

CASE NOS. 10-1883, 10-1947, 10-2052

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT**

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SONY BMG MUSIC ENTERTAINMENT, ET AL.,

*Plaintiffs-Appellants/Cross-Appellees,*

v.

JOEL TENENBAUM,

*Defendant-Appellee/Cross-Appellant.*

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**On Appeal From the United States District Court  
For the District of Massachusetts**

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**MOTION TO AMEND THE CAPTION**

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Plaintiffs-Appellants/Cross-Appellees Sony BMG Music Entertainment, Sony BMG Music Entertainment, Warner Bros. Records Inc., Arista Records LLC, and UMG Recordings, Inc., respectfully move this Court to amend the caption in these consolidated appeals to remove “Atlantic Recording Corporation” as a Plaintiff-Appellant/Cross-Appellee. Although Atlantic Recording Corporation was initially a Plaintiff in the proceeding below, the district court dismissed it from the case on July 20, 2009. *See* Ex. A, July 20, 2009 Electronic Clerk’s Notes, 1:03-cv-11661; Ex. B, Notice of Dismissal of Pl. Atlantic Recording Corporation, 1:03-cv-

11661, Consol. Doc. No. 891. As a result, although the district court continued to list Atlantic Recording Corporation in the case caption, Atlantic Recording Corporation was not a party to the court's July 9, 2010 final judgment and is not a party to any of the instant appeals. *See* Ex. C, Amended Judgment, 1:07-cv-11446, Doc. No. 48. Accordingly, Plaintiffs-Appellants respectfully request that this Court amend the caption in this case to remove "Atlantic Recording Corporation" as a party.

Respectfully submitted,

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March 2, 2011

# **EXHIBIT A**

CLOSED, COPYRT, LEAD

**United States District Court  
District of Massachusetts (Boston)  
CIVIL DOCKET FOR CASE #: 1:03-cv-11661-NG**

Capital Records, Inc. et al v. Alaujan  
Assigned to: Judge Nancy Gertner  
Member case: [\(View Member Case\)](#)

related Cases: [1:08-cv-11118-NG](#)

[1:08-cv-11119-NG](#)

[1:08-cv-11120-NG](#)

[1:08-cv-11121-NG](#)

[1:08-cv-11122-NG](#)

[1:08-cv-11123-NG](#)

[1:08-cv-11125-NG](#)

[1:09-cv-10656-NG](#)

[1:08-cv-11126-NG](#)

[1:08-cv-11128-NG](#)

[1:06-cv-10792-NG](#)

[1:08-cv-11127-NG](#)

[1:07-cv-10924-NG](#)

[1:08-cv-10093-NG](#)

[1:08-cv-10092-NG](#)

[4:08-cv-40007-FDS](#)

[4:07-cv-40236-FDS](#)

[4:07-cv-40261-FDS](#)

[1:07-cv-10341-NG](#)

[1:07-cv-10344-NG](#)

[1:07-cv-10116-NG](#)

[1:06-cv-12105-NG](#)

[1:06-cv-12106-NG](#)

[1:06-cv-12107-NG](#)

[4:06-cv-40145-FDS](#)

[1:07-cv-10325-NG](#)

[1:07-cv-10322-NG](#)

[1:07-cv-10117-NG](#)

[1:06-cv-10797-NG](#)

[1:06-cv-10797-NG](#)

[1:06-cv-10795-NG](#)

[1:06-cv-10794-NG](#)

[1:06-cv-10793-NG](#)

[1:07-cv-10329-NG](#)

[1:07-cv-10330-NG](#)

[1:07-cv-10333-NG](#)

[1:07-cv-10334-NG](#)

[1:07-cv-10335-NG](#)

[1:07-cv-10337-NG](#)

[1:07-cv-10338-NG](#)

[1:07-cv-10340-NG](#)

[1:06-cv-10486-NG](#)

[1:07-cv-10114-NG](#)

[1:06-cv-10482-NG](#)

Date Filed: 09/08/2003

Date Terminated: 09/28/2009

Jury Demand: Defendant

Nature of Suit: 820 Copyright

Jurisdiction: Federal Question

1:06-cv-10483-NG1:06-cv-10796-NG1:06-cv-10484-NG1:06-cv-10485-NG1:06-cv-11232-NG1:06-cv-11231-NG1:08-cv-12046-NG1:08-cv-12045-NG

Case in other court: First Circuit, 09-01091

Cause: 17:501 Copyright Infringement

Date Filed	#	Docket Text
07/20/2009	<u>890</u>	Supplemental MEMORANDUM in Opposition re <u>871</u> MOTION for Summary Judgment <i>Regarding Defendant's Fair Use Defense (In Tenenbaum)</i> filed by Joel Tenenbaum. (Nesson, Charles) (Entered: 07/20/2009)
07/20/2009		Judge Nancy Gertner: Electronic ORDER entered granting <u>856</u> Motion for Leave to Appear Pro Hac Vice; Added Matthew Oppenheim for all plaintiffs. <b>Attorneys admitted Pro Hac Vice must register for electronic filing. To register go to the Court website at <a href="http://www.mad.uscourts.gov">www.mad.uscourts.gov</a>. Select Case Information, then Electronic Filing (CM/ECF) and go to the CM/ECF Registration Form.</b> (Gaudet, Jennifer) (Entered: 07/20/2009)
07/20/2009		Electronic Clerk's Notes for proceedings held before Judge Nancy Gertner: Final Pretrial Conference/hearing on all pending matters held on 7/20/2009....Plf Mtn for Atty Oppenheim to appear Pro-hac vice-allowed; Dft moves orally to reconsider endorsement re:expert Wayne Marshall-under advisement; Plf moves orally to drop claims re: Atlantic recordings-Allowed, Plf will file an electronic mtn immediately.....all other pending matters taken under advisement. Trial will go forward on Monday 7/27/09 at 9:00am. (Atty present: Oppenheim, Reynolds, Burton, Pariser, Nesson, Kamholtz)(Court Reporter: O'Hara.)(Attorneys present: Nesson,) (Molloy, Maryellen) (Entered: 07/20/2009)
07/20/2009	<u>891</u>	NOTICE by All Plaintiffs <i>of Dismissal of Plaintiff Atlantic Recording Corporation</i> (Burton, Eve) (Entered: 07/20/2009)
07/20/2009	<u>892</u>	Response by All Plaintiffs <i>to Court's July 14, 2009 Order Regarding Fair Use Issues</i> . (Attachments: # <u>1</u> Exhibit Exhibits to Plaintiffs' Response to Court's July 14 Order regarding Fair Use Issues)(Burton, Eve) (Entered: 07/20/2009)
07/20/2009	<u>893</u>	PRETRIAL MEMORANDUM by Joel Tenenbaum. (Attachments: # <u>1</u> Exhibit A (Witness List), # <u>2</u> Exhibit B (Exhibit List), # <u>3</u> Exhibit C (Jury Instructions))(Nesson, Charles) (Entered: 07/20/2009)

# **EXHIBIT B**



Respectfully submitted this 20th day of July, 2009.

SONY BMG MUSIC ENTERTAINMENT;  
WARNER BROS. RECORDS INC.;  
ATLANTIC RECORDING CORPORATION;  
ARISTA RECORDS LLC; and UMG  
RECORDINGS, INC.

By their attorneys,

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ATTORNEYS FOR PLAINTIFFS



# **EXHIBIT C**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

\_\_\_\_\_ )  
 SONY BMG MUSIC )  
 ENTERTAINMENT; WARNER BROS. )  
 RECORDS INC.; ATLANTIC )  
 RECORDING CORP.; ARISTA )  
 RECORDS LLC; and UMG )  
 RECORDINGS, INC., )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 JOEL TENENBAUM, )  
 Defendant. )  
 \_\_\_\_\_ )  
 GERTNER, D.J.:

Civil Action No. 07cv11446-NG

**AMENDED JUDGMENT**

July 9, 2010

For the reasons stated in this Court’s Memorandum and Order entered this same date, the judgment entered in this case on December 7, 2009, is hereby vacated and replaced by this amended judgment.

**IT IS HEREBY ORDERED AND ADJUDGED THAT:**

**Judgment is entered in favor of plaintiffs and against defendant as follows:**

1. Sony BMG Music Entertainment: Eleven Thousand Two Hundred Fifty And 00/100 Dollars (\$11,250.00) for the five sound recordings;
2. Warner Bros. Records Inc.: Twenty-Two Thousand Five Hundred And 00/100 Dollars (\$22,500.00) for the ten sound recordings;
3. Arista Records LLC: Four Thousand Five Hundred And 00/100 Dollars (\$4,500.00) for the two sound recordings; and,
4. UMG Recordings, Inc.: Twenty-Nine Thousand Two Hundred Fifty And 00/100 Dollars (\$29,250.00) for the thirteen sound recordings.

Furthermore, defendant shall be, and hereby is, enjoined from directly or indirectly infringing plaintiffs’ rights under federal or state law in any sound recording, whether now in

existence or later created, that is owned or controlled by plaintiffs (or any parent, subsidiary, or affiliate record label of plaintiffs) (“Plaintiffs’ Recordings”), including without limitation by using the Internet or any online media distribution system to reproduce or distribute any of Plaintiffs’ Recordings, except pursuant to a lawful license or with the express authority of plaintiffs. Defendant also shall destroy all copies of Plaintiffs’ Recordings that defendant has downloaded onto any computer hard drive or server without plaintiffs’ authorization and shall destroy all copies of those downloaded recordings transferred onto any physical medium or device in defendant’s possession, custody, or control.

**SO ORDERED.**

**Date: July 9, 2010**

*/s/ Nancy Gertner*  
\_\_\_\_\_  
**NANCY GERTNER, U.S.D.C.**

## CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of March, 2011, I served the foregoing Motion to Amend the Caption electronically and by mail upon counsel shown below:

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