

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

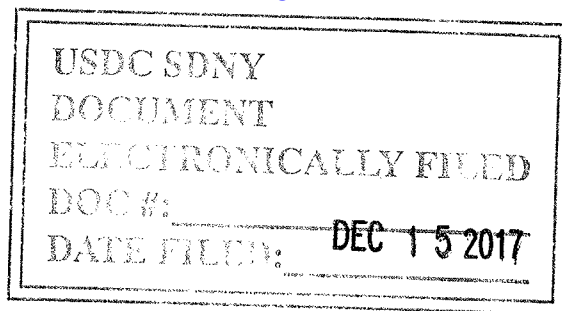
Melissa Ferrick et al.,

Plaintiffs,

–v–

Spotify USA Inc., et al.,

Defendants.



16-cv-8412 (AJN)

ORDER

ALISON J. NATHAN, District Judge:


Following the Fairness Hearing of December 1, 2017, the Court has follow-up questions and requests additional briefing on the issues described below.

Spotify contends that Wixen Music Publishing, Inc. (“Wixen Music”) lacked authority to submit requests for exclusion on behalf of its clients. *See* Dkt. No. 257. The Court concludes that the language in Wixen Music’s agreement with its clients, *see* Dkt. No. 258, Ex. 5, is ambiguous with respect to whether it gives Wixen Music the authority to file requests for exclusion on behalf of its clients. Given the uncertainty that may have resulted from Wixen Music’s August 2017 letter to its clients regarding the proposed settlement, *see* Dkt. No. 249, Ex. 3, and to clarify which clients want to opt out of the settlement, the Court deems it necessary and appropriate to extend the request for exclusion period for Wixen Music’s clients. *See Moulton v. U.S. Steel Corp.*, 581 F.3d 344, 353 (6th Cir. 2009) (affirming a district court’s decision to “provide the affected litigants an extended opt-out period . . . to unwind the confusion” when faced with a similar situation). Class Counsel, Spotify, and Wixen Music shall confer and submit a joint proposal to the Court explaining how such an extended opt out period should work. That submission is due within two weeks of the date of this Order.

In addition, the Court has concerns with the aspect of the settlement that calls for the Court's ongoing involvement in claims disputes related to this case. The parties may address whether the appointment of a Special Master is appropriate. Any letter addressing the possibility of the appointment of a Special Master shall be in the form of a joint letter from Class Counsel and Spotify, and it should include a proposal describing how the cost of a Special Master would be apportioned. Such a letter should be submitted within two weeks of the date of this Order. If the parties cannot reach agreement to submit a joint letter, each party may submit a separate letter within the same timeframe.

SO ORDERED.

Dated: December 15 2017
New York, New York



ALISON J. NATHAN
United States District Judge