

IN THE SUPREME COURT OF THE UNITED STATES

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No. 22-1078

WARNER CHAPPELL MUSIC, INC., ET AL., PETITIONERS

v.

SHERMAN NEALY, 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  
AS AMICUS CURIAE SUPPORTING RESPONDENTS  
FOR LEAVE TO PARTICIPATE IN AND FOR DIVIDED ORAL ARGUMENT

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Pursuant to Rules 21, 28.4, and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States as amicus curiae supporting respondents, respectfully moves that the United States be granted leave to participate in the oral argument in this case, and that the time be allotted as follows: 30 minutes for petitioners, 20 minutes for respondents, and 10 minutes for the United States. Respondents consent to this motion.

This case concerns the limitations period set forth in the Copyright Act, which states that “[n]o civil action shall be maintained under the provisions of this title unless it is

commenced within three years after the claim accrued.” 17 U.S.C. 507(b). The question presented -- as reformulated by this Court -- is whether, under the discovery accrual rule applied by the courts of appeals and Section 507(b), a plaintiff can recover damages for infringing acts that occurred more than three years before she filed suit. The reformulated question presented asks the parties to assume, for purposes of this case, that a claim for copyright infringement “accrue[s]” within the meaning of Section 507(b) when the plaintiff discovers or reasonably should have discovered the injury that gives rise to the claim. The United States has filed a brief as amicus curiae supporting respondents, arguing that when a claim for copyright infringement is filed within three years after the date of actual or constructive discovery, and therefore is timely under the discovery rule, nothing in the Copyright Act imposes any further time-based limit on the damages the plaintiff may recover. The United States further contends that this Court’s decision in Petrella v. Metro-Goldwyn-Mayer, Inc., 572 U.S. 663 (2014), does not support a limitation on the damages a successful plaintiff may recover for an infringement claim that is timely under the discovery rule.

The United States has a substantial interest in the resolution of the question presented. The Copyright Office is responsible for, among other things, administering the registration of creative works and for advising Congress, federal agencies, the courts, and

the public on copyright law and policy. See 17 U.S.C. 701. The Copyright Office also operates the Copyright Claims Board, which resolves small-claims copyright actions governed by a statute of limitations materially identical to 17 U.S.C. 507(b). See 17 U.S.C. 1504(b)(1). The United States Patent and Trademark Office, through the Secretary of Commerce, advises the President on intellectual-property matters. 35 U.S.C. 2(b)(8) and (c)(5). The question presented implicates the expertise and responsibilities of other federal agencies and components as well.

The United States regularly presents oral argument as amicus curiae in cases concerning copyright law. See, e.g., Andy Warhol Foundation v. Goldsmith, 143 S. Ct. 1258 (2023); Unicolors, Inc. v. H&M Hennes & Mauritz, L.P., 142 S. Ct. 941 (2022); Google LLC v. Oracle Am., Inc., 141 S. Ct. 1183 (2021); Georgia v. Public.Resource.Org, Inc., 140 S. Ct. 1498 (2020); Star Athletica, L.L.C. v. Varsity Brands, Inc., 580 U.S. 405 (2017); Kirtsaeng v. John Wiley & Sons, Inc., 579 U.S. 197 (2016); Petrella v. Metro-Goldwyn-Mayer, Inc., 572 U.S. 663 (2014). In light of the substantial federal interest in the question presented, the United States' participation at oral argument would materially assist the Court in its consideration of this case.

Respectfully submitted.

ELIZABETH B. PRELOGAR  
Solicitor General  
Counsel of Record

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