

Mass digitisation and moral rights of the author

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Mass digitisation – the conversion of works in digital format on an industrial scale – comes with an ontological shift in the use of copyright works. While in both the analogue and the digital worlds works have been always used *as works* – namely: as expressions addressed by a human being to other human beings – in mass digitisation works are used essentially as *data*. This is because works are primarily used as containers of information that are processed by machines, as if their value was independent from human intelligibility. This paper examines the impact of automated processing of copyright works on the moral rights of author. It focuses primarily on the activities carried out within Google Books, as defined in the proposed Settlement Agreement under the umbrella term of ‘non-display uses’. These are ‘uses that do not display the content of books to the public’ and include various activities of data mining such as extraction of bibliographic information, full-text indexing, geographic indexing of books, algorithmic listings of key terms and ‘internal research and development using digital copies’ (Amended Settlement Agreement, § 1.94, *Authors Guild, Inc. v Google, Inc.*, No. 05 CV 8136-DC, 13 November 2009). Since all these activities prove to be highly economically valuable, and since in most cases they are unrelated with the internal purpose and function of works, the question arises as to whether they fall within the scope of author’s exclusive rights. This paper focuses, in particular, on how non-display uses may affect the ‘right of integrity’ in the work (Berne Convention, Art. 6^{bis}) and discusses possible regulatory principles for mass digitisation projects.