

# **Ethics, Services & Society**

**Copyright Infringement**

## ETHICS IN PRACTICE CASE

### Copyright Infringement?

Spotify, the music streaming company, faces a \$150 million class action lawsuit led by David Lowery, the frontman for Cracker, the alternative rock band, and Camper Van Beethoven, an American rock band. The musicians maintain that Spotify has not been securing the proper licenses for all of the music it offers and has not been paying royalties to all of the appropriate parties. The implication emerging from the lawsuit is that the company that claims to be providing an alternative to online piracy is not living up to its own legal obligations. In short, it's a case of **copyright** infringement and some might say it involves stealing another person's intellectual property.

A license for a piece of music involves two separate copyrights. First is the recording, which is typically owned by the performer's label and second is the underlying composition, which is often owned by the songwriter or his or her publisher. So, to use a recording, a streaming company such as Spotify would have to get two licenses. This is done by negotiating with the publisher or by sending the rights holder a notice and paying a royalty.

Lowery claims that Spotify frequently skips the second part. He claims that there may be hundreds or thousands of artists who have not been paid for their work including him. Spotify does not argue against this but does say that tracking down the proper rights holders is a complex process and hard to do. The company says it has royalties set aside for cases where royalty rights are not clear, and it stands ready to pay the royalties if the affected artists make a rightful claim. But, one of

Lowery's lawyers argues that artists should not have to track down royalties owed them but that it is Spotify's responsibility to secure the license and pay the royalty.

Spotify, in its defense, says that the laws and copyright infrastructure that currently exist do not fully factor in the scope and speed with which digital music services operate. The company maintains that securing advance permissions for each track is inefficient and possibly crippling for a company trying to stay competitive. In January 2016, Spotify was hit with a second lawsuit over the alleged and systemic and willful copyright infringement.

#### Questions

1. Who are the stakeholders affected and what are the ethical issues in this case?
2. Is Spotify justified in saying it is prepared to pay but claimants will have to come to them and present a rightful claim? Or, does Spotify have the responsibility to find the artists and secure permission and pay the appropriate royalty before they stream the music?
3. How do you evaluate the company's claim that the system is too complex and that the laws and copyright infrastructure are the problem in the digital music industry?
4. Is the issue in this case that the law is not keeping up with the high-tech music streaming industry or that Spotify is using this as an excuse to take short cuts and engage in a questionable practice?

### Introduction

This case is designed to explain the economic, legal, and ethical duties and obligations of the parties concerned in connection to Spotify's license and copyright for the material made accessible to its consumers. The study will also aim to present an overview of Business Ethics and Technology via the use of case studies. This research focuses on a \$150 million piracy lawsuit that Spotify will face. According to the leaked paper, Spotify behaved unethically against the persons concerned, and David Lowery acted as a result.

## **Identify the issue**

The guitarist and singer of the rock band "Cracker" has launched a lawsuit against Spotify, the music-streaming service. David Lowery, the artist, is suing Spotify for \$150 million in damages. He claims that Spotify knowingly, deliberately, and illegally copies and distributes copyrighted music without a license. The figure was calculated using the usual penalties of \$750-\$150,000 per infringement under federal copyright law. Lowery is suing on behalf of himself and all other musicians in a similar situation.

Spotify is a commercial music streaming, podcast, and video service based in Sweden. It offers digitally protected material from record labels and media firms. Its business concept is based on providing a free service. They also offer \$9.99 monthly premium memberships that eliminate commercials and enable users to download songs for offline listening. Although Spotify has indicated that it intends to fully reward every composer and publisher, the essential data to prove the right-holder is not always available, and royalties are held until the right-holder can be verified. Lowery's attorneys believe there is adequate evidence of Spotify's awareness that it was breaching copyright law. Plaintiffs in this class are individuals who were never approached by Spotify to construct a contract providing Spotify permission to play their music in return for royalties.

<https://www.expertinstitute.com/resources/insights/spotify-faces-150-million-copyright-infringement-lawsuit/>

## **US copyright infringement laws**

Copyright infringement occurs when any of the exclusive rights of copyright are used without the authorization of the copyright owner. Infringement is classified into two types: main and secondary. A direct violation by the defendant is a principal infringement. Secondary infringement occurs when one individual or organization assists another in infringing on a copyright.

Secondary infringement is classified into two types: contributory and vicarious infringement, neither of which is directly forbidden in the Copyright Act but have emerged as prohibitions via case law. Someone who willfully encourages, causes, or significantly contributes to copyright infringement may be held accountable as a contributory infringer if he or she was aware of the infringement or had reason to be aware of it. Courts will evaluate whether a person or organization is vicariously responsible by looking at whether the superior party (such as an employer) benefitted from the main or direct infringer's infringement and had supervisory responsibility over the direct infringer.

A copyright holder often sends a stop and desist letter to the person or organization utilizing an exclusive right to enforce a copyright. Multiple stops and desist letters are issued in certain circumstances. If communication fails, the copyright holder may sue in federal district court to have his or her rights enforced. When a copyright is registered with the Copyright Office, the offender may be required to pay statutory damages and maybe lawyers' costs to the copyright holder. An infringement will also be barred from using the work in the future.

<https://www.justia.com/intellectual-property/copyright/infringement/>

### **Answer the questions**

1. *Who are the stakeholders affected and what are the ethical issues in this case?*
  - The stakeholders involved in this case are Spotify subscribers, David Lowery, and the artists whose copyrights have been breached. Subscribers are involved in this litigation because they consume the content that Spotify broadcasts. David Lowery and many other artists are stakeholders since they provide material to Spotify. Furthermore, the stakeholders include artists, composers, performers, and producers who have not been paid by Spotify for their music due to Spotify's claim that the method is difficult, inefficient, and detrimental to its company.
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2. *Is Spotify justified in saying it is prepared to pay but claimants will have to come to them and present a rightful claim? Or does Spotify have the responsibility to find the artists and secure permission and pay the appropriate royalty before they stream the music?*
  - From my own perspective, I think to get the Spotify royalties, one must associate with and correctly register their music with the required collecting agencies, known as performing rights organizations (PRO). The artist must assert their lawful claim for an unregistered song.
  - Because there are so many songs posted and streamed on Spotify, it would be very impossible for the firm to locate the artists, get permission, and pay the proper royalties before streaming the music. They cannot, however, dispute the legitimate claim.
  
3. *How do you evaluate the company's claim that the system is too complex and that the laws and copyright infrastructure are the problems in the digital music industry?*

4. *Is the issue in this case that the law is not keeping up with the high-tech music streaming industry or that Spotify is using this as an excuse to take short cuts and engage in a questionable practice?*