

# NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL FOR SONY BMG CLASS ACTIONS

This Notice may affect your rights. Please read carefully.

## PURPOSE OF THIS NOTICE

This Notice is for all Settlement Class Members, who are persons in Canada who purchased, received or used a music CD from SONY BMG between August 1, 2003 and August 10, 2006, which carried XCP or MediaMax software. Please refer to <http://dottechsettlement.sonybmg.ca> (the "Settlement Website") for the SONY BMG titles involved.

The Purpose of this Notice is to advise you of the Settlement Agreement (which has now been approved by the Courts) and to inform you of your rights as Class Members under the Agreement. You will be bound by the Agreement unless you take steps to exclude yourself by opting-out as explained below.

## THE LAWSUITS

Class actions were commenced in Ontario, British Columbia, and Quebec in late 2005 and early 2006 against Sony BMG and other related Sony companies. These actions allege that the MediaMax and XCP software fails to disclose limits on use of the CDs, violates the privacy rights of users, creates security vulnerabilities, and is difficult to uninstall.

These actions have been settled pursuant to a Settlement Agreement between the plaintiffs and SONY BMG. SONY BMG denies any wrongdoing or liability associated with the XCP and MediaMax software. This settlement is a compromise of disputed claims.

The Ontario class action includes the claims of all Settlement Class Members who reside outside the provinces of British Columbia and Quebec. The Quebec and British Columbia class actions include all of the Settlement Class Members who reside in the province of Quebec and British Columbia, respectively.

The Courts have certified the actions referred to above as class proceedings for the purposes of settlement only. Representative plaintiffs have been appointed and the Class is defined as:

\* all natural persons in Canada who purchased, received, came into possession of or otherwise used one or more MediaMax CDs and/or XCP CDs from August 1, 2003 through August 10, 2006 excluding the employees of Released Parties, SONY BMG resellers or distributors of the XCP CDs and MediaMax CDs, and any persons or entities that have previously executed releases discharging SONY BMG from liability concerning or encompassing any or all claims that are the subject of the Claims and the Subsequent Claims.\*

This Notice is a summary only. If you believe you are a class member, please review and obtain complete copies of the Settlement Agreement and other material at the Settlement Website.

## SETTLEMENT BENEFITS

COMPENSATION will be paid to all Settlement Class Members who submit a valid claim on or before December 31, 2006 in accordance with the process outlined below. The compensation which is available under the Settlement Agreement is as follows:

(a) All XCP Class Members who return their CD to SONY BMG or provide SONY BMG with a receipt indicating the return or exchange of their CD to its place of purchase will receive a replacement hard copy CD of the same title without the software, and will be able to download from the SONY BMG website free MP3 digital music files of the same album. XCP class members can then choose either of two additional compensation options: (i) a cheque for \$8.40 and a promotional code exchangeable for one (1) free album download from among a list of approximately 200 available albums, or (ii) a promotional code exchangeable for three (3) of the free album downloads.

(b) MediaMax 3.0 Class Members who provide proof of purchase will be able to download free MP3 digital files of the tracks on the MediaMax CD.

(c) MediaMax 5.0 Class Members who provide proof of purchase will be able to download free MP3 digital files of the tracks on the MediaMax CD, and will receive a promotional code for one (1) free album download.

REMEDIAL undertakings by SONY BMG include:

(i) It will agree not to manufacture audio CDs with XCP or MediaMax Software in Canada, or to distribute CDs with XCP Software in Canada.

(ii) It will agree to advise the Courts if/when it implements any Content Protection Software on CDs sold in Canada before December 31, 2007 that has not been reviewed under the US Settlement Agreement.

(iii) It has affirmed, and an independent auditor has found, that it has not collected any personally identifiable information from consumers without consent, and it will agree to take

This Notice has been approved by the Superior Court of Justice for Ontario, the Supreme Court of British Columbia and the Superior Court of Quebec. Please do not direct questions relating to this Notice to the Courts. Their administrative structure is not designed to address this type of inquiry.

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commercially reasonable steps to destroy, at least every 10 business days, all IP addresses logged from hits made to its servers; and

(iv) It waives certain provisions of the EULA associated with the XCP and MediaMax CDs.

## MAKING A CLAIM UNDER THE SETTLEMENT

Class Members who wish to obtain compensation under the Settlement Agreement must go to the Settlement Website, click on "Click Here to File a Claim" and complete and submit the claim form which follows, on or before December 31, 2006. Instructions and necessary information on how to file a claim and who to send it to are set out in the Settlement Website.

## OPTING-OUT OF THE SETTLEMENT

Class Members have until December 6, 2006 to opt-out of the Settlement by sending a written election to:

Sarkis Isaac  
Howie & Partners  
Chartered Accountants  
3063 Walker Road  
Windsor, On N8W 3R4  
Tel: 519-250-8663  
Fax: 519-250-1929  
Email: [sarkis.isaac@howieca.com](mailto:sarkis.isaac@howieca.com)

All written elections to opt-out must be signed by the person opting-out and contain the following information:

(i) the person's name, address, telephone number, fax number and email address; and  
(ii) a statement that he/she elects to opt out of the Settlement.

No class member will be able to opt-out of the Settlement after December 6, 2006.

## CLASS COUNSEL FEES

Class Counsel's fees and disbursements, and taxes thereon will be in an amount fixed by the Courts, and will be paid by SONY BMG in addition to the other settlement terms.

## THE SETTLEMENT APPROVAL HEARINGS

As noted above, the Settlement Agreement has now been approved by the Courts. The Settlement Approval and Certification Order was made by the Ontario Court on ■, the Quebec Court on ■ and the BC Court on ■.

## QUESTIONS?

Questions to class counsel should be directed in writing or by telephone to one of the following:

Quebec class members:  
KUGLER, KANDESTIN (Attention: Pierre Boivin)  
Tel: 514-878-2861 Fax: 514-875-8424 Email: [info@kugler-kandestin.com](mailto:info@kugler-kandestin.com)  
1 Place Ville-Marie, Suite 2101, Montreal Quebec H3B 2C6

For class members in all other provinces and territories:  
SUTTS, STROSBURG LLP Tel: 519-561-6248 Fax: 519-561-6203  
600-251 Goyeau Street,  
Windsor, Ontario N9A 6V4

MERCHANT LAW GROUP Tel: 866-225-7777 Fax: 403-237-9775  
340-251 3rd Avenue S.W. 203-463 Belville St.  
Calgary, Alberta T2P 3T3 Victoria, B.C. V8V 1W9

HOTZ LAWYERS Tel: 416-590-7823 Fax: 647-430-8269  
203-100 Upper Madison Ave.,  
Toronto, Ontario M2N 6M4

Class members can seek the guidance of their own lawyers if they consider it to be desirable and necessary, at their own expense.

## INTERPRETATION

This Notice is only a summary of certain terms of the Settlement Agreement. If there is a conflict between the provisions of this notice, and the terms of the Settlement Agreement, the Settlement Agreement shall prevail.