

1 PHILLIP R. MALONE (SBN 163969)  
2 pmalone@law.stanford.edu  
3 JUELSGAARD INTELLECTUAL PROPERTY  
4 AND INNOVATION CLINIC  
5 Mills Legal Clinic at Stanford Law School  
6 559 Nathan Abbott Way  
7 Stanford, California 94305  
8 Telephone: (650) 724-1900

7 MARK A. LEMLEY (SBN 155830)  
8 mlemley@law.stanford.edu  
9 STANFORD LAW SCHOOL  
10 559 Nathan Abbott Way  
11 Stanford, California 94305  
12 Telephone: (650) 723-4605

11 *Attorneys for Amici Curiae Intellectual Property Law Professors*

12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**  
14

15 MAR VISTA ENTERTAINMENT,  
16 LLC, THE NINTH HOUSE, LLC, and  
17 NINTH DARK LLC,

18 Plaintiffs,

19 v.

20 THQ NORDIQ AB,

21 Defendant.

23 THQ NORDIC AB,

24 Counterclaim-Plaintiff,

25 v.

26 MAR VISTA ENTERTAINMENT,  
27 LLC, THE NINTH HOUSE, LLC, and  
28 NINTH DARK LLC,

Counterclaim-Defendants.

Case No. 2:23-cv-06924-MEMF-SK

**NOTICE OF MOTION AND  
MOTION OF AMICI CURIAE FOR  
LEAVE TO FILE AMICUS BRIEF**

Date: March 26, 2026

Time: 10:00 a.m.

Courtroom: 8B

Judge: Hon. Maame Ewusi-Mensah  
Frimpong

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE THAT** on March 26, 2026 at 10:00 am or as soon thereafter as this matter may be heard, in Courtroom 8B at the United States District Court for the Central District of California, located at 350 West First Street, before the Honorable Maame Ewusi-Mensah Frimpong, amici curiae intellectual property law professors shall and hereby do move this court for leave to file the attached Proposed Brief Amici Curiae.

This Motion is made on the following grounds:

- The Court has broad discretion to permit amici to file a brief in this case.
- Amici, intellectual property law professors who have written and taught extensively on trademark and other IP law, are uniquely positioned to provide the Court with independent expertise and a fresh perspective on the legal and policy issues raised by this case, a perspective that reflects the broader public interest in the proper application of the *Rogers* test.
- Amici's proposed brief is timely and will not cause delay.

This Motion will be based on this Notice of Motion and Motion, the attached Memorandum of Points and Authorities and Appendix, the accompanying Declaration of Mark A. Lemley, the accompanying Proposed Brief Amici Curiae, the pleadings and orders in the Court's files for this case, any matters on which the Court may or must take judicial notice and/or that are incorporated by reference via the pleadings, and any other matters the Court deems proper.

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
MOTION FOR LEAVE TO FILE**

Amici intellectual property law professors, listed in the Appendix, respectfully request leave to file the brief in support of plaintiffs' motion for summary judgment.<sup>1</sup>

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<sup>1</sup> No party or party's counsel authored the proposed brief in whole or in part or contributed money

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2 **INTEREST OF AMICI CURIAE**

3 Amici are professors at law schools across the country with expertise in  
4 intellectual property law and the First Amendment. Amici have no personal interest in  
5 the outcome of this case. They share a professional interest in seeing trademark law  
6 develop in a way that satisfies the constitutional purpose of copyright to promote the  
7 progress of science and serves the broader public interest.

8 Amici have written and taught extensively on topics in trademark and other  
9 intellectual property law. Because of their experience with the issues raised by this  
10 case, *amici* are uniquely positioned to provide the Court with a perspective that reflects  
11 the broader public interest in the proper application of the *Rogers* test. That is  
12 particularly important here, because Defendant asks this Court to break new ground  
13 that conflicts with Ninth Circuit precedent and threatens freedom of speech.

14 **I. ARGUMENT**

15 It is “within the Court's discretion” whether to allow amici to file a brief, and  
16 courts generally exercise “great liberality” in permitting amicus briefs. *California by &*  
17 *through Becerra v. United States Dep’t of the Interior*, 381 F. Supp. 3d 1153, 1164  
18 (N.D. Cal. 2019) (citation omitted). “[I]t is inapposite that an amicus brief raises the  
19 same issues as the parties’ briefs. The salient question is whether such brief is helpful  
20 to the Court.” *Id.* As the court noted in *NetChoice, LLC v. Bonta*, 2023 WL 6131619  
21 (N.D. Cal. Sept. 18, 2023), “Amici need show only that their participation is useful to  
22 the court. The ‘classic role’ of amici curiae encompasses ‘assisting in a case of general  
23 public interest, supplementing the efforts of counsel, and drawing the court's attention  
24 to law that escaped consideration.” *Id.* at \*1 (citation omitted); *see also NGV Gaming,*  
25 *Ltd. v. Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005)

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28 that was intended to fund preparing or submitting this brief. *See* Fed. R. App. P. Rule 29(a)(4)(D).  
No person other than *amici* or their counsel contributed money that was intended to fund preparing or  
submitting this brief.

1 (“District courts frequently welcome amicus briefs from non-parties concerning legal  
2 issues that have potential ramifications beyond the parties directly involved . . .”).

3 The proposed amici brief will assist the Court in addressing plaintiffs’ motion  
4 for summary judgment because *amici* offer independent expertise and fresh  
5 perspective on the legal and policy issues raised by this case. *Amici* collectively have  
6 published numerous scholarly articles about trademark law and the First Amendment.  
7 In their proposed brief, amici elaborate on the proper development of the law of  
8 expressive works in the wake of the Supreme Court’s *Jack Daniel’s* decision. Amici  
9 bring a broader perspective on the importance of protecting and encouraging the  
10 creation of expressive works without fear of trademark liability.

11 The proposed brief is timely and will not cause any delay. Amici are filing this  
12 motion and their Proposed Brief on the same day the parties file their briefs, earlier  
13 than the time period provided by the analogous provision of the Fed. R. App. P. Rule  
14 29(a)(6) (within seven days after filing of the brief of the party being supported). As  
15 detailed in the accompanying Declaration of Mark A. Lemley, before filing, counsel  
16 for amici sought consent from both parties, including (1) a request sent to Defendant’s  
17 counsel on January 28 (nine days before filing), (2) sharing a pre-filing copy of the  
18 draft brief with Defendant’s counsel, and (3) a subsequent telephonic meet and confer  
19 on February 4. Defendants refused to consent despite the advance notice and meet and  
20 confer, saying they did not have sufficient time to respond to the brief. Plaintiffs have  
21 consented to its filing.

22 For the foregoing reasons, amici request that the Court grant leave to file the  
23 proposed amici curiae brief, attached as Exhibit 1.  
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1 DATED: FEBRUARY 6, 2026

2 PHILLIP R. MALONE  
3 JUELSGAARD INTELLECTUAL  
4 PROPERTY & INNOVATION CLINIC

5 MARK A. LEMLEY  
6 STANFORD LAW SCHOOL

7 By: /s/ Phillip R. Malone

8 Phillip R. Malone (SBN 163969)  
9 Mark A. Lemley (SBN 155830)  
10 Attorneys for Amici Curiae Intellectual  
11 Property Professors  
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**APPENDIX**

Institutional affiliations are provided solely for purposes of identification.

Professor Barton Beebe  
NYU School of Law

Professor Lea Bishop  
Indiana University School of Law

Professor James Boyle  
Duke Law School

Professor Zachary L. Catanzaro  
Widener University Delaware School of Law

Professor Stacey Dogan  
Boston University School of Law

Professor Dave Fagundes  
Emory Law School

Professor Christine Haight Farley  
Washington College of Law  
American University

Deborah R. Gerhardt  
UNC School of Law

Professor Michael Grynberg  
DePaul University College of Law

Professor Hugh Hansen  
Fordham Law School

Professor Timothy T. Hsieh  
Oklahoma City University School of Law

Professor Stacey Lantagne  
Suffolk University Law School

1 Professor Mark A. Lemley  
2 Stanford Law School

3 Professor Jack Lerner  
4 UC Irvine School of Law

5 Professor Yvette Joy Liebesman  
6 St. Louis University School of Law

7 Professor Sari Mazzurco  
8 SMU Dedman School of Law

9 Professor Mark P. McKenna  
10 UCLA School of Law

11 Professor Tyler T. Ochoa  
12 Santa Clara University School of Law

13 Professor Lisa Ramsey  
14 University of San Diego School of Law

15 Professor Betsy Rosenblatt  
16 Case Western Reserve University Law School

17 Professor Victoria Schwartz  
18 Pepperdine Law School

19 Professor Jessica Silbey  
20 Boston University School of Law

21 Professor Christopher Sprigman  
22 NYU School of Law

23 Professor Paul J. Szynol  
24 University of Michigan School of Law

25 Professor Rebecca Tushnet  
26 Harvard Law School

**CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.1**

Pursuant to L.R. 11-6.2. The undersigned, counsel of record for amici curiae Intellectual Property Law Professors, certifies that this Motion and Memorandum of Law contains 921 words, which complies with the word limit of L.R. 11-6.1.

DATED: FEBRUARY 6, 2026

/s/ Phillip R. Malone  
Phillip R. Malone (SBN 163969)



**CERTIFICATE OF SERVICE**

I hereby certify that on February 6, 2026, I caused the foregoing **NOTICE OF MOTION AND MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF** to be served by electronic means via the Court's CM/ECF system on all counsel registered to receive electronic notices.

DATE: February 6, 2026

JUELSGAARD INTELLECTUAL PROPERTY  
AND INNOVATION CLINIC

/s/ Phillip R. Malone  
Phillip R. Malone

Mark A. Lemley

*Attorneys for Amici Curiae IP Professors*