

UNITED STATES DISTRICT COURT
 DISTRICT OF MASSACHUSETTS

_____)		
CAPITOL RECORDS, INC., et al.,)	Plaintiffs,)	Civ. Act. No. 03-cv-11661-NG
	v.)	(LEAD DOCKET NUMBER)
)	
NOOR ALAUJAN,)	Defendant.)	
_____)		
_____)		
SONY BMG MUSIC ENTERTAINMENT,)	Plaintiffs,)	Civ. Act. No. 07-cv-11446-NG
et al.,)	v.)	(ORIGINAL DOCKET NUMBER)
)	
JOEL TENENBAUM,)	Defendant.)	
_____)		

**PLAINTIFFS’ MOTION FOR LEAVE TO FILE RESPONSE TO
 AMICUS BRIEF OF FREE SOFTWARE FOUNDATION**

On March 25, 2009, the Court granted leave to the Free Software Foundation (“FSF”) to file an amicus curiae brief (“Brief”) (Docket No. 791) in support of Defendant’s Motion to Dismiss. The FSF’s Brief asks the Court to apply the Supreme Court’s *Gore* and *State Farm* decisions addressing the constitutionality of *punitive damage* awards to analyze the constitutionality of *statutory damages* for copyright infringement established by Congress. FSF’s Brief makes several arguments not raised in the parties’ briefs and also misconstrues the nature of Plaintiffs’ claims against Defendant. Plaintiffs respectfully request leave to file a response to the FSF’s Brief so that they may have an opportunity to respond to the FSF’s new

arguments and FSF's incorrect characterization of this case. A copy of Plaintiffs' Response Brief is attached hereto as Exhibit A.

Plaintiffs certify under Local Rule 7.1(a)(2) that they have conferred with Defendant and with FSF concerning this motion for leave and have been advised that neither Defendant nor FSF opposes the Motion.

WHEREFORE, Plaintiffs request leave to file the Response Brief attached hereto.

Respectfully submitted this 21st day of April 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

CERTIFICATE OF SERVICE

The undersigned hereby certify that on April 21, 2009, the foregoing **PLAINTIFFS' MOTION FOR LEAVE TO FILE RESPONSE TO AMICUS BRIEF OF FREE SOFTWARE FOUNDATION** and was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF):

The undersigned also certifies that on April 21, 2009, a copy of the foregoing **PLAINTIFFS' MOTION FOR LEAVE TO FILE RESPONSE TO AMICUS BRIEF OF FREE SOFTWARE FOUNDATION** was served by United States Mail on the following:

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