

## Snippets

### Designs for Digital Transformations in the Age of Google Books

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# Back to the Future The Future in the Past



ICDHS 10<sup>th</sup>+1  
BARCELONA 2018

Conference Proceedings Book  
Oriol Moret (ed.)

*ICDHS 10<sup>th</sup>+1 Conference / Barcelona 2018*

## o Opening Pages



*In memory of Anna Calvera (1954–2018)*

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# Back to the Future

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# Snippets: Designs for Digital Transformations in the Age of Google Books

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Snippet view / Google books / Knowledge design / Copyright / Reading

In this paper we shall argue that, in the digital realm, design issues relative to literature have shifted in a number of crucial ways. In particular the role of design in relation to epistemological and legal issues of digitized books has become more volatile, more pressing and at the same time more complex. The Google Books project has been a major force in defining what we know today as the digital realm of

literature. Google Books presents a set of new design solutions where design, among other things, responds to what stakeholders of the digital domain of books 'need'. Drawing on the concept of 'knowledge design' our focus will be on the ways that the 'snippet view' design of Google Books on the one hand invites new ways of reading and correlating and, on the other hand, challenges the traditional legal status

and relationships of books and their actors sustained by copyright law in the analogue world. We aim to identify a number of distinct needs of the involved actors – Google, authors, publishers, readers – that the 'snippet view' design addresses. Moreover, we shall consider the normative question of which needs should be directed in the digital realm of literature.

Since the Enlightenment, we have built up a knowledge production system, which is based on the assumption that the prime form of expression is the printed page. In the history of publishing, design issues associated with printed volumes have included, foremostly, layout. Thus, typographical, legibility, commercial, logistical and more aspects of book production have been matters for designerly concern. This approach is a legacy bestowed on digital design.

However, in a number of fields in the sciences, social sciences and humanities, the model of knowledge expression in the form of the printed text is breaking down. As Geoffrey Bowker notes, the net-worked, data-intensive landscape opens up for new and rich types of knowledge expression that take current infrastructures of knowledge into account (BOWKER, 2014).

Hence, in the digital realm, as we shall argue, design issues to be associated with literature have shifted in crucial ways: the role of design in relation to epistemological and legal issues has become more complex. Posing the question of how design, in today's digital realm, responds to what we *need* calls also for an answer to the normative question of how design *should* respond to what we need? In this paper we would like to consider these questions within the framework of recent systematic mass digitization of literature. Studying the case of Google Books we believe that the snippet view design plays different roles for different stakeholders, including Google, authors, publishers and readers. This has important implications for appreciating the way that digital reading is developing these years,

which, in turn, is of consequence for digital design. We intend to inform our discussion of this subject with the concept of 'knowledge design' as defined – and applied in various ways – by Digital Humanities scholars Johanna Drucker and Jeffrey Schnapp. As we see it the notion of knowledge design is both descriptive and normative. We shall also draw on Katherine Hayles' distinction between different modes of reading.

Mass digitization of books has taken place since the 1990s in various institutional forms and guises across the globe (THYLSTRUP, 2018). Yet, despite the heterogeneity of mass digitization, Google Books, which Google initiated in collaboration with libraries and publishers in 2004, has today become *the* major force in defining what we know as the digital realm of literature: books available online and searchable on the Internet (even if only by the Google browser). Google Books' status and impact stems not only from the monumentality of the endeavour or its technical ingenuity – which is otherwise often foregrounded as the reason of importance – but equally from the fact that it contains books in copyright and that it is free for users. These affordances sets it apart from other mass digitization projects such as Project Gutenberg, Gallica, Europeana and other online digital collections of books, not only in terms of the scale and content of mass digitization, but also the ways in which this content is presented.

Crucially, our argument is that Google Books presents a set of new *knowledge designs* – where design responds to a 'need' in various senses – with a number of associated epistemological and legal implications. We shall pursue this argument by, first, looking at the notion of knowledge design and then using the litigation over Google Books – where the United States Authors Guild brought a class action suit against Google over copyright infringement – to examine the ways that the snippet view design is at once symptomatic of and operational in digital transformations of literature and reading.



## Knowledge Design

The concept of knowledge design stresses that knowledge is design-dependent (DRUCKER, 2014: 66) and is useful when thinking about the ‘conception, creation, and implementation of projects in digital environments’ in terms of theorizing user interfaces, their underlying information infrastructures and the relations between these two.

Applying the concept of knowledge design on the digitization of literature we shall pay special heed to three insights, the first of which is that more than mere acts of mass digitization and online publishing is required in knowledge production (SCHNAPP, 2013: 8). Digital books as digitally constituted interface objects and infrastructures must be *designed* to, interface-wise and infrastructurally, open up to new and adequate ways of interacting with them. If mass digitization fails to effectively implement and integrate these two dimensions, the potential reader will meet a mess of content rather than experiencing a meaningful archival encounter. Indeed, mass digitization should not be thought of as a 1:1 transposition of analogue cultural works into the digital realm. Rather, mass digitization profoundly changes both the interfaces and infrastructures of cultural works (THYLSTRUP, 2018). The design questions relating to the knowledge production of mass digitization should therefore also rethink the knowledge expressions of digitized books, asking questions such as ‘How could such objects be better captured and described in screen environments?’ and ‘How might techniques and practices be developed that deepen, expand, and enrich our experience of objects, rather than providing impoverished digital doubles?’ (SCHNAPP, 2013: 16). Design interventions, then, should be directed not only at creating enhanced access but also at creating improved cultural and social value for users.

Accordingly the second fundamental knowledge design insight relates to how mass digitization can add value to, rather than subtract value from, cultural works. This question relates to the interfaces of mass digitization as well as their infrastructures, prompting the designer to consider both how objects can be enriched more in the digital sphere in terms of navigation and description as well as how the designer can foreground objects not as singular entities devoid of context, but rather as networked infrastructural objects (SCHNAPP, 2013: 17). Thus the designer’s role is to work actively with knowledge production in an ecology that exceeds the knowledge objects themselves.

This brings us to the third insight which, as Johanna Drucker puts it, is that knowledge is dependent on the systems it is embodied in: its embodiment is integral to knowledge itself (DRUCKER, 2014: 79). Thus the concept of knowledge design ties an operational level of how to exploit the affordances of digital media with a critical realization of their organizational, operational and epistemological principles:

At the higher levels of knowledge production, the very expectations about what constitutes our objects is constantly being transformed by digital tools and analysis. If I can read a large corpus of materials through a natural language summary or see the range of topics/themes covered in a set of materials too large for me to ever read directly, then *what* constitutes knowledge in a digital environment is different in character and quality from what it was in an analog environment. To implement the analytic tools to extract and make legible some ‘reading’ of materials at that scale and level is a design challenge that is part of the knowledge production system (DRUCKER, 2014: 79).

Taking these interrelated insights as our point of departure we aim to analyse Google Books through the lens of knowledge design. In the below, we shall

pursue the argument that the so-called ‘snippet view’ design in its capacity as a knowledge design invites new ways of reading and creating value while, simultaneously, it challenges established relationships of books and their stakeholders. The US copyright infringement cases involving the Authors Guild and Google Books set a new norm for legal and literary infrastructures. Crucially, the copyright system was designed for printed volumes: its logics and structuring of relationships reflected a system of knowledge expression tied to printing technology and the associated knowledge infrastructures (TEILMANN-LOCK, 2016). In order to make the argument we shall take a closer look at the Google copyright infringement cases, spelling out the design effects of the Google Books project.

## Google Books

In the Google Books project books from a number of partners (libraries, archives, publishers) were digitized, establishing a database where users of Google Books can make word searches in the whole corpus of digitized books. Search results include a list of the books in which the words appear and an indication of the number of times the words appear. Furthermore, users are typically allowed to see a limited number of so-called ‘snippets’ (typically amounting to an eighth of a page) of the book that contain the search term with the exception of the ‘blacklisted’ pages in books which imply that snippet view of them is permanently disabled. From its earliest instantiations Google Books offered different levels of visibility: ‘full view’, ‘limited preview’, ‘snippet view’ and ‘no preview available’.

Snippets, which Google likens to card catalogues,<sup>1</sup> were shown without the authorization of rights owners. While snippets appeared harmless in Google’s description (who could object to card catalogues?), they nevertheless soon led to legal disputes over copyright. In 2005 the American Authors Guild and the Publishers Association filed a class action against Google. In 2008–2009 a settlement agreement was attempted (but never came to be accepted by all the involved parties). In this process Google’s lawyers introduced the legal concept of ‘non-consumptive research’, which is comparable to the concept

[1] From Google’s description: ‘The Snippet View, like a card catalog, shows information about the book plus a few snippets – a few sentences to display your search term in context’. <https://www.google.com/googlebooks/library/screenshots.html>

of 'non-consumptive reading' used in Digital Humanities (SCHREIBMAN, 2014). In the amended settlement agreement between the Authors Guild, the American Publishers Association and Google a legal definition of non-consumptive research was presented:

"Non-Consumptive Research" means research in which computational analysis is performed on one or more Books, but not research in which a researcher reads or displays substantial portions of a Book to understand the intellectual content presented within the Book (Amended Settlement Agreement, 2009: sec. 1.93).

A number of categories of non-consumptive research were listed in the agreement including computational image and text analysis, text and information extraction, analysis of historical and synchronic linguistic patterns, automated translation, indexing and searching. Moreover, a series of 'non-display uses' were defined as

uses that do not display Expression from Digital Copies of Books or Inserts to the public. By way of example, display of bibliographic information, full-text indexing without display of Expression (such as listing the number or location of search matches), geographic indexing of Books, algorithmic listings of key terms for chapters of Books, and internal research and development using Digital Copies are all Non-Display Uses (*Ibid.*: sec. 1.94).

By introducing the two concepts of non-consumptive research and non-display uses Google was effectively delineating a series of uses to be non-copyright infringing by definition (inasmuch as these uses were defined in a way that was said to not involve reproduction or display of copyright content, both of which require authorization by the copyright holder). This was one of the clues to Google's success in the copyright infringement cases that were to be heard following the breakdown of the settlement agreement.

In 2015, when a decision was finally reached in the Authors Guild's case against Google the appeals court ruled in favour of Google. Crucially, the court considered the snippet view to be adding 'importantly to the highly transformative purpose of identifying books of interest to the searcher' (*Authors Guild v. Google Inc.*, 2015: 218) and as such to fall under fair use as defined by US Copyright law. The fair use defense for snippet view was further strengthened by the fact that although snippets display 'a fragment of expressive content', any snippet would have been 'arbitrarily selected' (by the searcher's search term) and as such, as was found by the court, 'the snippet function does not provide searchers with any meaningful experience of the expressive content of the book' (*Ibid.*: 227). In this way snippets would not constitute a substitute for the plaintiff's books. Accordingly, the court declared that the search function of Google Books was a non-infringing use of the copyrighted books of the Authors Guild's members. In particular, the court affirmed that

the purpose of Google's copying of the original copyrighted books is to make available significant information about those books, permitting a searcher to identify those that contain a word or term of interest, as well as those that

do not include reference to it. In addition, through the ngrams tool, Google allows readers to learn the frequency of usage of selected words in the aggregate corpus of published books in different historical periods (*Ibid.*: 217).

As maintained by the court there was no copyright infringement insofar as Google Books does not provide readers with access to 'reading' books, taking in their 'expressive content'; it only provides searchers with access to 'information' about the books.

### Snippet View

Google strategically likened the snippet view function to card catalogues: both constitute the user interface of machines where 'information is available on separate, uniform, and mobile carriers' that may be 'further arranged and processed according to strict systems of order' (KRAJEWSKI, 2011: 3). However, there are significant differences between the two technologies, not least on the level of impacts, scopes and associated actors; we maintain that it is worthwhile considering the interests at stake when analogue metaphors are used to describe digital technologies. (THYLSTRUP and TEILMANN-LOCK, 2017). As pointed out above, in the Google Books legal case, it effectively framed Google's fair use defence.

The 'snippet view' may be considered a design solution in different ways. It works as knowledge design in that it activates knowledge that would be unavailable without it and the design opens up to new and adequate ways of interacting with a vast bulk of literary works. Thereby it serves to fulfil Schnapps ambition of enhancing value by deepening, expanding and enriching our experience of objects ('rather than providing impoverished digital doubles'). Google Books furthermore approaches books as parts of various networks of relations: snippet view allows us to navigate in a way to expose both known and hidden interrelations. At a different level the snippet view design is integral to the knowledge it conveys – this is what Drucker pointed to as a defining feature of knowledge design. 'Literature' in the Google Books project is different in character and quality from analogue literature; the 'consumption' that snippet view enables differs from analogue reading. Importantly, the digital transformation that snippet view occasions is part and parcel of Google's legal defence. Thus it should not be overlooked that the snippet view represents a design solution, which plays a key role in making Google Books law-

ful. As such Google's legal argument is both symptomatic of and instrumental in the digital transformation. Law is a test for new norms: particularly, in this case, norms for consuming literature. Google proposed that snippet view facilitates only legitimate 'non-consumptive reading' and 'non-display uses': the court ruled in Google's favour holding that snippet view provides access to information rather than expression. And this distinction is decisive in copyright law: (original) expression is copyrightable while information is not. Historically, the distinction has been important for limiting the monopolizing effects of exclusive rights. However, with the snippet view design Google sets a new norm for the distinction between expression and information.

It is helpful to use Katherine Hayles' division between three modes of reading in *How We Think* (HAYLES, 2012). Hayles proposes to think of reading in the modalities of close reading, hyper reading and machine reading. Close reading implies reading with an eye for rhetoric, linguistic register, ideological layers and so forth that requires slow and precise attention to a text (HAYLES, 2012: 57ff). Hyper reading refers to reading on screen typically assisted by a computer that fil-

ters the text for search words and allows for a reading practice of skimming (for meaning), scanning (for keywords), juxtaposing, hyperlinking and picking out fragments of interest (*Ibid.*: 61f). Machine reading may be supervised (in different degrees) by humans or wholly unsupervised and is useful for text corpora that are too big for humans to read but where a computer may be able to draw inferences about the texts given its capacity to recognize patterns, systematize, summarize, and describe (*Ibid.*: 70ff). Hayles points out the overlaps between the three different modes of reading arguing that in combination they add up to an expanded repertoire of reading strategies. For example close and hyper reading may work in synergy and hyper reading and machine reading have in common the recognition of patterns (*Ibid.*: 75ff).

Notably, all three modes of reading apply to snippet view. There is usually enough context to grasp meaning, style, register and so forth through the close reading of a snippet. Snippet view facilitates hyper reading in multiple ways and allows access to machine readings of more books than any human could ever flip through. Returning to the question of the distinction between expression and information, which we suggest is being blurred by the snippet view design, it is significant that multiple modes of reading apply to the snippet view. The significance lies in the fact that close reading (and 'understanding') is taken by Google and the court of justice to be the implied and defining mode of consuming 'expression'. Google maintained that no user of Google Books would be able to understand the 'intellectual content' of the books presented there. Crucially, Google's argument, upheld in court, that what Google Books provided was mere 'information' about books, rests on the premise that insofar as the snippet view provides the options of non-consumptive reading and non-display uses (that are forms of hyper reading and machine reading) this excludes the possibility of simultaneously providing expression. But Hayles' reading modulations show us that expression and information relate to each other in the shape of an overlap and not as mutual exclusion.

This disruption of the opposition between expression and information, we maintain, is a result of the knowledge design character of the snippet view design. It is a digital transformation that, as Drucker argues, is linked to the constitution of the knowledge production system in a digital environment.

This brings us back to the initial questions of how design, in today's digital realm, responds to what we need? And in normative terms, how design *should* respond to what we need? In a nutshell the Google Books case and the snippet view design highlights that design solutions in the digital realm of books serve different purposes for different groups of stakeholders: authors, publishers, readers – and internet service providers. Since the demise of systematic state censorship copyright law has been the chief regulator of literature. Coming out of Enlightenment thinking copyright law sustained particular economic and social relationships between authors, publishers and readers. Authors got exclusive rights in exchange for their contribution to the production of knowledge for the sake of public good. Publishers were the intermediaries between authors and readers. With the entrance of Google Books the regulatory logics of the copyright system has come under pressure, as it is an entity which does not naturally conform to the logics and categories of copyright law.

Against this background we can begin to recognize the distinct needs that the snippet view design fulfils for authors, publishers, readers and Google respectively. In reverse order, apart from playing a role in Google's overall business model of generating user data from services free for consumers, the snippet view design met Google's obvious need for ensuring the legality of presenting copyright works without authorization from rights holders. *Authors* and *publishers* have overlapping interests. To be sure neither group had itself defined a need for the snippet view design. Indeed they objected to it by suing Google. However, given Google's increasingly dominating status both groups would, undeniably, need presence in the Google ecosystem. They got it but without the compensation they believed copyright entitled them to. Authors' need

of attribution was fulfilled by the listing of bibliographic details adjacent to the text view in Google Books. *Readers* got a free service and enough view of texts to facilitate the present-day defined need for web-browse-style reading: the particular mix of close reading, hyper reading and machine reading that we perform daily on screens.

What are the needs that design *should* address in the digital realm of literature? In the notion of knowledge design there is a strong normative element, which revolves around attending to epistemological and infrastructural conditions and effects of digital transformations on knowledge production. The notion of knowledge design gives directions for designerly actions in this environment. Accordingly, granted that design is integral to the production of knowledge, ethics should play a key role: designers are arguably more responsible than ever for the expression of knowledge. Design in the digital realm calls for an informed view of the shifts in infrastructures, reading modalities, stakeholder relationships and knowledge expression that add up to the digital transformations of literature in the age of Google Books.

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