

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

Nos. 10-1883, 10-1947 & 10-2052

SONY BMG MUSIC ENTERTAINMENT, a Delaware General Partnership;
WARNER BROS. RECORDS, INC., a Delaware Corporation; ATLANTIC
RECORDING CORPORATION, a Delaware Corporation; ARISTA RECORDS,
LLC, a Delaware Limited Liability Company; UMG RECORDINGS, INC., a
Delaware Corporation; UNITED STATES,

Plaintiffs-Appellants/Cross-Appellees,

v.

JOEL TENENBAUM,

Defendant-Appellee/Cross-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

**INTERVENOR UNITED STATES' MOTION
FOR INDEPENDENT ORAL ARGUMENT**

The United States, intervenor-appellant in this action, respectfully moves for independent oral argument. This motion is based on the following grounds:

1. The United States intervened in this action to defend the constitutionality of the Copyright Act and to set forth its views on the correct interpretation of the statute's statutory damages provision and the trial court's power to review the

jury's damage award.

2. Though the United States is aligned with the plaintiffs-appellants in defending the constitutionality of the Copyright Act, our views diverge from those of both plaintiffs and defendant on several important questions in the case, including the trial court's duty to avoid resolution of constitutional issues, the scope of the trial court's common law power of remittitur, and the application of the Seventh Amendment. *See, e.g.*, United States FRAP 28(j) submission of supplemental authority, filed March 7, 2011.

3. In light of the importance of these issues and the unique interests of the United States' in this litigation, we respectfully request that the Court allot the government 15 minutes of argument time, independent of any argument time allotted the plaintiffs or defendant.

CONCLUSION

The United States' motion for independent oral argument should be granted, and the United States should be allotted 15 minutes of oral argument time.

Respectfully submitted,

/s/ Jeffrey Clair

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CERTIFICATE OF SERVICE

I certify that on March 7, 2011, I served the foregoing motion for independent oral argument by electronically filing the brief with the Court. As counsel for the defendant and private party, plaintiffs-appellants are registered with the Court's Electronic Case Filing System, the electronic filing of this brief constitutes service upon them under the Court's Administrative Order Regarding Electronic Case Filing, (September 14, 2009).

The following counsel were served in this manner:

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