

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

FILED  
IN CLERKS OFFICE

2000 NOV 18 A 10 29

\_\_\_\_\_  
CAPITOL RECORDS, INC. et al.,  
  
Plaintiffs,

v.

NOOR ALAUJAN,  
  
Defendant.

)  
)  
) U.S. DISTRICT COURT  
) DISTRICT OF MASSG  
) (LEAD DOCKET NUMBER)

\_\_\_\_\_  
SONY BMG MUSIC ENTERTAINMENT, et al.  
  
Plaintiffs,

v.

JOEL TENENBAUM  
  
Defendant.

)  
)  
) Civ. Act. No. 07-cv-11446-NG  
) (ORIGINAL DOCKET NUMBER)

**NOTICE OF CONSTITUTIONAL QUESTION**

Dear Mr. Attorney General:

Pursuant to Fed. R. Civ. P. 5.1(a), Joel Tenenbaum, Defendant and counterclaim-Plaintiff in the above-captioned case, submits this Notice of Constitutional Question on the Attorney General of the United States. Defendant is challenging the constitutionality of the Copyright Act of 1976 and the Digital Theft Deterrence and Copyright Damages Improvement Act of 1999 ("the Acts"). Please see the following statement of questions and identification of papers asserting constitutional questions:

**Statement of questions:**

- The Acts authorize prosecutions which are civil in form but criminal in nature. Plaintiffs are attempting to enforce them against Defendant without the criminal safeguards to which he is entitled to under the constitutional requirements of criminal procedure.
- The Acts unconstitutionally delegate prosecutorial power to private parties.
- The Acts violate constitutional separation of powers by enlisting civil courts and civil process in the prosecution of a strategy of legal extortion being pursued for ulterior purpose.
- The Acts, as applied to Defendant, violate the substantive Due Process requirements of the Fifth and Eighth Amendments to the Constitution by mandating grossly excessive minimum statutory damages and allowing grossly excessive maximum statutory damages.

**Identification of papers raising constitutional questions:**

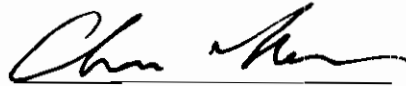
Defendant asserted a constitutional challenge by counterclaim. *Sony BMG Music Entertainment, et al., v. Tenenbaum, D. Mass., Case No. 03-cv-11661-NG, Doc. No. 625.*

Pending before the Court at the time of this mailing is Defendant's Motion to Amend Counterclaim, appended to which is a proposed amendment. *Doc. No. 686.* The proposed amendment asserts constitutional challenges.

Pending before the Court at the time of this mailing is Defendant's Opposition to Plaintiffs' Motion to Dismiss Counterclaims. *Doc. No. 676.* This Opposition asserts constitutional challenges.

Dated: November 17, 2008

Respectfully submitted,

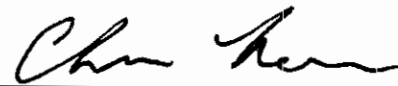


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ATTORNEY FOR DEFENDANT

**CERTIFICATE OF SERVICE**

I, Charles Nesson, hereby certify that on November 17, 2008, a true copy of the above document was served on the Attorney General of the United States and counsel for Plaintiffs at the addresses below.



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