

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
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)**

**DECLARATION OF ANDREW L. PORTER IN SUPPORT OF
SOUNDEXCHANGE JOINT PETITIONERS' OPPOSITION TO SERVICE
PARTICIPANTS' EXPEDITED MOTION TO ACCESS AND MAKE USE OF THE
RESTRICTED *PHONORECORDS IV* TESTIMONY OF
SPOTIFY WITNESSES BENJAMIN KUNG AND NIKLAS LUNDBERG**

1. I am counsel for the SoundExchange Joint Petitioners ("SoundExchange")¹ in the above-captioned proceeding. I am familiar with the facts, circumstances, and proceedings in this case and submit this declaration in support of SoundExchange's Opposition to the Service Participants' Expedited Motion to Access and Make Use of the Restricted *Phonorecords IV* Testimony of Spotify Witnesses Benjamin Kung and Niklas Lundberg.

2. On December 9, 2024, the Services emailed SoundExchange and the other *Web VI* participants requesting their consent to file their Motion. Over the following week, the participants exchanged several emails regarding the Motion and SoundExchange's requested access to the restricted *Phonorecords IV* Testimony sought to be accessed. A true and correct copy of these emails between SoundExchange, the Services, and other *Web VI* participants from December 9 through 17 is attached hereto as Ex. A.

¹ Unless otherwise defined, capitalized terms have the same meaning given to them in SoundExchange's Opposition to the Service Participants' Expedited Motion to Access and Make Use of the Restricted *Phonorecords IV* Testimony of Spotify Witnesses Benjamin Kung and Niklas Lundberg.

3. On December 17, 2024, the Services emailed the restricted *Phonorecords IV* Testimony to SoundExchange. This is the only email in the chain in Ex. A with attachments. SoundExchange has not included the attached *Phonorecords IV* Testimony in Ex. A because Spotify has not consented to review by outside counsel for some *Web VI* participants prior to a ruling on the Motion, namely College Broadcasters, Inc., Educational Media Foundation, National Religious Broadcasters Music License Committee, and Public Broadcasting Entities. Accordingly, the *Phonorecords IV* Protective Order precludes SoundExchange from filing the *Phonorecords IV* Testimony as an exhibit, even if restricted. *See Amended Protective Order* at 3, eCRB no. 25908, Docket No. 21-CRB-0001-PR (2023-2027) (*Phonorecords IV*) (Nov. 4, 2021).

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

Dated: December 19, 2024
New York, NY

By: /s/ Andrew L. Porter
Andrew L. Porter

Proof of Delivery

I hereby certify that on Thursday, December 19, 2024, I provided a true and correct copy of the Declaration of Andrew L. Porter in Support of SoundExchange Joint Petitioners' Opposition to Service Participants' Expedited Motion to Access and Make Use of the Restricted Phonorecords IV Testimony of Spotify Witnesses Benjamin Kung and Niklas Lundberg to the following:

College Broadcasters, Inc., represented by Seth D. Greenstein, served via E-Service at sgreenstein@constantinecannon.com

Educational Media Foundation, represented by Keenan P Adamchak, served via E-Service at kadamchak@wbklaw.com

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

National Religious Broadcasters Music License Committee, represented by Karyn K Ablin, served via E-Service at ablin@fhhlaw.com

Public Broadcasting Entities, represented by David P Mattern, served via E-Service at dmattern@kslaw.com

Sirius XM Radio LLC/Pandora Media LLC, represented by Todd Larson, served via E-Service at todd.larson@weil.com

The National Association of Broadcasters, represented by Joseph R. Wetzel, served via E-Service at joe.wetzel@lw.com

Word Collections, Inc., represented by Eric B Goldberg, served via E-Service at eric@wordcollections.com

Signed: /s/ Andrew Porter