltimore, Maryland
21202-6701
Tel: 410 962-1030
Fax: 410 385-0869
www.browngold.com

March 16, 2009

Via E-Mail: david.shanks@us.penguin.com
Mr. David Shanks
Chief Executive Officer
Penguin Group USA
375 Hudson Street
New York, New York 10014-3658

Dear Mr. Shanks:

I represent the National Federation of the Blind, and I write on its behalf as well as on behalf of the DAISY Consortium, the American Foundation for the Blind, the American Council of the Blind, the International Dyslexia Association, the Learning Disabilities Association of America, the American Association of People with Disabilities, the National Center for Learning Disabilities, and the Bazelon Center for Mental Health Law.

We write concerning text-to-speech on Amazon's Kindle 2. The announcement on February 9 that Kindle 2 had text-to-speech software that enables books to be spoken in a computer voice was momentous for many people who had not previously purchased books, either in print or electronic format, or who had not bought as many because of the difficulties that a visual format presented for them. This was a wonderful and market-broadening step on the part of the industry, as many consumers who had not previously bought either print books or audio books would now be consumers of electronic books. The new market not only includes persons who are blind, but persons with dyslexia and other print disabilities, who, altogether, comprise as much as 6.5% of the population. In addition, text-to-speech on the Kindle 2 was welcome news for recovering stroke victims, returning veterans with closed head injuries and other neurological deficits creating processing issues. Furthermore, a major segment of the population who use English as their second language welcome auditory reinforcement in reading. We understand that Amazon is developing accessible controls for the Kindle 2, a development that would give the blind their first access to mainstream electronic books through a mainstream device – a momentous development. Moreover, text-to-speech preserves customers for you. As Toni Morrison has noted publicly, the capacity of the Kindle to enlarge print has enabled her to continue to read with ease. Should her eyesight continue to deteriorate, she should not be cut off from books.

BROWN, GOLDSTEIN & LEVY, LLP

Mr. David Shanks

March 16, 2009

Page 2 of 3

We were shocked, therefore, to read the copyright assertions by the Authors Guild that reading a book in private using text-to-speech violates copyright law. Persons with disabilities have used text-to-speech to read books for more than 20 years, and this use is clearly supported in all standards for digital publishing.

We are even more appalled to learn that Amazon, under pressure, would henceforth allow publishers and authors at their whim to withdraw mainstream access to electronic books for those requiring aural access. This seems especially ironic in the wake of the proposed Google-AAP settlement, which guarantees mainstream access (including persons with disabilities) to all copyrighted books that are not currently offered for sale. We are saddened to see that at least one publisher has now instructed that text-to-speech be disabled for all devices that read electronic books. For a terribly long time those with print disabilities have been consigned to alternative formats with limited choices on expensive special purpose machines. Now that the opportunity for mainstream access to books on equal terms is possible, this community will not allow publishers and authors to deny them the right to read.

We have had extensive discussions with Paul Aiken at the Authors Guild, and its proposal for a national disability registry as a pre-condition for use is appalling. The alternative proposal – a disability surcharge for those who rely upon computerized speech to read – is also unacceptable.

The Authors Guild simultaneously misperceives the market benefits of text-to-speech and has thus far responded to the hungry new market it wishes to foreclose with ideas that are morally repugnant. Should the publishing industry and Amazon accede to the Authors Guild's stance and deny persons with disabilities the service of mobile access to e-books it offers to the public, they will be at risk of violating state civil rights laws that guarantee equal access to persons with disabilities, including the Massachusetts Equal Rights Act, California's Unruh Act, the New Jersey Law Against Discrimination, and the Kentucky Civil Rights Act.

Beyond our own laws, there is international consensus, expressed in the United Nations Convention on the Rights of Persons with Disabilities, that equal access to electronic information by persons with disabilities is a fundamental human right. Embracing this fundamental right in an intelligent way can be commercially beneficial for the publishing industry, and we hope that the Authors Guild's initial, reflexive response will be reconsidered by the industry.

We urge the Authors Guild, publishers, and Amazon to include, as equal consumers, persons with disabilities who rely upon text-to-speech to read and to turn text-to-speech back on for all books offered on mainstream devices.

BROWN, GOLDSTEIN & LEVY, LLP

Mr. David Shanks
March 16, 2009
Page 3 of 3

At the same time as we are broadening our coalition, we will be proceeding with a public education campaign to raise the awareness in the book-reading public that you wish to deny us the same and equal access to your books that you provide others. The community that I have described is organized and passionate on these issues and will be joined by parents of children who are blind or have print disabilities, their teachers, families and friends. As we move forward with this public education campaign, we welcome a further dialogue.

Please do not hesitate to contact me or any of the organizations on whose behalf this letter has been written. I am traveling outside the United States, but can be reached by e-mail or on my cell phone (currently five hours later than EDT) at 410-218-8537.

Very truly yours,



Daniel F. Goldstein, Esq.

DFG/tt

Via E-Mail Only

cc: Genevieve Shore, Penguin Group Digital Director
Dr. Marc Maurer, National Federation of the Blind
George Kerscher, DAISY Consortium
Paul W. Schroeder, American Foundation for the Blind
Eric Bridges, American Council of the Blind
Michael J. Hayes, International Dyslexia Association
Myrna R. Mandlawitz, Esq., Learning Disabilities Association of America
Andrew Imparato, American Association of People with Disabilities
Jennifer Simpson, American Association of People with Disabilities
Laura Kaloi, National Center for Learning Disabilities, Inc.
Jennifer Mathis, Esq., Bazon Center for Mental Health Law
David Zapolsky, Esq., Amazon, Inc.
Paul Aiken, Authors Guild
Jan F. Constantine, Esq., Author Guild
Stephan Smith, Association on Higher Education and Disability