

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,

v.

AARON SWARTZ,

Defendant.

No. 11-CR-10260-NMG

**DEFENDANT AARON SWARTZ'S MOTION FOR LEAVE TO FILE SUPPLEMENTAL
MEMORANDUM IN SUPPORT OF MOTIONS TO SUPPRESS**

Aaron Swartz requests permission to supplement the record related to his pending Motion to Suppress evidence obtained from the ACER laptop, Western Digital hard drive, and HP USB drive (Dkt. 63) with the accompanying Supplemental Memorandum (Ex. 1). The Supplemental Memorandum addresses a document recently produced to undersigned counsel by the Government, which document directly refutes arguments made by the Government in opposing suppression of the laptop, hard drive, and USB drive. The document was produced by the government on December 14, 2012, eleven days after Swartz filed his reply brief on December 3, 2012. Prior to December 14, Swartz was unaware of the document's existence and therefore did not have the opportunity to present the document to the Court in his motion papers.

Accordingly, and as more fully explained in the attached Supplemental Memorandum, Swartz believes that the recently-disclosed document is necessary for full consideration of his motion, and respectfully requests that the Court permit the filing of the Supplemental Memorandum.

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

The undersigned counsel certifies that he has conferred with Government counsel concerning this motion, and that Government counsel has assented to defendant's request for

leave to file a supplemental brief. More specifically, Government counsel has asked that the following language be included in this certification: “The United States does not object to the Defendant’s request to supplement his pleadings and will respond to the factual assertions and arguments they contain within 14 days, as contemplated by the Local Rules.”

Dated: January 7, 2013

Respectfully submitted,

/s/ Elliot R. Peters

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent on January 7, 2013 to those indicated as non-registered participants.

/s/ Elliot R. Peters

Elliot R. Peters