

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CAPITOL RECORDS, INC., <i>et al.</i> ,)	
)	
Plaintiffs)	Civ. Act. No.
)	03-CV-11661-NG
v.)	(LEAD DOCKET NUMBER)
)	
NOOR ALAUJAN,)	
)	
Defendant.)	

)	
SONY BMG MUSIC ENTERTAINMENT, <i>et al.</i> ,)	
)	
Plaintiffs,)	Civ. Act. No.
)	07-CV-11446-NG
v.)	(ORIGINAL DOCKET NUMBER)
)	
JOEL TENENBAUM,)	
)	
Defendant.)	

**DEFENDANT'S REQUEST FOR JURY INSTRUCTION
RE: DAMAGES**

Without waiving his objections that any amount of statutory damages in this case would be excessive and unconstitutional, and not applicable to a non-commercial user, the Defendant requests that the jury be instructed that they may consider the following factors in determining the amount of statutory damages:

1. Whether or not the infringement was for a commercial purpose, or for profit;
2. Whether or not the infringer acted maliciously with the intent to injure the copyright holder;
3. The age and maturity of the infringer.

It is clear that the Copyright Act contemplates that the highest damages be extracted only from the worst offenders, and that the high end of the continuum of infringers is occupied by malicious commercial enterprises in the business of selling unauthorized copies for profit.

The jury's decision-making process must be channeled to effect this legislative intent.

Date: July 30, 2009

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CERTIFICATE OF SERVICE

I, Matthew A. Kamholtz, hereby affirm that the within document was this day filed through the ECF system and will be sent electronically to the registered participants as identified in the Notice of Electronic filing, and that paper copies will be sent to those indicated as non-registered participants.

Date: July 30, 2009

/s/ Matthew A. Kamholtz
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