

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

**In the Matter of:**

**Determination of Rates and Terms for Digital Performance of Sound Recordings and Making of Ephemeral Copies to Facilitate those Performances (*Web VI*)**

**Docket No. 23-CRB-0012-WR  
(2026-2030) (Order 5)**

**In the Matter of:**

**Determination of Rates and Terms for Digital Performance of Sound Recordings and Making of Ephemeral Copies to Facilitate those Performances (*Web V*)**

**Docket No. 19-CRB-0005-WR  
(2021–2025)**

**ORDER ENTERING STIPULATION TO ACCESS AND TO MAKE USE OF THE  
RESTRICTED *WEB V* FINAL DETERMINATION, EXPERT MATERIALS, AND  
PROCEEDING TRANSCRIPTS**

On April 18, 2024, SoundExchange, Inc. (“SoundExchange”) filed a motion (eCRB no. 42263 (the “Motion”)) and an accompanying stipulation, between SoundExchange and the Services (eCRB no. 42262 (the “Stipulation”)) regarding access to certain material from the Web V proceeding record, namely (1) the Final Determination, (2) the written testimony of all parties’ economic experts, and (3) the appendices and exhibits (including underlying work papers) to the written testimony of those experts, and (4) transcripts of the proceedings in Web V (together, the “Web V Materials”).<sup>1</sup> In the Stipulation, the Stipulating Parties—SoundExchange and non-settling licensees that participated in the *Web V* proceeding—agreed that counsel, expert

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<sup>1</sup> Unless otherwise specified, capitalized terms used herein have the same meaning as defined in the Motion.

witnesses, and expert witness support staff retained by the Stipulating Parties to assist in *Web VI* who (1) are not participating in normal-course license negotiations (as opposed to negotiations to settle pending or threatened litigation) with sound recording companies and reasonably do not expect to directly participate in such negotiations during the course of the this proceeding (“Non-Negotiating Individuals”); or (2) already had access to the *Web V* materials by virtue of their participation in that proceeding, or the *Phono IV* proceeding, and are bound by the *Web V* protective order (“Web V Counsel and Experts”), may be given immediate access to the *Web V* materials for use in connection with *Web VI*.<sup>2</sup>

The Motion included a separate request from SoundExchange that a screening provision be put in place to screen certain portions of the *Web V* Materials from individuals who are involved on behalf of digital music services in negotiating license agreements with sound recording companies (a “Negotiating Individual”). Subsequent to the filing of the Motion and the Stipulation, both Google LLC, and Stingray Music USA Inc., which were represented by a Negotiating Individual, withdrew from participation in *Web VI*, obviating the need for a screening provision. Indeed, on May 23, 2024, SoundExchange withdrew the portion of the Motion that sought a screening provision, and asked that the Judges enter the Stipulation and dispose of the Motion. *See* Web V eCRB no. 42862, Web VI eCRB no. 42860 (“Withdrawal and Request”).

On May 28, 2024, the Judges issued an order providing that any response to the aforementioned Withdrawal and Request could be filed by noon (EDT) on Friday, May 31, 2024. No response was filed.

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<sup>2</sup> To the extent any outside counsel or expert is bound by the *Web V* Protective Order and already has access to the *Web V* Materials by virtue of their participation in that proceeding, nothing in the Stipulation is intended to limit such access.

For the reasons detailed in the Motion, and in light of the Stipulation, the Judges find that good cause exists to grant the access and use of the *Web V* Materials to Non-Negotiating Individuals and *Web VI* Counsel and Experts as requested in the Stipulation, and thus modify the *Web V* Protective Order only to the extent necessary to allow such access and use. To facilitate that access and use, the Judges permit Milbank to collect copies of the restricted versions of the *Web V* Materials from either its *Web V* predecessor counsel or from the counsel of record for other parties in *Web V*. In the latter case, the counsel of record in *Web V* may provide any of the requested *Web V* Materials to Milbank. Any outside counsel who receives the *Web V* Materials shall ensure that those who are not Non-Negotiating Individuals or *Web V* Counsel and Experts are screened from the Licensing Information. The Motion is otherwise disposed of.

**SO ORDERED.**

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David P. Shaw  
Chief Copyright Royalty Judge

DATED: June 5, 2024