

Four Seasons, Indy Publisher Sue Spotify Over Royalty Practices
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- Plaintiffs claim Spotify is streaming songs without licenses
- Maximum \$150,000 statutory damages sought for each song

Music streaming service Spotify should pay \$370 million for copyright infringement, according to separate lawsuits filed yesterday by an independent music publisher and a co-founder of Frankie Valli and the Four Seasons (Gaudio v. Spotify USA Inc., M.D. Tenn., No. 17-1052, complaint filed 7/18/17; Bluewater Music Serv. Corp., M.D. Tenn., No. 17-1051, complaint filed 7/18/17).

The plaintiffs said in their complaints that Spotify has raised \$2.5 billion in capital over the years without ever finding a way to ensure that copyright holders get paid appropriately. Major music labels have recently settled with Spotify USA Inc. on easy terms because they themselves hold ownership interest in the Sweden-based music service, the complaints said. But those settlements fail to compensate smaller copyright holders for the streaming service's use of their works, they said.

Four Seasons, Country Songs

Frankie Valli and the Four Seasons, a group that's been performing and recording since 1960, and composer and original band member Bob Gaudio are suing Spotify over 106 Gaudio compositions. Those include "Sherry" and the Frankie Valli solo hit "Can't Take My Eyes Off You." Gaudio stopped touring with the group in the early 1970s.

The second lawsuit—another 2,339 compositions—is brought by Nashville-based music publisher and copyright administrator Bluewater Music Services Corp.

Bluewater administers rights in tens of thousands of songs, as opposed to the millions of compositions controlled by the major music companies Warner Music Group, Sony Music Entertainment, and Universal Music Group, Richard S. Busch of King & Ballou, Nashville, who represents the plaintiffs in both cases, told Bloomberg BNA. Among the songs Bluewater is suing over are "Gonna Get a Life," recorded by Mark Chesnutt, "White Liar," recorded by Miranda Lambert, and "Big Deal," recorded by LeAnn Rimes.

No Record of Payment for Some Songs

According to Busch, there is some record that Spotify made some royalty payments in the Four Seasons case, but Gaudio and the band terminated the licenses based on their perception that Spotify was not complying with licensing terms. In the Bluewater case, Busch said, he has no record of Bluewater having been paid any royalties for almost 1,000 songs in question.

Together, the two lawsuits by the Four Seasons and Bluewater ask the U.S. District Court for the Middle District of Tennessee for the maximum \$150,000 in statutory damages for each of 2,445 works allegedly infringed.

This lawsuit comes on the heels of a \$43 million settlement by Spotify in a class action lawsuit brought by musicians David Lowery and Melissa Ferrick. In 2016, Spotify reached a \$30 million settlement with the National Music Publishers Association on similar issues.

Copyright lawyer Robert Allen of McKool Smith, Los Angeles, told Bloomberg BNA that he was surprised that, after so much litigation, Spotify didn't anticipate the concerns of smaller copyright holders.

“Spotify has known since the first claim by the NMPA that there was a problem” and they should have been trying to figure out a solution that applies to everyone, Allen said. “What's surprising to me is after all of this time, that they haven't done that,” he said.

Spotify didn't immediately respond to a request for comment from Bloomberg BNA.