

# **Policy Perspectives on Mass Digitization**

***Scholarship and Libraries in Transition:  
A Dialogue about the Impacts of Mass Digitization Projects***

*University of Michigan*

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# *Fair Use*

## **1. purpose and character of the use**

- commercial vs noncommercial
- preamble: “criticism, comment, news reporting, teaching scholarship, or research”
- transformative vs consumptive

## **2. nature of copyrighted work**

- published vs. unpublished
- factual vs. fictional

## **3. amount/substantiality of the portion used**

## **4. effect on the potential market for/value of the work**

an “equitable rule of reason”

Stewart v. Abend, 495 US 207 (1990)

Patricia Schroeder, executive director of the Association of American Publishers... saw it as giving a “huge pump to print-on-demand” and said this development could “solve the returns problem. In fact, it could solve a lot of supply chain problems.” Building acceptance of reading electronic texts, she thought, would encourage book sales by lowering prices for e-books. But overall, Schroeder thought it would not threaten publishers. “At the end of the day, what we can produce is creative, and that’s harder than techies think it is. We will still need publisher staffs.” Schroeder considers reprint houses and libraries to be vulnerable, however.

Barbara Quint reporting on reaction to Google Print Library Project, *Information Today*, Dec 2004

"Google's procedure shifts the responsibility for preventing infringement to the copyright owner rather than the user, turning every principle of copyright law on its ear," said Mrs. Schroeder.

"Many AAP members have partnered with Google in its Print for Publishers Program, allowing selected titles to be digitized and searchable on a limited basis pursuant to licenses or permission from publishers. We were confident that by working together, Google and publishers could have produced a system that would work for everyone, and regret that Google has decided not to work with us on our alternative proposal," Mrs. Schroeder said.

AAP press release, August 2005

*two proprietary infrastructures*  
*Microsoft vs. Google*

- PC-based
- personal productivity
- retail sales of licensed software
- closed system
- web-based
- content
- service supported by advertising
- open system