

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

MEMO ENDORSED

UNIVERSITY... ELECTRONICALLY FILED... DATE FILED: 1/7/13

UNITED STATES OF AMERICA
Plaintiff,
v.
APPLE, INC.,
HACHETTE BOOK GROUP, INC.,
HARPERCOLLINS PUBLISHERS, L.L.C.
VERLAGSGRUPPE GEORG VON
HOLTZBRINK PUBLISHERS, LLC
d/b/a MACMILLAN,
THE PENGUIN GROUP,
A DIVISION OF PEARSON PLC,
PENGUIN GROUP (USA), INC. and
SIMON & SCHUSTER, INC.,
Defendants.

Civil Action No.12-CV-2826 (DLC)

Granted.
Jennifer Cole
January 7, 2013

MOTION OF AMICUS CURIAE BOB KOHN FOR LEAVE TO FILE AMICUS CURIAE BRIEF REGARDING THE GOVERNMENT'S PROPOSED SCHEDULE FOR PENGUIN TUNNEY ACT REVIEW

Amicus Curiae Bob Kohn, through his pro bono counsel, pursuant to 15 U.S.C. Sec. 16(f)(3), hereby moves for leave to file an amicus curiae brief for the sole purpose of commenting on the Department of Justice's Proposed Schedule for Penguin Tunney Act Review ("Proposed Schedule"), which was filed on January 3, 2013 in compliance with the Court's order dated December 19, 2013.

The grounds for this motion, as more fully set forth in the accompanying Memorandum of Points and Authorities, are that Kohn's comments would be helpful to the Court in evaluating the Proposed Schedule.

Kohn has approached defendants Macmillan, Penguin, and Apple and none have of them have taken a position on the filing of this motion. Kohn has left a message with the Department of Justice regarding his intention to file this motion. Last year, in connection with Kohn's motion for leave to participate as *amicus curiae*, the DOJ stated to Kohn, "Our position is that we are not going to consent to the filing of any *amicus* briefs." Given the importance of this matter, Kohn is hopeful that the DOJ will not wish to object to Kohn's desire for a ruling on the matter that is the subject of his proposed *amicus* brief.

WHEREFORE, this motion should be granted and Kohn should be authorized to file, pursuant to 15 U.S.C. 16(f)(3), the proposed brief *amicus curiae* accompanying this motion.

Dated: January 7, 2012

Respectfully submitted,



BOB KOHN
California Bar No. 100793
140 E. 28th St.
New York, NY 10016
Tel. +1.408.602.5646
Fax. +1.831.309.7222
eMail: bob@bobkohn.com

/s/ Steven Brower

By: _____
STEVEN BROWER [PRO HAC]
California Bar No. 93568
BUCHALTER NEMER
18400 Von Karman Ave., Suite 800
Irvine, California 92612-0514
Tel: +1.714.549.5150
Fax: +1.949.224.6410
Email: sbrower@buchalter.com

Pro Bono Counsel to Bob Kohn