

Summary of Antitrust Lawsuit: *SkyRiver & Innovative Interfaces v. OCLC*

Overview

On July 28, 2010, [SkyRiver Technology Solutions](#) joined with [Innovative Interfaces](#) to file suit in San Francisco federal court against [OCLC Online Computer Library Center \(OCLC\)](#) alleging numerous anticompetitive business practices and antitrust violations. SkyRiver, a bibliographic services company, and Innovative Interfaces, a library automation company, claim that OCLC is “unlawfully monopolizing the bibliographic data, cataloguing service and interlibrary lending markets and is attempting to monopolize the market for integrated library systems by anticompetitive and exclusionary agreements, policies and practices.” (p. 1) The outcome of the lawsuit could have significant impact on the library software and technology services industry by opening up OCLC’s services, such as WorldCat, to use by commercial competitors. ARL members have asked for a review of the current state of the suit.

At this time, it cannot be emphasized strongly enough that it is still too early to predict any resolution of the case since OCLC has not yet had an opportunity to respond to the plaintiffs’ [complaint](#). Unless the parties come to a settlement, the litigation of a complex antitrust suit could take years.

An action occurred on October 28, 2010, when the judge in San Francisco’s Ninth Circuit [granted](#) OCLC’s motion to transfer venue to the Southern District Court of Ohio—where OCLC maintains its headquarters—because of the increased proximity to relevant documents and availability of witnesses in that venue.

This summary of the lawsuit is solely descriptive, attempting only to provide a synopsis of the legal positions taken thus far. It may be some time before OCLC’s response provides an alternative legal perspective concerning the allegations presented in this lawsuit. This summary is not an analysis of the legal merits of the suit, nor has ARL taken a position on this lawsuit.

The Parties

Plaintiff SkyRiver Technology Solutions (“SkyRiver”) is a relatively new company that entered the library cataloging services market in the fall of 2009. Plaintiff Innovative Interfaces (“Innovative”) provides library technology services and systems to libraries in the United States and other countries. Jerry Kline founded and owns both SkyRiver and Innovative Interfaces.

Defendant OCLC is a non-profit organization comprising member libraries in 171 countries. The organization was formed in 1967 and is headquartered in Dublin, Ohio. OCLC provides bibliographic, cataloging, and interlibrary lending services to academic, research and public libraries across the world. OCLC and its member libraries also create and maintain WorldCat, the largest online public access catalog in the world.

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Allegations of the Suit

SkyRiver and Innovative allege that OCLC is violating [Section 1](#) and [Section 2](#) of the Sherman Antitrust Act by maintaining an illegal monopoly over the bibliographic services market through its WorldCat membership requirements, and that this monopoly enables it to leverage a monopoly over cataloging services, interlibrary lending services, and most recently the ILS market. Plaintiffs also claim that OCLC supports its product development in the ILS market through various illegal practices. The complaint describes the relevant market for the services in question as “college, university and research libraries.” (p. 7)

SkyRiver and Innovative assert the following specific claims against OCLC in their complaint.

1. *OCLC Does Not Act Like A True Non-Profit Cooperative*

The complaint alleges that OCLC “is not a true cooperative in that its members do not share its revenues or control its management, operations or policies” and uses tax-free revenues to acquire potential competitors. (p. 5)

2. *OCLC Maintains A Monopoly Over Bibliographic Services Through Its WorldCat Membership Requirements and Use Guidelines*

SkyRiver and Innovative allege that OCLC’s requirement that member libraries adhere to “Principles and Guidelines” for WorldCat access is designed to perpetuate a monopoly on bibliographic and holdings information.

3. *Allowing Competitors Access to the WorldCat Database Would Reduce Library Costs for Cataloging Services*

Plaintiffs argue that allowing for-profit companies access to the bibliographic information in WorldCat would enhance innovation and competition, and thereby reduce library costs. SkyRiver further asserts that the current situation ultimately harms libraries and their patrons by reducing consumer choice. (p. 8)

4. *OCLC Uses Its Bibliographic Monopoly and Punitive Pricing Models to Maintain a Monopoly over the Interlibrary Lending Market*

The primary focus of the complaint centers on the alleged ability of OCLC to enforce punitive and anticompetitive pricing models in the ILL market. A principal example described in the complaint involves OCLC’s price increase in batch uploading for libraries that choose not to use OCLC’s catalog services. The chief examples cited relate to Michigan State University (“MSU”) and California State University at Long Beach’s (“CSULB”) desire to continue their OCLC membership but use SkyRiver cataloging services. Plaintiffs assert that price increases for libraries that choose not to use OCLC’s cataloging service are intended solely to deter libraries from using competitor services and to prevent new companies from entering the market for cataloging services.

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5. *Differentiated Pricing Structures Limit Resource Sharing and Preclude Some Libraries from Obtaining State and Federal Grants*

SkyRiver and Innovative allege that these price increases for the uploading of non-OCLC catalog records harms all libraries, as OCLC members no longer receive the benefits of acquisitions from those libraries that stop batch uploading. Additionally, the complaint alleges that grants given to “libraries of last resort” in certain states predicate on the full participation in OCLC’s ILL services. (p. 17)

6. *OCLC Uses Library Membership Requirements to Control Product Development, Illegally Obtain Contracts, and Acquire Control of the ILS Market*

The complaint demonstrates a concern with OCLC’s product development and entrance in the ILS market with its cloud-computing based ILS [Web-scale Management Services](#). Plaintiffs contend that OCLC secures—through membership requirements—library participation in “free pilot programs” that are used to avoid competitive public procurement requirements and to preclude for-profit companies from having similar opportunity to develop products for university libraries. (p. 20) Finally, the complaint asserts that OCLC has remunerated “university library officials... to obtain their commitment to promote OCLC products and the development of those products at their universities.” (p. 21)

Relief Sought

SkyRiver and Innovative request monetary damages as well as injunctive relief. They request that the Court: (1) order OCLC to provide them and other potential competitors access to the WorldCat database on terms that are “just and reasonable”, (2) enjoin OCLC from using punitive pricing models for uploading records, (3) prevent OCLC from developing discriminatory pricing models through tying arrangements, and (4) pay monetary damages for harms suffered. The parties request a jury trial for all issues triable by a jury.

OCLC’s Response to the Lawsuit

The following statement is from Larry Alford, Chair, OCLC Board of Trustees, and Jay Jordan, OCLC President and CEO:

“On July 29, SkyRiver Technology Solutions and Innovative Interfaces, Inc. filed suit against OCLC, alleging anticompetitive practices. We at OCLC believe the lawsuit is without merit, and we will vigorously defend the policies and practices of the cooperative. OCLC’s General Counsel, working with trial counsel, will respond to this regrettable action by SkyRiver and Innovative Interfaces following procedures and timetables dictated by the court. This process will likely take months or even years, not days.

In the meantime, we want to assure the OCLC membership and all 72,000 libraries that use one or more OCLC services that these spurious allegations will not divert us from our current plans and activities. These include maintaining and enhancing existing services, pursuing an

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ambitious agenda in library research and advocacy, and introducing new Web-scale (cloud) services. Indeed, OCLC has been a global leader in providing cloud-based services for libraries since 1971, and the next generation of these services holds great promise for reducing member library costs.

It is worth noting that our current strategy represents a collective effort by librarians around the world, developed through ongoing dialogue and consultation with the Board of Trustees, Global Council, and Regional Councils in the Americas, Asia Pacific, and Europe, the Middle East and Africa. We will continue our active engagement with OCLC members and governance participants as, together, we move our cooperative forward.

Inclusion, reciprocity, trust and the highest standard of ethical conduct have guided the OCLC cooperative in the past and will guide us in the future. As always, OCLC's public purposes of furthering access to the world's information and reducing the rate of rise of library costs remain paramount."

—Larry Alford, Chair, OCLC Board of Trustees

—Jay Jordan, OCLC President and CEO

Further insight on OCLC's position can be found in Larry Alford's [speech](#) to members at the Americas Regional Council Meeting held in January 2010, in which he discusses policies relevant to the lawsuit.

Additional Resources and Commentary

- SkyRiver created the choiceforlibraries.com website, which compiles documents and updates relating to the case.
- OCLC's position and response to the MSU negotiations is summarized in Josh Hadro's article, [OCLC and Michigan State at Impasse Over SkyRiver Cataloging, Resource Sharing Costs](#). *Library Journal* (February 26, 2010).
- Marshall Breeding, [SkyRiver and Innovative Interfaces File Major Antitrust Lawsuit Against OCLC](#) *Library Journal* (July 29, 2010).
- Marshall Breeding, *Library Technology Guides*, [Guide to the SkyRiver vs. OCLC lawsuit](#).
- Jeffrey R. Young, *The Chronicle of Higher Education* [Library-Services Companies Sue OCLC, Alleging Anticompetitive Practices](#) (July 29, 2010).