

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress
Washington, D.C.

**In the Matter of:
Determination of Royalty Rates and
Terms for Making and Distributing
Phonorecords (Phonorecords III)**

**Docket No. 16-CRB-0003-PR
(2018-2022)**

**SPOTIFY USA INC.'S NOTICE OF PROPOSED ADDITIONAL REDACTIONS
TO PORTIONS OF THE INITIAL DETERMINATION AND DISSENT
AND ACCOMPANYING REDACTION LOG**

Pursuant to the Copyright Royalty Judges' Order dated January 30, 2018 and the requirements of the Protective Order entered by the Judges on July 27, 2016, Spotify USA Inc. ("Spotify"), through its undersigned counsel, respectfully requests to redact limited portions of the Initial Determination and Dissenting Opinion of Judge David R. Strickler (the "Dissent") in the above-captioned proceeding.

In support of its request, Spotify is concurrently submitting the Declaration of Richard M. Assmus ("Assmus Declaration") and a Redaction Log, attached hereto as Exhibit A. A copy of the Initial Determination displaying Spotify's proposed redactions in yellow highlighting is attached hereto as Exhibit B. A copy of the Dissent displaying Spotify's proposed redactions in yellow highlighting is attached hereto as Exhibit C. As set forth in the Assmus Declaration, each of the proposed redactions covers confidential and commercially sensitive business or financial information that meet the definition of "Restricted" contained in the Protective Order. In the Redaction Log, Spotify sets forth the page number of each requested redaction and the nature of the redacted material, as more specifically identified in Exhibits B and C.

Dated: February 6, 2018

/s/ Richard M. Assmus

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Exhibit A

Declaration of Richard M. Assmus Regarding Restricted Information,
with Spotify's Redaction Log in Support of Its Notice of Proposed
Additional Redactions to Portions of the Judges' Initial Determination
and Dissent

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**DECLARATION AND CERTIFICATION OF RICHARD M. ASSMUS
REGARDING RESTRICTED INFORMATION**

1. I am counsel for Spotify USA Inc. (“Spotify”) in Docket No. 16–CRB–0003–PR (2018–2022), and respectfully submit this declaration and accompanying Redaction Log (Attachment 1) to comply with the Order dated January 30, 2018 and the Protective Order, dated July 27, 2016, which direct the parties to propose redactions to the Initial Determination and Dissenting Opinion of Judge David R. Strickler (the “Dissent”) and to provide a log of the same redactions. I am authorized by Spotify to submit this declaration on its behalf.

2. I have reviewed the Initial Determination and the Dissent, restricted versions of which were issued on January 27, 2018, and have reviewed the definitions and terms provided in the Protective Order. I have also reviewed the proposed redactions to the Initial Determination and Dissent and the attached redaction log, each of which are being submitted in this proceeding on February 6, 2018. After consultation with my client and personnel working under my supervision, I have determined that, to the best of my knowledge, information and belief, portions of the Initial Determination and Dissent contain information that is “Protected Material” as defined by the Protective Order and that should be treated as “confidential information” under 17 U.S.C. § 803(c)(5). The attached Redaction Log identifies the Protected Material and describes the basis for each redaction. The Protected Material is shaded in yellow in the attached copies of the restricted versions of the Initial Determination and Dissent, and is further described below.

3. The Protected Material that Spotify is submitting includes, among other things, confidential testimony and exhibits relating to or constituting commercial or financial information that Spotify has reasonably determined in good faith would, if disclosed, either competitively disadvantage Spotify, provide a competitive advantage to another participant, competitor, or entity, or interfere with the ability of Spotify to obtain like information in the future.

4. The public disclosure of the Protected Material that Spotify is submitting would be likely to cause significant harm. The disclosure would provide an unfair competitive advantage to competitors and/or current or future negotiating counterparties of those whose information would be disclosed. Many but not all competitors and counterparties also are parties to this proceeding. Public disclosure of this information also would place Spotify at a significant commercial disadvantage and would pose serious risk to its business interests.

5. The Initial Determination and Dissent contain commercial and/or financial information that is proprietary, not known to the public, and commercially sensitive. Spotify's specific proposed redactions are described in more detail in Attachment 1 hereto.

6. Spotify respectfully submits that this information can and should be treated as "Protected Material" in order to prevent business and competitive harm that would result from the disclosure of such information.

Pursuant to 28 U.S.C. § 1746 and 37 C.F.R. § 350.6(e)(1), I hereby declare under the penalty of perjury that, to the best of my knowledge, information and belief, the foregoing is true and correct.

Executed this 6th day of February 2018 in Chicago, Illinois, USA.

/s/ Richard M. Assmus
Richard M. Assmus

Counsel for Spotify USA Inc.

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**Docket No. 16-CRB-0003-PR
(2018-2022)**

**SPOTIFY USA INC.'S PROPOSED REDACTION LOG
TO INITIAL DETERMINATION AND DISSENT**

(A) Initial Determination

Page(s)	Description
Page 7	Reflects material non-public business information concerning the size of Spotify's catalog and number of subscribers.
Page 8	Reflects material non-public financial information concerning Spotify's profitability and financial forecasts. Reflects material non-public business information concerning the number of Spotify's subscribers.
Page 20	Reflects material non-public business information concerning Spotify's profitability, commercial strategy, and financial forecasts.
Page 27	Reflects material non-public financial information concerning Spotify's royalty payments.
Page 28	Reflects material non-public financial information that could be used to reverse engineer Restricted information pertaining to Spotify's royalty payments.
Page 33	Reflects material non-public business information concerning the existence and terms of a Spotify agreement with a third party.
Page 45	Reflects expert analysis that could be used to reverse engineer Restricted information pertaining to Spotify's royalty payments.
Page 51	Reflects material non-public financial information concerning Spotify licenses and terms, Spotify royalty payments, and information that could be used to reverse engineer Restricted information pertaining to Spotify's royalty payments.
Page 52	Reflects material non-public business information concerning the existence and terms of Spotify agreements with certain third parties. Reflects material non-public business information concerning Spotify commercial strategy and statistics about subscribers.
Page 53	Reflects material non-public business information concerning Spotify commercial strategy and statistics about subscribers. Reflects material non-public financial information that could be used to reverse engineer Restricted information pertaining to Spotify's royalty

	payments.
Page 54	Reflects information that could be used to reverse engineer Restricted information pertaining to Spotify's royalty payments.
Page 56	Reflects material non-public business and financial information concerning Spotify's analysis of the interactive streaming market.
Pages 59-60	Reflects material non-public financial information concerning Spotify's royalty payments and information that could be used to reverse engineer Restricted information pertaining to Spotify's royalty payments.
Page 64	Reflects material non-public financial information concerning interactive streaming revenue and profit.
Page 65	Reflects material non-public financial information concerning Spotify's and the Interactive Streaming Services' royalty payments and Copyright Owners' royalty income.
Page 66	Reflects material non-public financial information concerning the Interactive Streaming Services' royalty payments, including Spotify.
Page 68	Reflects material non-public financial information concerning the Interactive Streaming Services' royalty payments.
Pages 70-75	Reflects material non-public financial information concerning Spotify's and the Interactive Streaming Services' royalty payments, including Spotify.
Page 80	Reflects material non-public business information concerning the impact of Copyright Owners' proposal.
Page 91	Reflects material non-public business and financial information concerning Spotify royalty payments and terms.

(B) Dissenting Opinion of Judge David R. Strickler

Page(s)	Description
Page 4	Reflects material non-public financial information concerning the Interactive Streaming Services' royalty payments, including Spotify.
Page 18	Reflects material non-public business information concerning statistics about Spotify's users.
Page 19	Reflects material non-public financial information concerning Spotify's profitability.
Page 30	Reflects material non-public business and financial information concerning Spotify's royalty payments.
Pages 47-48	Reflects material non-public financial information concerning the structure of Interactive Streaming Services' royalty payments that could be used to reverse engineer Restricted information pertaining to Spotify's royalty payments.
Pages 52-53	Reflects material non-public financial information concerning the Interactive Streaming Services' royalty payments and Copyright Owners' royalty revenues that could be used to reverse engineer Restricted information pertaining to Spotify's royalty payments.
Page 55	Reflects material non-public business information concerning statistics about Spotify's users.

Page 56	Reflects material non-public business and financial information concerning Spotify's royalty payments.
Pages 60-61	Reflects material non-public business and financial information concerning Spotify's profitability, commercial strategy, and financial forecasts.
Page 69	Reflects material non-public business and financial information concerning Spotify's commercial strategy.
Pages 80-82	Reflects material non-public business and financial information concerning Spotify's royalty payments.
Page 84	Reflects material non-public business and financial information concerning Spotify's royalty payments.
Page 85	Reflects material non-public business and financial information concerning Spotify's royalty payments.
Page 87	Reflects testimony admitted in closed session regarding hypothetical negotiations in light of Restricted information.
Page 93	Reflects material non-public financial information concerning Spotify's royalty payments and the Interactive Streaming Services' royalty payments that could be used to reverse engineer Restricted information pertaining to Spotify's royalty payments.
Page 98	Reflects material non-public financial information that could be used to reverse engineer Restricted information pertaining to Spotify's royalty payments.
Page 103	Reflects material non-public business information concerning Spotify's evaluation of the streaming market.
Pages 106-110	Reflects material non-public business and financial information concerning Spotify's royalty payments, commercial strategy, contract existence and terms, and information that could be used to reverse engineer Restricted information pertaining to Spotify's royalty payments.
Page 112	Reflects material non-public business and financial information concerning Spotify's analysis of the interactive streaming market.
Pages 115-116	Reflects material non-public financial information concerning Spotify's royalty payments and information that could be used to reverse engineer Restricted information pertaining to Spotify's royalty payments.
Pages 118-119	Reflects material non-public financial information concerning Spotify's royalty payments.
Page 126	Reflects material non-public business information concerning the impact of Copyright Owners' proposal on Spotify.
Page 132	Reflects material non-public business and financial information concerning Spotify's commercial strategy.
Page 136-137	Reflects material non-public financial information concerning interactive streaming revenue and profit, Spotify's royalty payments, and the Interactive Streaming Services' royalty payments.
Page 141	Reflects material non-public financial information that could be used to reverse engineer Restricted information pertaining to Spotify's royalty payments.
Page 146	Reflects material non-public financial information that could be used to reverse engineer Restricted information pertaining to Spotify's revenue.

Pages 147-148	Reflects material non-public financial information that could be used to reverse engineer Restricted information pertaining to Spotify's revenues and royalty payments.
Page 149	Reflects material non-public financial information concerning Interactive Streaming Services' revenues, which could be used to reverse engineered Restricted information pertaining to Spotify's revenues and royalty payments.
Pages 150-151	Reflects material non-public financial and business information concerning Spotify's commercial strategy.
Page 153	Reflects material non-public financial information concerning Spotify's royalty payments, which could be used to reverse engineer Restricted information pertaining to Spotify's revenues.
Pages 154-155	Reflects material non-public financial and business information concerning the effects of Copyright Owners' proposal on Spotify, which could be used to reverse engineered Restricted information pertaining to Spotify's revenues and royalty payments.
Page 155	Reflects material non-public financial and business information concerning Interactive Streaming Services' commercial strategy, including Spotify.
Page 156	Reflects material non-public financial and business information concerning Spotify's commercial strategy and royalty payments.

Exhibit B

Spotify's Proposed Additional Redactions to
Portions of the Initial Determination

[PLACEHOLDER FOR RESTRICTED DOCUMENT]

Exhibit C

Spotify's Proposed Additional Redactions to
Portions of the Dissent

[PLACEHOLDER FOR RESTRICTED DOCUMENT]

CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2018, I caused the foregoing Notice of Proposed Additional Redactions to Portions of the Initial Determination and Dissent and Accompanying Redaction Log to be filed electronically through the eCRB system. I certify that all participants in this case are represented by registered eCRB users (except George Johnson d/b/a/ GEO Music Group, appearing pro se and not entitled to view Restricted documents), and that service will be accomplished by the eCRB system.

Executed this 6th day of February 2018 in Chicago, Illinois, USA.

/s/ Richard M. Assmus
Richard M. Assmus
MAYER BROWN LLP
71 South Wacker Drive
Chicago, Illinois 60606
rassmus@mayerbrown.com

Counsel for Spotify USA Inc.

Certificate of Service

I hereby certify that on Tuesday, February 06, 2018 I provided a true and correct copy of the Spotify's Notice of Proposed Additional Redactions (PUBLIC) to the following:

Apple Inc., represented by Mary C Mazzello served via Electronic Service at mary.mazzello@kirkland.com

Johnson, George, represented by George D Johnson served via Electronic Service at george@georgejohnson.com

Amazon Digital Services, LLC, represented by Michael S Elkin served via Electronic Service at MElkin@winston.com

Google Inc., represented by Kenneth L Steinthal served via Electronic Service at ksteinthal@kslaw.com

Pandora Media, Inc., represented by Gary R Greenstein served via Electronic Service at ggreenstein@wsgr.com

National Music Publishers Association (NMPA) et al, represented by Frank Scibilia served via Electronic Service at fscibilia@pryorcashman.com

Signed: /s/ Richard M Assmus