

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
IN ITS COMMERCIAL DIVISION  
NOTICE OF MOTION (L) NO. 514 OF 2019

IN

COMIP (L) NO. 256 OF 2019

Warner/Chappell Music Limited ... Applicant / Original Plaintiff

Versus

Spotify AB ... Defendant

ALONG WITH

LEAVE PETITION NO. 46 OF 2019

Mr. Janak Dwarkadas, Sr. Adv. a/w. Mr. Venkatesh Dhond, Sr. Adv., Mr. Astad Randeria, Mr. Rohan Kadam, Ms. Priyanka Khimani, Ms. Nirali Sanghavi i/b. Anand and Anand and Khimani for the Applicant / Original Plaintiff.

Mr. Aspi Chinoy, Sr. Adv. a/w. Dr. B. B. Saraf, Ms. Ankita Singhania, Mr. Rashmin Khandekar, Ms. Vanditta Malhotra Hegde, Ms. Ravina Rajpal, Mr. Arjun Thomas, Mr. Rishi Mody, Ms. Shruti Karkhanis i/b. Singh and Singh / Malhotra and Hegde for the Defendant.

**CORAM : S.J. KATHAWALLA, J.**  
**DATED : 26TH FEBRUARY, 2019**

**P.C.:**

1. Leave under Clause XII of the Letters Patent (Bombay) Act is granted. The above Leave Petition is accordingly disposed off.
2. The Plaintiff shall forthwith instruct the International Copyright Enterprises Services Limited (ICE) to return the amount of 5.28 Euro to the Defendant, which the ICE shall forthwith comply with.

3. Upon receipt of the aforesaid amount of 5.28 Euro from the ICE, the Defendant shall forthwith bring the same in the Court and shall in addition thereto bring such amount as may be required to aggregate the deposited amount to be deposited in Court to the sum of Rs.6.5 Crores.

4. This Order is passed without prejudice to the rights and contentions of the parties regarding the jurisdiction of the Intellectual Property Appellate Board (IPAB) under Section 31-D of the Copyright Act, 1957 regarding statutory license as claimed by the Defendant.

5. In the event of this Court at the hearing of the above Notice of Motion, coming to the conclusion that the Defendant's Application under Section 31-D of the Copyright Act, 1957 is not maintainable or the Defendant do not have a statutory license, the Court will after hearing the parties, decide what order if any should be passed with regard to the exploitation of the Plaintiff's musical works including the amount which the Defendant shall be required to pay to the Plaintiff or deposit the same in Court.

6. It is made clear and the Defendant hereby undertakes to this Court that any such amount as may be directed to be paid / deposited, shall be complied with before any challenge / Appeal is preferred against the Order passed in the above Notice of Motion.

7. Pending the hearing and final disposal of the above Notice of Motion, the Defendant shall maintain a full and complete record of the use of the Plaintiff's

musical works and all advertisement revenue as well as subscription revenue.

8. The Defendant shall not proceed with the Application before the IPAB for a period of four weeks from today. It is clarified that no extension shall be sought by either side.

9. The undertakings are accepted.

10. It is made clear that all rights and contentions of the parties are kept open

11. Parties agree that no reasons be given in support of this Order.

12. The Defendant shall file its Affidavit in Reply within a period of three weeks from today. The Plaintiff shall file its Affidavit in Rejoinder, if any, within a period of one week thereafter.

13. Place the above Notice of Motion for directions on 25th March, 2019.

14. All concerned to act on an ordinary copy of this Order, duly authenticated by the Associate / PS / PA of this Court.

**( S.J.KATHAWALLA, J. )**