

UNIVERSITY OF MINNESOTA
BOARD OF REGENTS
Educational Planning & Policy Committee
June 7, 2007

A meeting of the Educational Planning and Policy Committee of the Board of Regents was held on Thursday, June 7, 2007 at 1:45 p.m. in the West Committee Room, 600 McNamara Alumni Center.

Regents present: David Larson, presiding; Dallas Bohnsack, Maureen Cisneros, Linda Cohen, David Metzen, and Patricia Simmons.

Staff present: Senior Vice President & Provost Thomas Sullivan; Senior Vice President Frank Cerra; General Counsel Mark Rotenberg; and Acting Executive Director Carol Kraus.

Student Representatives present: Meghan Keil and Nathan Olson.

CONTRACT FOR MANAGEMENT OF LIBRARY RESOURCES

Senior Vice President & Provost Sullivan introduced University Librarian Wendy Lougee and General Counsel Rotenberg, who led the discussion of the Resolution Related to a Contract for Management of Library Resources, now entitled Resolution Related to Library Digitization Agreement with Google and the CIC. Lougee reported that Google, Inc. (Google) has launched the Google Book Project (Project) with the intention of digitizing books and making them available through Google's online search service to the extent permitted by copyright law. To date, a number of major libraries and universities in the United States and Europe have already joined the project, and the Committee on Institutional Cooperation (CIC), an academic consortium comprised of Big 10 Conference universities and the University of Chicago, has negotiated an agreement with Google to digitize up to 10 million volumes from the library collections of CIC members.

Google has expressed interest in digitizing approximately 1 million volumes from the University of Minnesota's collections of distinction, significant holdings in such areas as forestry and Scandinavian history, politics, and language that set a library's collection apart. For volumes in the public domain, the Project will provide complete access to users. For in-copyright volumes, Google will hold their entire contents in escrow (pending expiration of the copyright) and provide only snippets of text so that users can assess the relevance of a particular title. Users also will be directed to a source from which an in-copyright volume may be borrowed or purchased.

Rotenberg explained the legal implications of the University's participation in the Project. Federal law generally prohibits the scanning of copyrighted works without permission of the copyright holder, but CIC and the University have determined that the particular proposed scanning, indexing, and use of the digitized copies by Google and CIC member institutions constitute fair use under copyright law. Google is currently in litigation for direct copyright infringement and various legal issues have yet to be

decided in federal court, but it will need to be resolved over the next several months or years.

Rotenberg summarized the liability-related terms of the University's agreement with Google and the CIC, emphasizing the following:

- Google will indemnify the University against infringement claims relating to the digitization phase of the project and Google's subsequent use of the digital copies;
- the University will indemnify Google against infringement claims based on the University's own possible misuse of digital copies; and
- the University asserts its immunity from lawsuit in state and federal courts under the 11th amendment of the U.S. Constitution.

He also advised that CIC institutions still need to negotiate an agreement to clarify CIC member rights and obligations, allocate legal risks within the CIC, establish dispute resolution processes, and resolve how the CIC digital repository at the University of Michigan will actually work.

In response to a question from Regent Simmons, Lougee noted that the digitization project will not affect student needs or behavior relative to textbooks because research libraries do not hold textbooks in their collections. Students will benefit from enhanced access to course materials that are no longer protected by copyright.

In response to a question from Regent Larson, Sullivan identified the following benefits the University would derive from the proposed agreement with Google and the CIC:

- \$60 million worth of digitized volumes;
- preservation of the University's library collections;
- enhanced public access; and
- enhanced reputation through participation in the Project with a select group of other leading research universities.

A motion was made and seconded, and the committee voted unanimously to recommend approval of the Resolution Related to Library Digitization Agreement with Google and the CIC.

INFORMATION MANAGEMENT & DISTRIBUTION IN THE 21st CENTURY RESEARCH UNIVERSITY

University Librarian Wendy Lougee and Billie Wahlstrom, Vice Provost for Distributed Education and Instructional Technology, led the discussion of the University's response to the revolution in information and technology. Lougee described (a) the challenges of supporting students, faculty, and staff in their use of digitally-produced and distributed information, copyrighted information, and information outside traditional disciplines and (2) the new paradigms and strategies University Libraries has adopted for managing and disseminating information in the digital age (materials in the docket and on file in the Board Office).

Wahlstrom highlighted the ways in which the University is responding to the development of new educational models; changes in expectations regarding the availability of and access to information; and changes in the role of technology in teaching, learning, and research. The most recent technology initiative is the myU Portal, a first step toward managing information abundance that allows students to

aggregate, customize, and personalize data and facilitates the University's support of various online and academic outreach initiatives serving students throughout Minnesota.

In response to questions from the committee, Lougee noted that libraries have adopted a number of cost saving strategies, such as joint licensing and institutional agreements to specialize in holdings related to a specific discipline. She cautioned, however, that the explosive growth in digital content will not reduce the need for library buildings because users now see libraries as a community space where interaction around information can occur. Sullivan added that it also will be important for the University to continue to invest in both traditional and digital media, even though maintaining both will exacerbate budget pressures.

CONSENT REPORT

Senior Vice President & Provost Sullivan stated that there were no items on the Consent Report for this month.

INFORMATION ITEMS

Regent Larson invited Frank Cerra, Senior Vice President for Health Sciences, to speak briefly regarding the National Institute for Pharmaceutical Technology and Education (NIPTE). Cerra indicated that NIPTE, which has existed for several years, is now in the process of incorporating itself and Marilyn Speedie, Dean, College of Pharmacy, will serve on the Board of Directors. NIPTE will promote and be engaged in research relating to the process of drug development, approval, and manufacture. Participating universities will serve as research sites for projects initiated through NIPTE, subject to available funding.

The meeting adjourned at 3:10 p.m.



CAROL E. KRAUS
Acting Executive Director and
Corporate Secretary