

# Jury awards 4675K in Boston music downloading case

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BOSTON — A Boston University student has been ordered to pay \$675,000 to four record labels for illegally downloading and sharing music.

Joel Tenenbaum, of Providence, R.I., admitted he downloaded and distributed 30 songs. The only issue for the jury to decide was how much in damages to award the record labels.

Under federal law, the recording companies were entitled to \$750 to \$30,000 per infringement. But the law allows as much as \$150,000 per track if the jury finds the infringements were willful. The maximum jurors could have awarded in Tenenbaum's case was \$4.5 million.

The case is only the nation's second music downloading case against an individual to go to trial.

Last month, a federal jury in Minneapolis ruled a Minnesota woman must pay nearly \$2 million for copyright infringement.

THIS IS A BREAKING NEWS UPDATE. Check back soon for further information. AP's earlier story is below.

BOSTON (AP) — A lawyer for a Boston University student who admitted illegally downloading and sharing music urged a federal jury Friday to "send a message" to the music industry by awarding only minimal damages.

The jury began deliberating the case Friday afternoon.

After Joel Tenenbaum, 25, admitted Thursday he is liable for damages for 30 songs at issue in the case, U.S. District Judge Nancy Gertner ruled that the jury must consider only whether his copyright infringement was willful and how much in damages to award four recording labels that sued him over the illegal file-sharing.

In his closing statement Friday, Tenenbaum's lawyer, Harvard Law School professor Charles Nesson, repeatedly referred to Tenenbaum as a "kid" and asked the jury to award only a small amount to the recording companies. At one point, Nesson suggested the damages should be as little as 99 cents per song, roughly the same amount Tenenbaum would have to pay if he legally purchased the music online.

"This is a federal case, and what is it about? It's about a kid in his bedroom clicking on a computer screen. It seems out of proportion," he said.

But Tim Reynolds, a lawyer for the recording labels, recounted Tenenbaum's history of file-sharing from 1999 to 2007. Tenenbaum admitted on the witness stand that he had downloaded and shared more than 800 songs.

"The defendant is a hard-core, habitual, long-term infringer who knew what he was doing was wrong, but did it anyway," Reynolds told the jury.

Tenenbaum, of Providence, R.I., said he downloaded and shared hundreds of songs by Nirvana, Green Day, The Smashing Pumpkins and other artists. The recording industry focused on only 30 songs in the case, the nation's second music-downloading lawsuit against an individual to go to trial.

Experts on copyright law said Tenenbaum's decision to openly admit infringement is risky.

"I think the strategy here is to send a message to the record companies, and it is to sort of highlight to the public how out of control the potential copyright damages are," said Niels Schaumann, a professor at William Mitchell College of Law in St. Paul, Minn.

"What they risk is the outcome that they got in the Jammie Thomas case in Minnesota, where you have an exorbitant verdict."

Last month, a federal jury in Minneapolis ruled that Jammie Thomas-Rasset, 32, must pay \$1.92 million, or \$80,000 on each of 24 songs, after concluding she willfully violated the copyrights on those tunes.

Under federal law, the recording companies are entitled to \$750 to \$30,000 per infringement but the law allows the jury to raise that to as much as \$150,000 per track if it finds the infringements were willful. That means a maximum penalty of \$4.5 million in Tenenbaum's case.

The music industry has typically offered to settle such cases for about \$5,000, though it has said that it stopped filing such lawsuits last August and is instead working with Internet service providers to fight the worst offenders. Cases already filed, however, are proceeding to trial.

Tenenbaum testified that he had lied in pretrial depositions when he said his two sisters, friends and others may have been responsible for downloading the songs to his computer.

Under questioning from his own lawyer, Tenenbaum said he now takes responsibility for the illegal swapping.

"I used the computer. I uploaded, I downloaded music ... I did it," Tenenbaum said.

His testimony contrasted with the tactic used by Thomas-Rasset. Even after the jury's verdict.

Photo 1 of 2



Joel Tenenbaum, a graduate student from Providence, R.I., poses outside federal court, after taking the stand in his defense in his copyright-infringement trial, Thursday, July 30, 2009, in Boston. Tenenbaum is accused of illegally swapping music through an online file-sharing network. (AP Photo/Bizuyayehu Tesfaye)

