

IN THE SUPREME COURT OF THE UNITED STATES

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No. 17-571

FOURTH ESTATE PUBLIC BENEFIT CORPORATION, PETITIONER

v.

WALL-STREET.COM, LLC, ET AL.

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ON WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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MOTION OF THE UNITED STATES FOR LEAVE TO  
PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE  
AND FOR DIVIDED ARGUMENT

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Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in the oral argument in this case as amicus curiae supporting respondents and that the United States be allowed ten minutes of argument time. Respondents have agreed to cede ten minutes of argument time to the United States and therefore consent to this motion.

This case presents the question whether the Copyright Act permits a copyright owner to commence a suit for copyright

infringement before the Register of Copyrights, as director of the Copyright Office, has acted on the owner's application for registration. The court of appeals held that a copyright owner may not institute a copyright-infringement suit until the Register of Copyrights has acted on the owner's application. Pet. App. 1a-10a. The United States has filed a brief as amicus curiae supporting respondents, agreeing that a copyright-infringement suit may not be filed until the Register of Copyrights has either approved or refused registration of the work.

Because the Copyright Office is responsible for copyright registration, and because the resolution of this case could affect the Register's ability to advise district courts on the registrability of works that are the subject of copyright-infringement suits, the United States has a substantial interest in the issue in this case. At the Court's invitation, the United States filed a brief as amicus curiae at the petition stage of this case.

The government has previously presented oral argument as amicus curiae in cases concerning the proper application of copyright law, including the registration requirement. See, e.g., Kirtsaeng v. John Wiley & Sons, Inc., 136 S. Ct. 1979 (2016); Petrella v. Metro-Goldwyn-Mayer, Inc., 572 U.S. 663 (2014); Kirtsaeng v. John Wiley & Sons, Inc., 568 U.S. 519 (2013); Reed Elsevier, Inc. v. Muchnick, 559 U.S. 154 (2009). We therefore

believe that participation by the United States in the oral argument in this case would be of material assistance to the Court.

Respectfully submitted.

NOEL J. FRANCISCO  
Solicitor General

OCTOBER 2018