

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

KEVIN POULSEN,

Plaintiff,

v.

**DEPARTMENT OF HOMELAND
SECURITY,**

Defendant.

Civil Action No. 13-00498 (CKK)

ORDER
(July 20, 2013)

Ithaka Harbors, Inc., the not for profit organization that operates the JSTOR digital library (hereinafter “JSTOR”), has filed a motion to intervene in this Freedom of Information Act action. Upon review of JSTOR’s motion to intervene, and in order to administer this civil action in a manner fair to the litigants and consistent with the parties’ interest in completing this litigation in the shortest possible time and at the least possible cost, it is, this 20th day of July, 2013, hereby

ORDERED that JSTOR shall participate in the on-the-record telephone conference with the parties and Massachusetts Institute of Technology (“MIT”) scheduled for **Tuesday, July 23, 2013**, at **2 p.m.** JSTOR shall contact counsel for MIT to access the dial-in information necessary to participate in the telephone conference; is it further

ORDERED that by no later than **Monday, July 22, 2013**, at **1 p.m.**, Plaintiff and Defendant shall each file on the docket a notice, which shall, in summary form, indicate the following:

- 1) The party's position on intervention by JSTOR in this action (both as-of-right and permissive). If the party does not oppose either form of intervention by JSTOR, said party shall so indicate. If the party does oppose one or both forms of intervention by JSTOR, said party shall provide a brief statement indicating the grounds for that opposition;
- 2) The party's position on JSTOR's request that the Court permit it to review all JSTOR-related documents prior to their public release and redact those documents consistent with the standards set forth in Judge Nathaniel Gorton's May 13, 2013 Memorandum & Order in *United States v. Swartz*, Crim. No. 11-10260 (D. Mass.) (*See* Attachments 6 & 7 to JSTOR's [16] motion to intervene). Specifically, the party shall indicate its position on permitting JSTOR to redact each of the following categories of information from any documents that originated from JSTOR, discuss information obtained from JSTOR, or contain information regarding JSTOR employees or networks: (a) the names, job titles, departments, telephone numbers, email addresses, and other identifying information of JSTOR employees; (b) references to vulnerabilities in JSTOR's computer network security systems. If the party does not oppose redaction of either category of information, said party shall so indicate. If the party does oppose redaction of one or both categories of information, said party shall provide a brief statement indicating the grounds for that opposition;
- 3) The party's position on JSTOR's proposed review process. If the party does not oppose the process proposed by JSTOR, said party shall so indicate. If the party does oppose the proposed process, said party shall provide a brief statement indicating the grounds for that opposition; and

- 4) The party's understanding as to the extent to which the documents at issue in this action comprise some or all of the same documents that are the subject of Judge Nathaniel Gorton's May 13, 2013 Memorandum & Order in *United States v. Swartz*, Crim. No. 11-10260 (D. Mass.) (*See* Attachments 6 & 7 to JSTOR's [16] motion to intervene)

In view of the expedited schedule ordered herein, the Court does not expect full-blown briefing on the above-listed issues. Rather, the Court would simply request an indication of the parties' positions on each of these issues, and, if the party opposes the specified requests for relief, a brief indication as to the basis for that opposition so that the Court may have some notice of the arguments the parties intend to assert at the upcoming telephone conference.

SO ORDERED.

_____/s/_____

COLLEEN KOLLAR-KOTELLY
United States District Judge