

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
LIBRARY OF CONGRESS
Washington, D.C.

In the Matter of:

**Determination of Royalty Rates and
Terms for Making and Distributing
Phonorecords
(*Phonorecords IV*)**

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

**JOINT SUBMISSION REGARDING REDACTION OF AUGUST 25, 2022 ORDER
FURTHER TO ORDER ON COPYRIGHT OWNERS' MOTIONS TO COMPEL
AMAZON TO PRODUCE UNREDACTED DOCUMENTS & CHALLENGE
CLAWBACK NOTICE**

Amazon.com Services LLC (“Amazon”) and The National Music Publishers’ Association and the Nashville Songwriters Association International (together, the “Copyright Owners”), each a Participant in the *Phonorecords IV* proceeding, make this joint submission regarding redaction of the Judges’ August 25, 2022 Order Further to Order on Copyright Owners’ Motions to Compel Amazon to Produce Unredacted Documents & Challenge Clawback Notice (“Order”), attached hereto as Exhibit A.

As directed by the Judges, the Participants have conferred and agreed that there is no confidential material requiring redaction in the public version of the Order.

Dated: January 29, 2024

By: /s/ Benjamin K. Semel
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Respectfully submitted,

By: /s/ Joshua D. Branson
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Exhibit A

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)**

**[RESTRICTED] ORDER FURTHER TO ORDER ON COPYRIGHT OWNERS'
MOTIONS TO COMPEL AMAZON TO PRODUCE UNREDACTED DOCUMENTS &
CHALLENGE CLAWBACK NOTICE**

On May 27, 2022, the Copyright Royalty Judges (“Judges”) issued an *Order on Copyright Owners’ Motions to Compel Amazon to Produce Unredacted Documents and to Challenge Clawback Notice* (May 27, 2022 Order). While the May 27, 2022 Order resolved most outstanding issues with respect to the underlying Motion, the Judges concluded that

With respect to all other documents for which Amazon claims a privilege, on the record before them the Judges do not have sufficient evidence to determine which, if any, of Amazon’s redactions were properly identified as privileged. Therefore, the Judges must conduct an *in camera* review of such documents. Therefore, the Judges direct Amazon to submit to them for *in camera* review all documents that Amazon redacted based on its belief that they were subject to a privilege. Amazon must include a privilege log that identifies the documents and passages (line and page) of each proposed redaction and the reasons asserted in support of the redactions, including any precedent Amazon relies on to support the asserted privilege.

After completing their *in camera* review, the Judges will address Copyright Owners’ obligations, if any, regarding Amazon’s Clawback Notice.

May 27, 2022 Order at 7-8.

Ruling

The Judges have completed their *in camera* review of the documents and privilege log that Amazon submitted and find that, with the exceptions set forth below, the documents, were properly redacted.

The following words or phrases should be unredacted:

RESTRICTED

00003737:

“While the CRB is extremely unpredictable...”
“Given the CRB’s behavior in the current CRB...”

00003738:

“Again, the CRB is hard to predict.”

00003739 and 00003769

“Trying to predict the CRJs seems to be like long range weather forecasting.”

“...(and assuming we should anticipate the CRJ’s will take some liberties as we’ve seen this time).”

00003746, 00003776, 00003784, and 00003791

“While the CRB is extremely unpredictable...”

00003747, 00003777, 00003785, and 00003792

“Again, the CRB is hard to predict.”

00003798, and 00003805

“...given the unpredictability of the CRB...”

Within **three business days** of the date of this order, Amazon shall unredact the words or provisions set forth above and produce the unredacted documents to Copyright Owners. Pursuant to Section IV(E) of the Protective Order, Copyright Owners shall destroy the original and copies of all documents that Amazon inadvertently produced that contain information that Amazon has designated as privileged.

Within ten days of the date of issuance of this Restricted Order, the affected parties shall file an agreed redacted version for public viewing.

SO ORDERED.

David Shaw
Chief Copyright Royalty Judge

Dated: August 25, 2022

Proof of Delivery

I hereby certify that on Monday, January 29, 2024, I provided a true and correct copy of the Joint Submission Regarding Redaction of August 25, 2022 Order Further to Order on Copyright Owners' Motions to Compel Amazon to Produce Unredacted Documents & Challenge Clawback Notice to the following:

Sony Music Entertainment, represented by Steven R. Englund, served via E-Service at senglund@jenner.com

Warner Music Group Corp., represented by Steven R. Englund, served via E-Service at senglund@jenner.com

Pandora Media, LLC, represented by Benjamin E. Marks, served via E-Service at benjamin.marks@weil.com

Powell, David, represented by David Powell, served via E-Service at davidpowell008@yahoo.com

Zisk, Brian, represented by Brian Zisk, served via E-Service at brianzisk@gmail.com

Joint Record Company Participants, represented by Steven R. Englund, served via E-Service at senglund@jenner.com

Google LLC, represented by Gary R Greenstein, served via E-Service at ggreenstein@wsgr.com

Spotify USA Inc., represented by Joseph Wetzel, served via E-Service at joe.wetzel@lw.com

UMG Recordings, Inc., represented by Steven R. Englund, served via E-Service at senglund@jenner.com

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

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

Copyright Owners, represented by Benjamin K Semel, served via E-Service at
Bsemel@pryorcashman.com

Signed: /s/ Joshua D Branson