

Spotify Settles \$1.6B IP Suit Brought By Tom Petty's Publisher

By **Lauren Berg**

Law360 (December 20, 2018, 5:05 PM EST) -- Spotify Inc. and the music publisher representing Tom Petty, Stevie Nicks and other popular songwriters announced Thursday an end to a \$1.6 billion copyright infringement dispute that accused Spotify of cheating artists out of millions of dollars in royalties.

In a joint statement, Spotify and Wixen Music Publishing agreed to dismiss the suit after reaching an undisclosed settlement that the two companies said "fairly and reasonably resolves the legal claims" brought by Wixen over the licensing of its music catalog.

"Spotify is a huge part of the future of music, and we look forward to bringing more great music from our clients to the public on terms that compensate songwriters and publishers as important partners," Wixen President Randall Wixen said in the statement Thursday. "I am truly glad we were able to come to a resolution without litigating the matter."

Wixen filed its complaint late last year alleging that Spotify repeatedly failed to obtain necessary statutory, or "mechanical," licenses to reproduce and distribute songs on its service, and as a result has cheated artists out of millions in royalties.

"While Spotify has become a multibillion dollar company, songwriters and their publishers, such as Wixen, have not been able to fairly and rightfully share in Spotify's success, as Spotify has in many cases used their music without a license and without compensation," according to the suit.

The suit sought the maximum statutory damages for willful copyright infringement — \$150,000 per composition — of close to 10,784 musical compositions, for a headline-grabbing \$1.6 billion, in addition to attorneys' fees.

According to the suit, Spotify has about 140 million active users and 60 million subscribers, acquiring more than \$1 billion in private equity, with a company value of more than \$8 billion. In 2016, Spotify brought in nearly \$3.3 billion in revenue, the suit said.

On Thursday, Horacio Gutierrez, general counsel and vice president of business and legal affairs at Spotify, said in the statement, "Wixen represents some of the world's greatest talents and most treasured creators, and this settlement represents its commitment to providing first-rate service and support to songwriters while broadening its relationship with Spotify."

The lawsuit came after Wixen, Petty and more than 500 musicians and song copyright owners objected to a \$43 million proposed settlement to end two proposed class actions against Spotify over allegedly failing to pay artists proper royalties. Wixen and the other objectors called the proposed deal "grossly insufficient" and argued it would allow Spotify to pay a paltry sum to each of the artists.

Wixen said in its suit it would opt out of the settlement.

Wixen administers more than 50,000 songs written or owned by more than 2,000 artists, including Weezer, Rage Against the Machine, The Black Keys, Styx, Gillian Welch, The Doors, Santana and The Beach Boys, according to the suit.

Wixen is represented by Daniel J. Schacht, Andrew S. MacKay, Jonathan McNeil Wong and Daniel H. Senter of Donahue Fitzgerald LLP.

Spotify is represented by John Nadolenco and Allison L. Stillman of Mayer Brown LLP.

The case is Wixen Music Publishing Inc. v. Spotify USA Inc., case number 2:17-cv-09288, in the U.S. District Court for the Central District of California.

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