

UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re

**DETERMINATION OF ROYALTY RATES AND
TERMS FOR MAKING AND DISTRIBUTING
PHONORECORDS (Phonorecords IV)**

**Docket No. 21-CRB-0001-PR
(2023-2027)**

**ORDER GRANTING THE SERVICES' MOTION FOR
LIMITED MODIFICATION TO *PHONORECORDS IV* PROTECTIVE ORDER
AND DENYING COPYRIGHT OWNERS' CROSS-MOTION**

On May 6, 2022, Spotify USA Inc., Amazon.com Services LLC, and Pandora LLC (Services)¹ filed an emergency motion (Motion) seeking a limited modification to the protective order in this proceeding (Protective Order)² and requesting that any outside counsel representing both the Copyright Owners³ in *Phonorecords IV* and the Mechanical Licensing Collective (MLC) be required to execute an attestation or otherwise be screened from access to the Services' underlying confidential accounting and financial data. On May 9, 2022, the Copyright Royalty Judges (Judges) entered an Order granting interim relief as requested in the Motion pending resolution of the underlying Motion (May 9 Order).

On May 12, 2022, Copyright Owners filed a response in opposition to the Motion (Opposition) and an Emergency Cross-Motion (Cross-Motion) asking the Judges to vacate their May 9 Order and to extend pending deadlines for further filings by the participants in this proceeding. Copyright Owners also highlighted various discovery issues pending in the captioned proceeding and requested informally a telephone conference with the Judges. The Services filed a Reply to the Motion and Opposition to the Cross-Motion (Reply) on May 17, 2022.

After considering all the arguments and information presented in the Motion, Opposition, Cross-Motion, and Reply, the Judges find good cause to modify the Protective Order.

For reasons detailed in the Motion, the Judges **GRANT** the Motion and **ORDER** that the Protective Order be modified with regard to the Services' confidential accounting and financial data produced in connection with the Judges April 26, 2022 Motion to Compel Order (eCRB Unique Document No. 26520). Accordingly, any individual attorney acting as or on behalf of

¹ Google LLC and Apple Inc. joined in requesting the relief sought via footnote.

² The operative Protective Order was amended on November 4, 2021. *See* eCRB Unique Document. No. 25908. It has since been modified by the Judges to limit access to Broadcast Music, Inc.'s ("BMI") license agreements to any outside counsel directly involved in negotiating BMI license agreements. *See Order Granting in Part Broadcast Music, Inc.'s Motion for a Limited Modification to the Protective Order*, Dkt. No. 21-CRB-0001-PR (2023-2027) (Mar. 23, 2022).

³ Self-identified "Copyright Owners" comprise National Music Publishers' Association and Nashville Songwriters Association International.

outside counsel representing both the Copyright Owners in *Phonorecords IV* and the MLC, including in any forthcoming MLC audit, be screened from access to the Services' confidential accounting and financial data produced on May 10, 2022, unless any such individual counsel executes an attestation that he or she will not participate in or provide advice with respect to any forthcoming MLC audits that might be initiated during the course of this proceeding, up to issuance of a Final Determination.

The Judges Further **DENY** Copyright Owners' Cross-Motion.

Given the Services' offer in their Reply to confer with Copyright Owners to develop a stipulation regarding a proposed extension of extant filing deadlines in this proceeding, the Judges decline to engage in a telephone conference with counsel and **DENY**, without prejudice, Copyright Owners' request for a deadline extension.

SO ORDERED.

Suzanne M. Barnett
Chief Copyright Royalty Judge

DATED: May 20, 2022