

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

CAMBRIDGE UNIVERSITY PRESS, et al.,  
Plaintiffs-Appellants,

v.

MARK P. BECKER, et al.,  
Defendants-Appellees.

Nos. 12-14676,  
12-15147

**MOTION BY UNITED STATES TO EXTEND TIME  
IN WHICH TO FILE AMICUS BRIEF**

SCOTT R. McINTOSH  
DANIEL TENNY  
(202) 514-1838  
*Attorneys, Appellate Staff*  
*Civil Division*  
*U.S. Department of Justice*  
*950 Pennsylvania Ave., N.W.*  
*Room 7215*  
*Washington, D.C. 20530*

**CERTIFICATE OF INTERESTED PERSONS AND  
CORPORATE DISCLOSURE STATEMENT**

Pursuant to 11th Cir. Rule 26.1, counsel for the United States of America certify that the following have an interest in the outcome of this appeal:

Albert, J.L.

Alford, C. Dean

Askew, Anthony B.

Association of American Publishers

Ballard Spahr, LLP

Banks, W. Wright, Jr.

Bates, Mary Katherine

Becker, Mark P.

Bernard, Kenneth R., Jr.

Bishop, James A.

Bloom, Jonathan

Board of Regents of the University System of Georgia

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Bondurant, Mixson & Elmore, LLP

Cambridge University Press

Carter, Hugh A., Jr.

Cleveland, William H.

Cooper, Frederick E.

Copyright Clearance Center

Ellis, Larry R.

Evans, Hon. Orinda D.

Gentry, Robin L.

Georgia State University

Griffin, Rutledge A., Jr.

Harbin, John Weldon

Hatcher, Robert F.

Henry, Ronald

Hopkins, C. Thomas, Jr.

Hurt, Charlene

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Jennings, W. Mansfield, Jr.

Jolly, James R.

King & Spalding, LLP

Krugman, Edward B.

Larson, Todd D.

Leebern, Donald M., Jr.

Lerer, R.O.

Levie, Walter Hill, III

Lynn, Kristen A.

McIntosh, Scott R.

McKeon Meunier Carlin & Curfman, LLC

McMillan, Eldridge

Miller, Richard William

Moffit, Natasha Horne

NeSmith, William, Jr.

Olens, Samuel S.

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Oxford University Press USA

Oxford University Press, Inc.

Oxford University Press, LLC

Palm, Risa

Patton, Carl V.

Poitevint, Doreen Stiles

Potts, Willis J., Jr.

Pruitt, Neil L., Jr.

Quicker, Katrina M.

Rains, John H., IV

Rich, R. Bruce

Rodwell, Wanda Yancey

SAGE Publications, Inc.

Schaetzel, Stephen M.

Seamans, Nancy

Singer, Randi W

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State of Georgia

Stelling, Kessel, Jr.

Tarbutton, Benjamin J., III

Tenny, Daniel

The Chancellor, Masters and Scholars of the University of Oxford

Tucker, Richard L.

Vigil, Allan

Volkert, Mary Josephine Leddy

Walker, Larry

Weil Gotshal & Manges, LLP

Whiting-Pack, Denise E.

Wilheit, Philip A., Sr

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**MOTION BY UNITED STATES TO EXTEND TIME  
IN WHICH TO FILE AMICUS BRIEF**

The United States respectfully moves for a 21-day extension of time, to and including February 25, 2013, in which to file any amicus brief in support of appellants or in support of neither party. This request is contingent on the Court's granting the parties' joint motion for an extension of the appellees' briefing time. Plaintiffs-appellants consent to this motion, but defendants-appellees do not consent.

1. This is an action under the Copyright Act by the publishers of copyrighted works that were excerpted and distributed as course materials at Georgia State University. The principal issue in the case is whether the

university committed copyright infringement by reproducing and disseminating those course materials to students through an electronic distribution system without the permission of the copyright owners. The plaintiffs are publishers of the works, and the defendants are university officials sued in their official capacities.

In a 350-page opinion, the district court adjudicated the copyright claims with regard to 74 excerpts that were placed on the electronic distribution system. The court concluded that the plaintiffs had proven their copyright infringement case as to five of those works, and the defendants prevailed on the others. The court issued an injunction requiring the defendants to conform their policies to the analysis set forth in the court's opinion, and awarded attorney's fees and costs to the defendants. Plaintiffs appeal.

2. The government is currently evaluating whether to participate in this appeal as *amicus curiae*. The appellants' opening brief is due January 28, 2013. An amicus brief in support of appellants, or in support of neither party, would be due on February 4, 2013. Fed. R. App. P. 29(e).



Any *amicus* participation would need to be authorized by the Solicitor General, *see* 28 C.F.R. § 0.20(c), after consultation with all interested agencies within the government. That consultation and review process has not yet concluded, and the government requests additional time to consider the issues presented in this case.

On January 18, 2013, the parties filed a joint motion to extend the deadline for the appellees' brief by 45 days, to April 21, 2013. If the joint motion is granted, the United States respectfully requests an extension of 21 days, to and including February 25, 2013, to file any *amicus* brief in support of appellants or in support of neither party. If the Court grants an extension, but the Solicitor General determines that the United States will not file an *amicus* brief, or that the United States will file an *amicus* brief in support of appellees, we will notify the Court and the parties no later than February 25.

This extension will afford the government additional time to consider this case without jeopardizing the briefing schedule applicable to the parties. If the Court grants the joint motion for an extension of appellees'

briefing time, appellees would have ample time, in advance of the deadline for filing their brief, to consider the points made in any *amicus* brief filed by February 25, 2013.

3. Counsel for plaintiffs-appellants have authorized us to state that they do not oppose this motion. Counsel for defendants-appellees have informed us that they do not consent to this motion, and have not yet decided whether they will file a written opposition.

Respectfully submitted,

SCOTT R. McINTOSH

/s/ Daniel Tenny

DANIEL TENNY

(202) 514-1838

Attorneys, Appellate Staff

Civil Division

U.S. Department of Justice

950 Pennsylvania Ave., N.W.

Room 7215

Washington, D.C. 20530

JANUARY 2013

## **CERTIFICATE OF SERVICE**

I hereby certify that on January 25, 2013, I filed and served the foregoing motion on counsel of record through this Court's CM/ECF system.

/s/ Daniel Tenny  
Daniel Tenny