

**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  
PERFORMANCES (WEB VI)**

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

**ORDER 21 GRANTING IN PART AND DENYING IN PART THE SERVICE  
PARTICIPANTS' EXPEDITED MOTION TO ACCESS AND MAKE USE OF THE  
RESTRICTED PHONORECORDS IV TESTIMONY OF SPOTIFY WITNESSES  
BENJAMIN KUNG AND NIKLAS LUNDBERG**

On December 12, 2024, Sirius XM Radio LLC, Pandora Media, LLC, and the National Association of Broadcasters (collectively, the “Service Participants”) filed with the Copyright Royalty Judges (Judges) their Expedited Motion to Access and Make Use of the Restricted Phonorecords IV Testimony of Spotify Witnesses Benjamin Kung and Niklas Lundberg (Motion) (eCRB no. 44228). On December 17, 2024, the Judges issued Order 19 requiring that any response to the Motion shall be filed no later than 10:00 a.m. (EST) on Thursday December 19, 2024 (eCRB no. 44268). On December 19, 2024, SoundExchange Joint Petitioners filed their timely response in Opposition to the Motion (Opposition) (eCRB no. 44749).

Having considered the Motion and Opposition in their entirety, the Judges find that good cause exists to grant the Motion in part, and order that all eligible parties in the Webcasting VI proceeding may have full access to, and ability to review, the restricted versions of (1) the Written Direct Testimony of Niklas Lundberg and (2) select portions of the Written Direct Testimony of Benjamin Kung, subject to it being treated as, and subject to the limits on the use of, restricted material as specified in the Protective Orders adopted by the Judges in both

referenced proceedings.<sup>1</sup> The Judges agree with SoundExchange that there are outstanding issues with regard to potential uses of the Restricted Phonorecords IV Testimony at issue in this Order. The Judges recognize that SoundExchange reserves all rights to object to use of the Restricted Phonorecords IV Testimony as evidence in the Webcasting VI proceeding.

Therefore, the Judges hereby **GRANT** the motion in part with regard to access to the aforementioned Phonorecords IV Testimony and **DENY**, without prejudice, Movants' request to the extent it seeks any ruling regarding the right to subsequent use of this testimony, including, but not limited to, an order authorizing the aforementioned Phonorecords IV Testimony to be entered into the record of the Webcasting VI proceeding.

**SO ORDERED.**

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David P. Shaw  
Chief Copyright Royalty Judge

Dated: December 20, 2024

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<sup>1</sup> In the event of a conflict between the applicable protective orders in the *Webcasting VI* proceeding and the *Phonorecords IV* proceeding, the more restrictive provision will govern.