

Jury awards \$675K in Boston music downloading case

1 August 2009, By DENISE LAVOIE , Associated Press Writer



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/Bizuayehu Tesfaye)

(AP) -- A federal jury on Friday ordered a Boston University graduate student who admitted illegally downloading and sharing music online to pay \$675,000 to four record labels.

Joel Tenenbaum, of Providence, R.I., admitted in court that 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.

Jurors ordered Tenenbaum to pay \$22,500 for each incident of [copyright infringement](#), effectively finding that his actions were willful. The attorney for the 25-year-old student had asked the jury earlier Friday to "send a message" to the music industry by awarding only minimal damages.

Tenenbaum said he was thankful that the case wasn't in the millions and contrasted the significance of his fine with the maximum.

"That to me sends a message of 'We considered your side with some legitimacy,'" he said. "\$4.5 million would have been, 'We don't buy it at all.'"

He added he will file for bankruptcy if the verdict stands.

Tenenbaum's lawyer, Harvard Law School professor Charles Nesson, said the jury's verdict was not fair. He said he plans to appeal the decision because he was not allowed to argue a case based on fair use.

The Recording Industry Association of America issued a statement thanking the jury for recognizing the impact [illegal downloading](#) has on the music community.

"We appreciate that Mr. Tenenbaum finally acknowledged that artists and [music companies](#) deserve to be paid for their work," the statement said. "From the beginning, that's what this case has been all about. We only wish he had done so sooner rather than lie about his illegal behavior."

Tenenbaum would not say if he regretted downloading music, saying it was a loaded question.

"I don't regret drinking underage in college, even though I got busted a few times," he said.

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 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.

The jury began deliberating the case Friday afternoon.

After Tenenbaum 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, 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.

But Tim Reynolds, a lawyer for the recording labels, recounted Tenenbaum's history of file-sharing from 1999 to 2007, describing him as "a hardcore, habitual, long-term infringer who knew what he was doing was wrong." Tenenbaum admitted on the witness stand that he had downloaded and shared more than 800 songs.

Tenenbaum 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 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.

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Associated Press writer Jeannie Nuss contributed reporting from Boston.

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