

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

In the Matter of the Application of, FROZEN MOMENTS,  
LLC,

Petitioner,

For an Order pursuant to Section 3102(c) of the Civil  
Practice Law and Rules to compel pre-action disclosure  
from:

UMG RECORDINGS, INC., and SPOTIFY USA, INC.,

Respondents.

Index No. 161023/2024

Hon. Eric Schumacher

**AFFIRMATION OF  
DAVID KAEFER**

Motion Seq. No. 001

David Kaefer, pursuant to CPLR 2106, affirms as follows under the penalties of perjury:

1. I am VP, Head of Music and Audiobooks Business at Spotify USA Inc. (“Spotify”).

I make this affirmation in support of Respondent Spotify’s Memorandum of Law in Opposition to Frozen Moments, LLC’s Petition for Pre-Action Discovery (“Opposition”), and to respond to certain factual assertions contained in the Petition for Pre-Action Discovery filed by Frozen Moments, LLC in this matter.

2. Except as otherwise stated, I make this affirmation based on personal knowledge and inquiry, and my review of Spotify’s business records.

3. I am familiar with Spotify’s business dealings with UMG Recordings, Inc. and its affiliates (together, “UMG”). UMG licenses to Spotify the rights to stream sound recordings by both Drake and Kendrick Lamar.

4. Contrary to the allegations in the Petition, UMG and Spotify have never had any arrangement in which UMG “charged Spotify licensing rates 30 percent lower than its usual

licensing rates for ‘Not Like Us’ in exchange for Spotify affirmatively recommending [“Not Like Us”]” including “to users who are searching for other songs and artists.”

5. The Petition claims that an unidentified individual reported on a podcast that he used bots to achieve 30,000,000 streams on Spotify in the first days of the release of “Not Like Us.” Spotify found no evidence to substantiate this claim.

6. Spotify invests heavily in automated and manual reviews to prevent, detect, and mitigate the impact of artificial streaming on our platform. When we identify attempted stream manipulation, we take action that may include removing streaming numbers, withholding royalties and charging penalty fees. Confirmed and suspected artificial streams are also removed from our chart calculations. This helps us to protect royalty payouts for honest, hardworking artists.

7. I affirm this 19th day of December, 2024, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

Dated: Seattle, Washington  
December 19, 2024



DAVID KAEFER

**CERTIFICATION OF COMPLIANCE WITH WORD LIMIT**

Pursuant to Rule 202.8-b of the Uniform Civil Rules for The Supreme Court and The County Court, I hereby certify that this affirmation complies with the 7,000-word limit. This computer generated affirmation was prepared using Microsoft Word, and based on Microsoft Word's word count function, the total number of words in this affirmation, exclusive of the caption and signature block is 342.

Dated: December 20, 2024

/s/ Jonathan M. Sperling  
Jonathan M. Sperling