

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

S.I.SV.EL. SOCIETA ITALIANA PER LO
SVILUPPO DELL'ELETTRONICA S.P.A,

Plaintiff,

v.

RHAPSODY INTERNATIONAL INC.,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff S.I.SV.EL. Societa Italiana Per Lo Sviluppo Dell'electronica S.p.A. ("Sisvel" or "Plaintiff"), for its Complaint against Defendant Rhapsody International Inc. ("Rhapsody" or "Defendant"), alleges the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

THE PARTIES

2. Plaintiff is a corporation organized under the laws of Italy with a place of business at Via Sestriere, 100 10060 None Torinese (TO), Italy.

3. Upon information and belief, Rhapsody is a corporation organized and existing under the laws of Delaware, with a place of business at 701 5th Avenue, Suite 3100, Seattle, WA 98104, and can be served through its Delaware registered agent Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808. Upon information and belief, Rhapsody sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and services into the stream of commerce and that incorporate

infringing technology knowing that they would be sold in this judicial district and elsewhere in the United States.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this judicial district under 28 U.S.C. §1400(b). On information and belief, Rhapsody is incorporated in the State of Delaware.

7. On information and belief, Defendant is subject to this Court's general and specific personal jurisdiction because Defendant has sufficient minimum contacts within the State of Delaware and this District, pursuant to due process and/or the Delaware Long Arm Statute because Defendant purposefully availed itself of the privileges of conducting business in the State of Delaware and in this District, because Defendant regularly conducts and solicits business within the State of Delaware and within this District, and because Plaintiff's causes of action arise directly from Defendant's business contacts and other activities in the State of Delaware and this District. Further, this Court has personal jurisdiction over Rhapsody because it is incorporated in Delaware and has purposely availed itself of the privileges and benefits of the laws of the State of Delaware.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,734,680

8. The allegations set forth in the foregoing paragraphs 1 through 7 are incorporated into this First Claim for Relief.

9. On June 8, 2010, U.S. Patent No. 7,734,680 ("the '680 patent"), entitled "Method or Apparatus for Realizing Personalized Information from Multiple Information Sources," was

duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '680 patent is attached as Exhibit 1.

10. The inventions of the '680 patent resolve technical problems related to browsing and/or searching various information sources, and more particularly to searching and/or presenting information from multiple information sources in a personalized and organized manner. For example, the inventions include a meta-browser that presents personalized collections of information from multiple sources of different media types as different media collections in a unified browsing space, which can be easily and intuitively browsed.

11. The claims of the '680 patent do not merely recite the performance of some business practice known from the pre-Internet world along with the requirement to perform it on the Internet. Instead, the claims of the '680 patent recite one or more inventive concepts that are rooted in computerized browsing and recommendation engine technology, and overcome problems specifically arising in the realm of computerized browsing and recommendation engine technologies.

12. The claims of the '680 patent recite an invention that is not merely the routine or conventional use of searching and/or presenting information. Instead, in conjunction with its presentation capabilities, the invention enhances a user's browsing experience by utilizing personalized recommendations, which are generated based on a profile of the user's interests captured across multiple media sources. Collaborative filtering, which uses multiple user profiles to compute co-relations between the user's profile and others, is also used to make recommendations. The unified browsing space is also searchable. The '680 patent claims thus specify how large sets of electronic data are manipulated to yield a desired result.

13. The technology claimed in the '680 patent does not preempt all ways of searching and/or presenting information, nor preempt the use of all recommendation engines, nor preempt any other well-known or prior art technology.

14. Accordingly, each claim of the '680 patent recites a combination of elements sufficient to ensure that the claim in practice amounts to significantly more than a patent on an ineligible concept.

15. Plaintiff is the assignee and owner of the right, title and interest in and to the '680 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

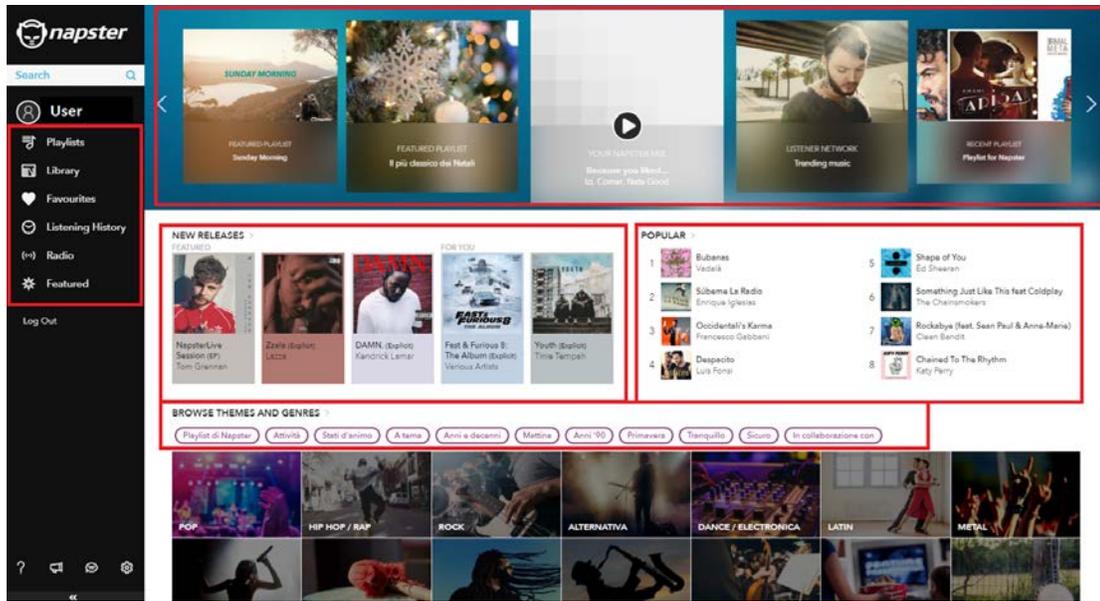
16. Upon information and belief, Defendant has and continues to directly infringe at least claim 16 of the '680 patent by making, using, selling, importing and/or providing and causing to be used the Napster multimedia streaming platform and services in which the services utilize an interface that includes a meta-browser that presents personalized collections of information from multiple sources of different media types as different media collections in a unified browsing space and that provides personalized recommendations based on a profile of the user's interests captured across multiple media sources (the "Accused Instrumentalities").

17. In particular, claim 16 of the '680 patent recites a computer program product comprising a computer readable medium having program logic recorded thereon for enabling a computer-enabled apparatus to display personalized information for a user from multiple information sources, comprising: (1) a populator for populating a virtual library with a plurality of different virtual media collections in accordance with a user profile, wherein the virtual library is populated with different types of media obtained from different media sources; (2) a browser for browsing the virtual library by moving between the plurality of different media collections

under user control; (3) a search engine for searching the virtual library under user control; (4) a filter for filtering the results of the searching step in accordance with the user profile and the browsing step, wherein the filtering comprises explicit and implicit filtering, wherein the explicit filtering provides filtering of information from said plurality of different media collections and the implicit filtering draws from collaborative data among the plurality of different media collections and similar users; (5) a prioritizer for prioritizing results of the filtering step; and (6) an updater for updating the user profile in accordance with at least one selection of the results of the filtering step, wherein the updating is reflected in a ratio in responding to a user's programming choice or specific request.

18. The Accused Instrumentalities infringe claim 16 of the '680 patent. *See, e.g.*, <http://us.napster.com/apps-devices>; <http://us.napster.com/privacy>; <http://us.napster.com/eula>; <http://us.napster.com/terms>; U.S. Pat. No. 7,734,680 at 2:37-47, 6:61-7:2, 8:62-9:1; <https://help.napster.com/hc/en-us/articles/115002102307-Napster-Windows-10-Software-Guide>; <https://help.napster.com/hc/en-us/articles/213269147>; <http://gb.napster.com/features>; <https://help.napster.com/hc/en-us/articles/221501128-Napster-6-PC-Software-Guide>; <http://us.napster.com/about>; <https://help.napster.com/hc/en-us/articles/213270477-Napster-com-User-Guide>; Francesco Ricci, Lior Rokach, Bracha Shapira, *Recommender Systems Handbook*, 2 (Springer US 2015), available at <http://www.springer.com/it/book/9781489976369>; <https://play.google.com/store/apps/details?id=com.rhapsody>; <http://blog.napster.com/2016/04/06/rhapsody-gets-social/>.

19. Regarding the populator, Napster populates a virtual library, which contains different collections that are provided to the user.



20. Regarding the filter, search results are filtered in accordance with the user profile. Search results are personalized considering factors including favorite artists of a given user. As shown in the example below, after searching the keyword “Perfetto” and browsing the interface to navigate the results filtered by “tracks,” the first returned result is the “radio” associated with the track “Perfetto” by “Francesco Renga.” The same search (keyword “Perfetto”) made by a different user provides different results, also shown below. The first listed result is “Perfetto by Eros Ramazzotti” instead of “Perfetto by Francesco Renga.”

CREATE A CUSTOM STATION

perfecto

Enter an artist or track name to build a new radio station

TRACK RADIO RESULTS

-  Perfetto Radio
-  Perfetto Radio
-  Perfetto Radio
-  Alibi Perfetto Radio
-  Il Giorno Perfetto Radio

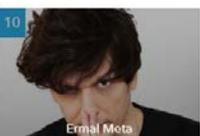
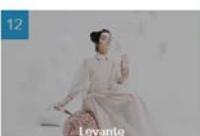
ARTIST RADIO RESULTS

-  Colore perfetto Radio
-  Patrick Perfetto Radio
-  dustin "Nump" Perfetto Radio
-  Antonio Maccarone, Michele Maccarone, N...
-  Andrea Sacco, Antonio Maccarone, Michele...

OVERVIEW **CHARTS** FRIENDS FOLLOWED PLAYLISTS

Real Name |

Artists Albums Tracks This Year

- 1  Francesco Ronga
- 2  Francesca Michielin
- 3  Gala
- 4  Laura Pausini
- 5  Nek
- 6  Ligabue
- 7  Arisa
- 8  Izi
- 9  Negramaro
- 10  Emal Meta
- 11  Fred De Palma
- 12  Levante
- 13  Giulia Luzzi
- 14  Comar
- 15  Sugarfree

RADIO

OVERVIEW BROWSE BY GENRE SAVED STATIONS NOW PLAYING

CREATE A CUSTOM STATION

perpetto

Enter an artist or track name to build a new radio station

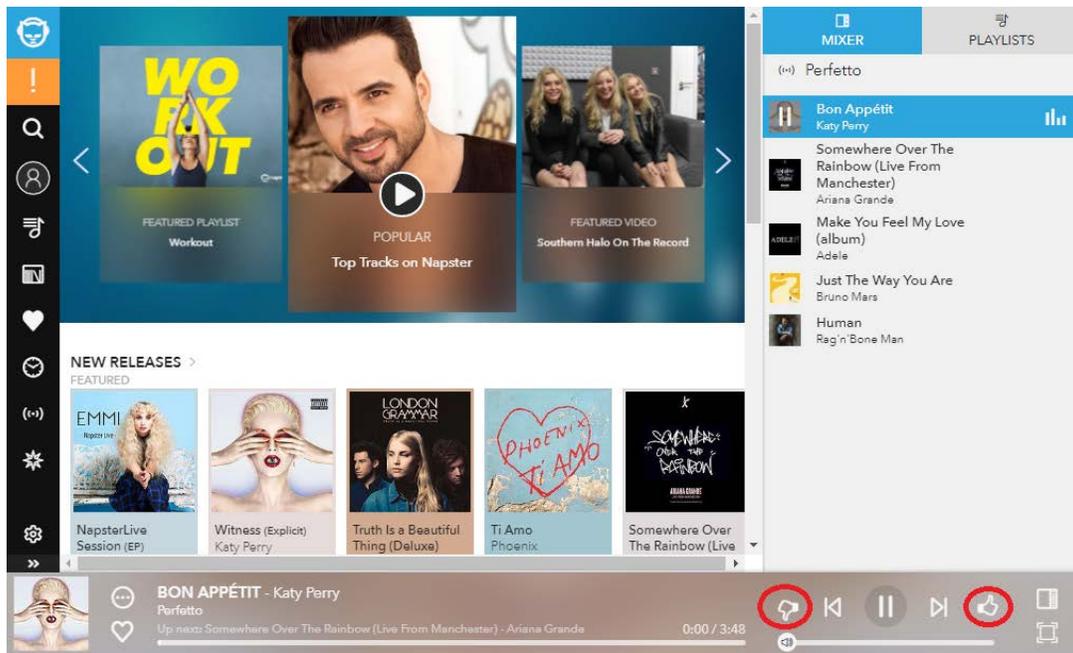
TRACK RADIO RESULTS

 Perfetto Radio 
 Perfetto Radio 

ARTIST RADIO RESULTS

 Colore perfetto Rad... 
 Patrick Perfetto Radio 

21. Regarding explicit filtering, the user directly interacts with search results.



22. On information and belief, the updates in a given user's Napster profile are reflected in a ratio that responds to that user's programming choice or specific request. Recommendation algorithms measure correlation coefficients that reflect the extent to which two variables relate with each other. A correlation measure between specific items is computed in

order to measure the similarities between users, the similarities between attributes of the users, the expected preferences of a user for a specific attribute/item, etc. On information and belief, the correlation formula in the Accused Instrumentalities is expressed as a ratio. For a formal expression of a ratio, see the analytic expression for the correlation measure explained here:

<http://recommender-systems.org/collaborative-filtering/>.

23. On information and belief, these Accused Instrumentalities are used, marketed, provided to, and/or used by or for Defendant's partners, clients, customers and end users across the country and in this District.

24. Defendant was made aware of the '680 patent and its infringement thereof at least as early as May 11, 2017 when Defendant received a notice letter dated May 10, 2017.

25. Upon information and belief, since at least the time Defendant received notice, Defendant has induced and continues to induce others to infringe at least one claim of the '680 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to Defendant's partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '680 patent.

26. In particular, Defendant's actions that aid and abet others such as its partners, customers, clients, and end users to infringe include advertising and distributing the Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities. On information and belief, Defendant has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because Defendant has had actual knowledge of the '680 patent and knowledge that its acts were

inducing infringement of the '680 patent since at least the date Rhapsody received notice that such activities infringed the '680 patent.

27. Upon information and belief, Defendant is liable as a contributory infringer of the '680 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States the Napster multimedia streaming platform and services to be especially made or adapted for use in an infringement of the '680 patent. The Accused Instrumentalities are a material component for use in practicing the '680 patent and are specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

28. Since at least May 11, 2017, Defendant's infringement has been willful.

29. Plaintiff has been harmed by Defendant's infringing activities.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 7,035,863

30. The allegations set forth in the foregoing paragraphs 1 through 29 are incorporated into this Second Claim for Relief.

31. On April 25, 2006, U.S. Patent No. 7,035,863 ("the '863 patent"), entitled "Method, System, and Program Product for Populating a User Profile Based on Existing User Profiles," was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '863 patent is attached as Exhibit 2.

32. The inventions of the '863 patent resolve technical problems related to computerized recommendation systems and methods. For example, the inventions designate base characteristics for a new user profile. Based on the designated characteristics, the new user profile is associated with existing user profiles. Once associated, the new user profile is populated with defined characteristics from the existing user profiles. After the new user profile is populated, recommendations can be made.

33. The claims of the '863 patent do not merely recite the performance of some business practice known from the pre-Internet world along with the requirement to perform it on the Internet. Instead, the claims of the '863 patent recite one or more inventive concepts that are rooted in computerized technology, and overcome problems specifically arising in that realm. For example, the inventions of the '863 patent allow more efficient and beneficial access to large electronic content repositories, and improve access to such electronic content repositories through the use of computerized tools unrelated to pre-Internet business practices.

34. The claims of the '863 patent recite an invention that is not merely the routine or conventional use of recommending content. Instead, the invention includes a designation system for designating base characteristics for a new user profile; an association system for associating the new user profile with a cluster region of existing user profiles based on the base characteristics; and a population system for populating the new user profile with defined characteristics from the existing user profiles. The '863 patent claims thus specify how large electronic data sets are manipulated to yield a desired result.

35. The technology claimed in the '863 patent does not preempt all ways of recommending content, nor preempt the use of all recommendation engines, nor preempt any other well-known or prior art technology.

36. Accordingly, each claim of the '863 patent recites a combination of elements sufficient to ensure that the claim in practice amounts to significantly more than a patent on an ineligible concept.

37. Plaintiff is the assignee and owner of the right, title and interest in and to the '863 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

38. Upon information and belief, Defendant has and continues to directly infringe at least claims 11 and 12 of the '863 patent by making, using, selling, importing and/or providing and causing to be used the Napster multimedia streaming platform and services in which the services utilize a recommendation engine that includes a designation system for designating base characteristics for a new user profile; an association system for associating the new user profile with a cluster region of existing user profiles based on the base characteristics; and a population system for populating the new user profile with defined characteristics from the existing user profiles (the "Accused Instrumentalities").

39. In particular, claim 11 of the '863 patent recites a computer implemented system for populating a user profile based on existing user profiles, comprising a memory containing the following: a designation system for designating base characteristics for a new user profile; an association system for associating the new user profile with a cluster region of existing user profiles based on the base characteristics; and a population system for populating the new user profile with defined characteristics from the existing user profiles.

40. The Accused Instrumentalities infringe claim 11 of the '863 patent. *See, e.g.*, <http://us.napster.com/terms>; <http://us.napster.com/privacy>; <http://us.napster.com/apps-devices>; <https://play.google.com/store/apps/details?id=com.rhapsody>; <http://blog.napster.com/2016/04/06/rhapsody-gets-social/>; <https://developer.napster.com/>; <https://help.napster.com/hc/en-us/articles/213270487-Android-On-boarding-App-Guide>; U.S. Pat. No. 7,035,863 at 5:38-52.

41. Regarding the designation system, Napster includes the ability to designate a variety of base characteristics.

HELLO, WELCOME TO NAPSTER

TELL US ABOUT YOUR FAVOURITE MUSIC TO GET STARTED.
(DON'T WORRY - THERE ARE ONLY TWO STEPS)

[Get Started](#) [Skip](#)

Step 1 of 2
What are your 3 favourite genres?

[Skip](#)

Step 2 of 2
Pick your favourite artists
Choose up to 10.

Artist name

[Skip](#)

42. Regarding the association system, Napster includes the ability to associate a user profile with a cluster region of existing user profiles based on base characteristics and similar preferences.

Taste Profile

GET Recommended Members' Taste Profiles

Introduced v2.1

Returns list of recommended members and their taste profiles ordered by the similarity score. Optionally, you can use `limit` query parameter to get wanted number of results. Maximum and default value is 15.

This endpoint supports `type` and `perTypeLimit` query parameters also. You can use them to define which and how many common items should be returned. `perTypeLimit` is an optional numerical parameter ranging from 0 to 100. If not specified it defaults to 5. Permitted values for `type` are: `albums`, `tracks`, `artists` and `genres`. Multiple values should be comma delimited. Default value is `artists,genres`.

```
curl -v -H "Authorization: Bearer {access_token}" "https://api.napster.com/v2.2/me/tasteprofiles?limit=5&type=genres,artists,albums&perTypeLimit=5"
```

GET Taste Profile

Introduced v2.1

Returns common taste profile (overlapping content) for two members. Optionally, you can use `range` query parameter to specify time range. Permitted values are: `week`, `month`, `year`, `life`. If range is not set, default value is `life`.

This endpoint supports `type` and `perTypeLimit` query parameters also. You can use them to define which and how many common items should be returned. `perTypeLimit` is an optional numerical parameter ranging from 0 to 100. If not specified it defaults to 5. Permitted values for `type` are: `albums`, `tracks`, `artists` and `genres`. Multiple values should be comma delimited. Default value is `artists,genres`.

```
curl -v -H "Authorization: Bearer {access_token}" "https://api.napster.com/v2.2/me/tasteprofiles/{user_id}?range=month&type=genres,artists,albums&perTypeLimit=5"
```

This endpoint accepts `compliantOnly` parameter only if `type` parameter is `tracks` and this is the only `type` passed. Requests with the `compliantOnly` parameter set to true don't support the `range` parameter.

```
curl -v -H "Authorization: Bearer {access_token}" "https://api.napster.com/v2.2/me/tasteprofiles/{user_id}?type=tracks&perTypeLimit=5&compliantOnly=true"
```

43. Regarding the population system, Napster includes the ability to populate the new user profile with defined characteristics from the existing user profiles.

The screenshot shows the Napster user profile for 'Current user'. The profile is divided into several sections:

- Overview:** Includes a 'MUSIC FROM LISTENERS LIKE ME' section with a play button and a 'LISTENER NETWORK' section with a play button and the text 'Trending music'.
- Charts:**
 - ARTISTS:** A list of 5 artists: 1. Tiziano Ferro, 2. Jovanotti, 3. Vasco Rossi, 4. Biagio Antonacci, 5. Lucio Dalla.
 - ALBUMS:** A list of 3 albums: 1. 'El amor es una cosa simple' by Tiziano Ferro, 2. 'Buen Sangre' by Jovanotti, 3. 'L'amore è una cosa semplice (Special Edition)' by Tiziano Ferro.
- Favourites:** A heart icon with the text 'You haven't marked any tracks as favourites yet.'
- Friends:** A section for 'FRIENDS' with a search bar and '0 following' / '0 followers'.

This screenshot shows a grid of music recommendations under the heading 'MUSIC FROM LISTENERS LIKE ME'. Each recommendation card includes a play button, a match percentage, and a list of related artists:

- SmoothSpace13986 (#9 80% match):** Artists include Vasco Rossi, Biagio Antonacci, Francesco Renga, Gigi D'Alessio, Jovanotti, and Bruno Mars.
- OldPop0387 (#9 79% match):** Artists include Vasco Rossi, Biagio Antonacci, Lucio Dalla, and Francesco Renga.
- OldPop0387 (#9 79% match):** Artists include Vasco Rossi, Biagio Antonacci, Lucio Dalla, and Francesco Renga.
- OldPop0387 (#9 79% match):** Artists include Vasco Rossi, Biagio Antonacci, Lucio Dalla, and Francesco Renga.
- OldPop0387 (#9 79% match):** Artists include Vasco Rossi, Biagio Antonacci, Lucio Dalla, and Francesco Renga.
- OldPop0387 (#9 79% match):** Artists include Vasco Rossi, Biagio Antonacci, Lucio Dalla, and Francesco Renga.

This screenshot shows the 'TRENDING MUSIC' section. At the top, there are three featured items: 'UN HOMENAJE A LUIS EDUARDO AUTE' by GIRALUNAS, 'anglada cerezuela' by MANZANA DE CARAMELO, and 'PTX' by PENTAGONIX VOLUNTARI.

Below these, there is a 'TRACKS' list with a filter icon:

- Beds Made You** by Trent Trump (1:06)
- Don't Go Breaking My Heart** by Elton John (4:34)
- California Dreamin'** by Wilson Phillips (2:49)
- Knockin' On Heaven's Door (Studio Version)** by Avril Lavigne (2:50)
- Manzana de Caramelo** by Anglada Cerezuela (3:44)

Each track has a play button and a volume icon.

44. Claim 12 of the '863 patent recites the system of claim 11 further comprising a recommendation system for making a recommendation based on the populated new user profile.

45. The Accused Instrumentalities infringe claim 12 of the '863 patent. *See, e.g.*, <http://us.napster.com/privacy>; <https://developer.napster.com/api/v2.2#member-apis>.

46. On information and belief, these Accused Instrumentalities are used, marketed, provided to, and/or used by or for Defendant's partners, clients, customers and end users across the country and in this District.

47. Defendant was made aware of the '863 patent and its infringement thereof at least as early as May 11, 2017 when Defendant received a notice letter dated May 10, 2017.

48. Upon information and belief, since at least the time Defendant received notice, Defendant has induced and continues to induce others to infringe at least one claim of the '863 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to Defendant's partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '863 patent.

49. In particular, Defendant's actions that aid and abet others such as its partners, customers, clients, and end users to infringe include advertising and distributing the Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities. On information and belief, Defendant has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because Defendant has had actual knowledge of the '863 patent and knowledge that its acts were inducing infringement of the '863 patent since at least the date Rhapsody received notice that such activities infringed the '863 patent.

50. Upon information and belief, Defendant is liable as a contributory infringer of the '863 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States the Napster multimedia streaming platform and services to be especially made or adapted for use in an infringement of the '863 patent. The Accused Instrumentalities are a material component for use in practicing the '863 patent and are specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

51. Since at least May 11, 2017, Defendant's infringement has been willful.

52. Plaintiff has been harmed by Defendant's infringing activities.

COUNT III – INFRINGEMENT OF U.S. PATENT NO. 8,490,123

53. The allegations set forth in the foregoing paragraphs 1 through 52 are incorporated into this Third Claim for Relief.

54. On July 26, 2013, U.S. Patent No. 8,490,123 ("the '123 patent"), entitled "Method and Device for Generating a User Profile on the Basis of Playlists," was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '123 patent is attached as Exhibit 3.

55. The inventions of the '123 patent resolve technical problems related to recommendation systems and generating user profiles. For example, the inventions generate a user profile and recommendations on the basis of the user's previously created playlists and properties derived from them.

56. The claims of the '123 patent do not merely recite the performance of some business practice known from the pre-Internet world along with the requirement to perform it on the Internet. Instead, the claims of the '123 patent recite one or more inventive concepts that are rooted in computerized technology, and overcome problems specifically arising in that realm. For example, the inventions of the '123 patent allow more efficient and beneficial access to large

electronic content repositories, and improve access to such electronic content repositories through the use of computerized tools unrelated to pre-Internet business practices.

57. The claims of the '123 patent recite an invention that is not merely the routine or conventional use of user profiles or electronic content. Instead, when generating a user profile, many playlists, including playlists from other users, may be considered and analyzed, thereby generating a more reliable user profile. Some aspects that may be taken into account include frequency of occurrence, creation date of the playlist, and relation between content items (songs, video, etc.) in one or more playlists. The '123 patent claims thus specify how playlist and content analysis are manipulated to yield a desired result.

58. The technology claimed in the '123 patent does not preempt all ways of generating user profiles or recommending electronic content, nor preempt the use of all recommendation engines, nor preempt any other well-known or prior art technology.

59. Accordingly, each claim of the '123 patent recites a combination of elements sufficient to ensure that the claim in practice amounts to significantly more than a patent on an ineligible concept.

60. Plaintiff is the assignee and owner of the right, title and interest in and to the '123 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

61. Upon information and belief, Defendant has and continues to directly infringe at least claims 1, 2, 3, 5, 9, 10, 13, and 18 of the '123 patent by making, using, selling, importing and/or providing and causing to be used Napster multimedia streaming services in which the services utilize a recommendation engine and profile generators that consider and analyze

various aspects of playlists including frequency of occurrence, creation date of the playlist, and relation between content items (songs, video, etc.) (the “Accused Instrumentalities”).

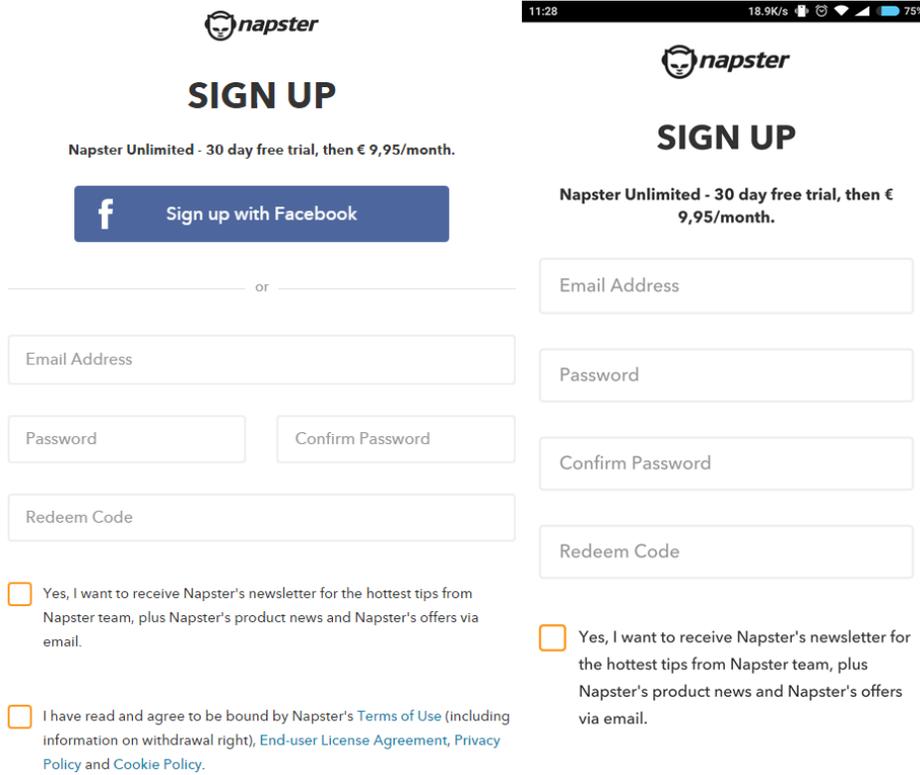
62. In particular, claim 1 of the ‘123 patent recites a method of generating a user profile for a given user from at least one first playlist including a first sequence of content and associated with the given user and stored on a media device.

63. The method comprises the following steps: (1) automatically searching for the at least one first playlist among a plurality of playlists, wherein the plurality of playlists includes at least one of a second playlist and a third playlist. The second playlist has a second sequence of content and is associated with a different user and the third playlist has a third sequence of content and is associated with the given user. Each playlist of the plurality of playlists includes at least one identifying characteristic of content stored on the media device; (2) analyzing the at least one first playlist and automatically deriving from the at least one analyzed first playlist at least one playlist feature expressing at least one property of the at least one first playlist, the at least one playlist feature comprising an occurrence frequency or at least a content relationship of the plurality of playlists; and (3) automatically generating a user profile for the given user based on the analyzed at least one first playlist and the derived at least one playlist feature. Further, at least one of the said searching, analyzing, and generating comprises use of computerized hardware including a processing element.

64. The Accused Instrumentalities infringe claim 1 of the ‘123 patent. *See, e.g.*, <http://us.napster.com/privacy>; U.S. Pat. No. 8,490,123 at 2:28-33, 4:18-57; <http://api.napster.com/v2.2/playlists/pp.125821370?apikey=YTkxZTRhNzAtODdlNy00ZjMzLTg0MWItOTc0NmZmNjU4Yzk4>; <https://developer.napster.com/api/v2.2#playlists>;

http://blog.napster.com/2017/03/15/napsters-new-interactive-playlist-maker-gets-fun-giphy-twist/; http://us.napster.com/apps-devices.

65. Napster allows a user to generate a user profile.



66. In Napster, playlists can be: (1) automatically imported by the user in the Napster application through the tool “Napster Playlist Converter”, a tool, developed by Napster itself, which imports playlists from other audio streaming services; (2) made available by other users in the Napster service; (3) generated by Napster itself and made available to Napster’s users.

PLAYLIST

First playlist for Napster

Created by: **User** 21 songs, 1 hr 17 min

PLAY

Filter

SONG	ARTIST	ALBUM
+ Potremmo Ritornare	Tiziano Ferro	Il Mestiere Della Vita
+ Solo due satelliti	Marco Mengoni	Le cose che non ho
+ Eterni	Zero Assoluto	Di me e di te
+ Mentre nasce l'aurora	Briga	Talento (Deluxe Edition)
+ All Night	Parov Stelar	The Princess Part Two
+ Nessuna conseguenza	Fiorella Mannoia	Combattente
+ Sally	Vasco Rossi	Nessun Pericolo...Per Te
+ Sei Parta Di Me - Radio Edit	Zero Assoluto	Appena Prima Di Partire
+ Rabbia	Samuel	Il codice della bellezza
+ Non lo so	Max Pezzali	Astronave Max New Mission 2016

PLEASE SELECT A PLAYLIST TO ADD TO YOUR NAPSTER ACCOUNT
YOU CAN ONLY TRANSFER ONE PLAYLIST AT A TIME

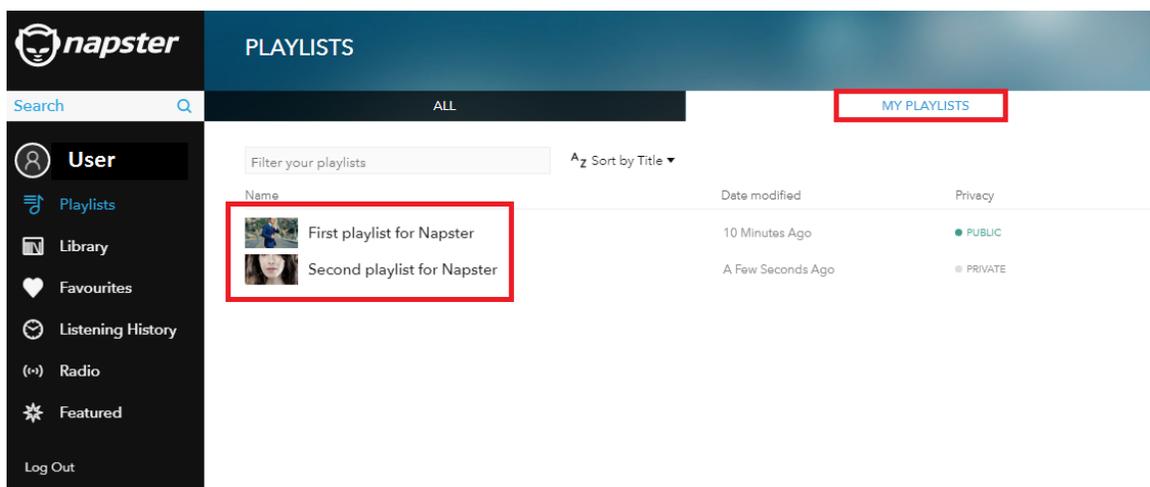
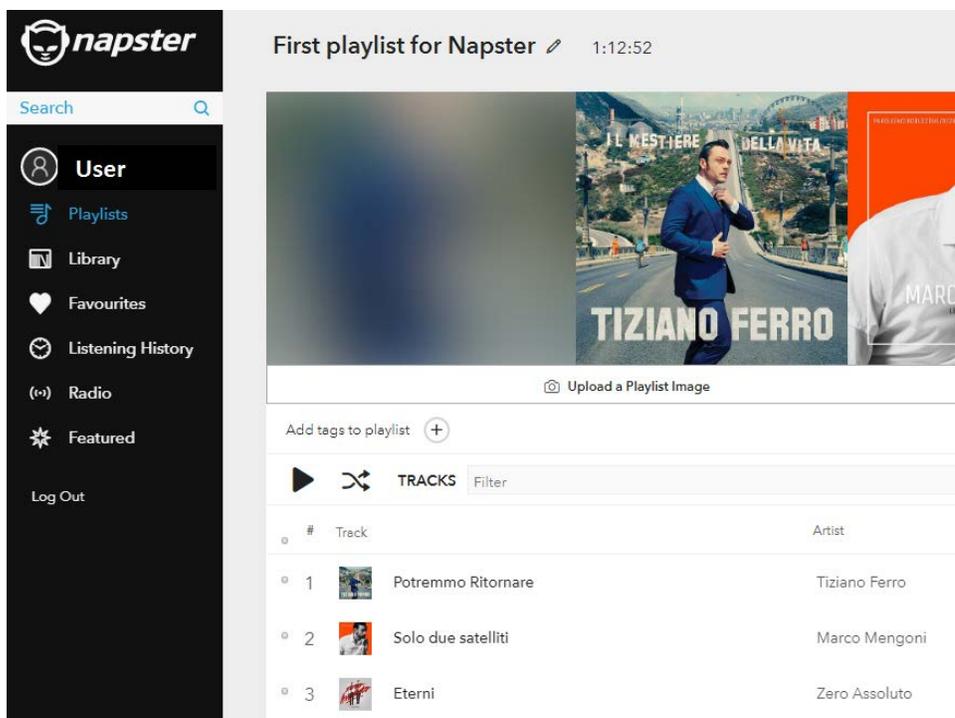
WHY ARE SOME OF MY SPOTIFY PLAYLISTS GRAYED OUT?

FIRST PLAYLIST FOR NAPSTER
20 / 21 FOUND

FIRST PLAYLIST FOR NAPSTER

SUBMIT

- 1 Potremmo Ritornare by Tiziano Ferro
- 2 Solo due satelliti by Marco Mengoni
- 3 Eterni by Zero Assoluto
- 4 Mentre nasce l'aurora by Briga
- 5 All Night by Parov Stelar
- 6 Nessuna conseguenza by Fiorella Mannoia
- 7 Sally by Vasco Rossi



67. Napster contains at least a second playlist made by other users and a first and third playlist associated with a given user.

napster SEARCH

best

User
Playlists
Library
Favourites
Listening History
Radio
Featured
Log Out

ARTISTS ALBUMS TRACKS **PLAYLISTS**

Featured **Listeners**

best best Best best

best Best BEST best

napster PLAYLISTS

Search ALL **MY PLAYLISTS**

User
Playlists
Library
Favourites
Listening History
Radio
Featured
Log Out

Filter your playlists A-Z Sort by Title

Name	Date modified	Privacy
First playlist for Napster	10 Minutes Ago	● PUBLIC
Second playlist for Napster	A Few Seconds Ago	● PRIVATE

First playlist for Napster 1:12:52 **Second playlist for Napster** 1:09:19

Upload a Playlist Image

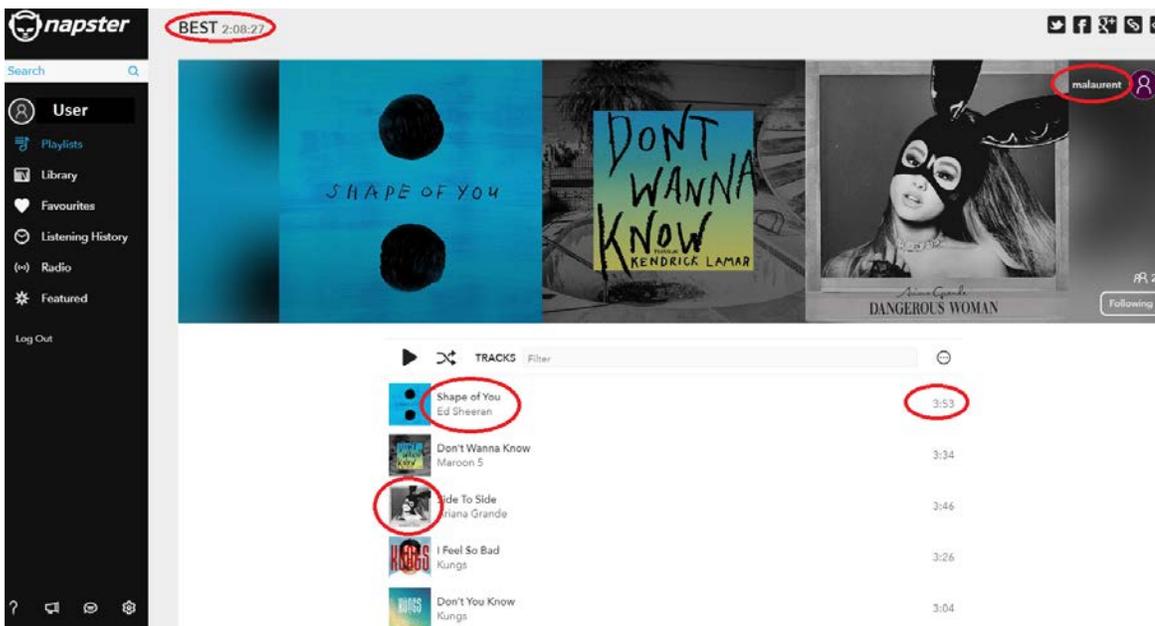
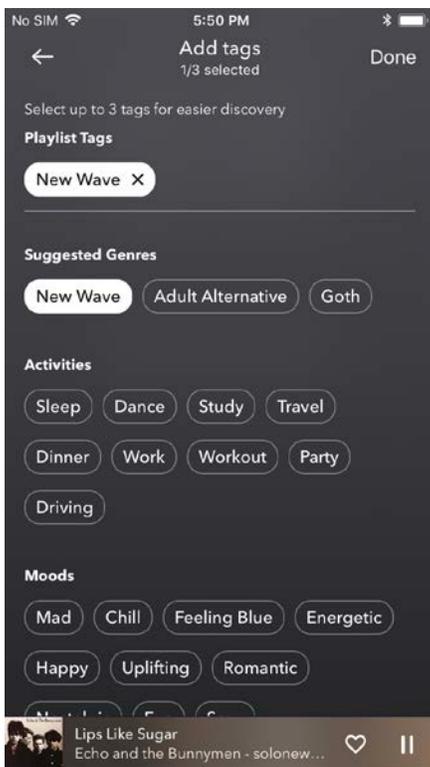
Add tags to playlist

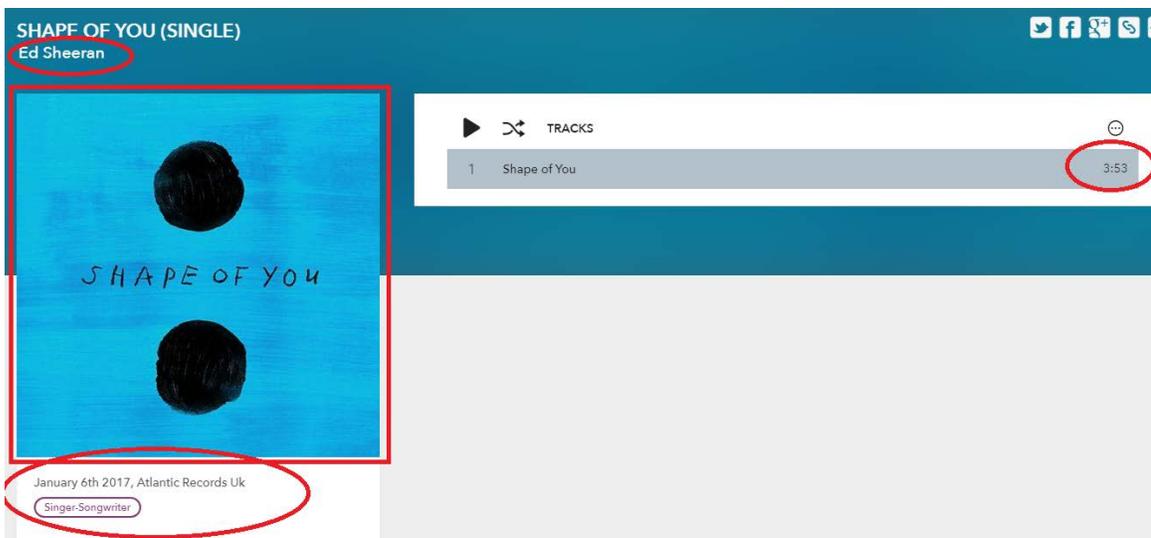
TRACKS Filter

#	Track	Artist
1	Potremmo Ritornare	Tiziano Ferro
2	Solo due satelliti	Marco Mengoni
3	Eterni	Zero Assoluto
4	Mentre nasce l'aurora	Briga
5	All Night	Parovoz
6	Nessuna conseguenza	Fiorella Mannino
7	Sally	Vasco Rossi

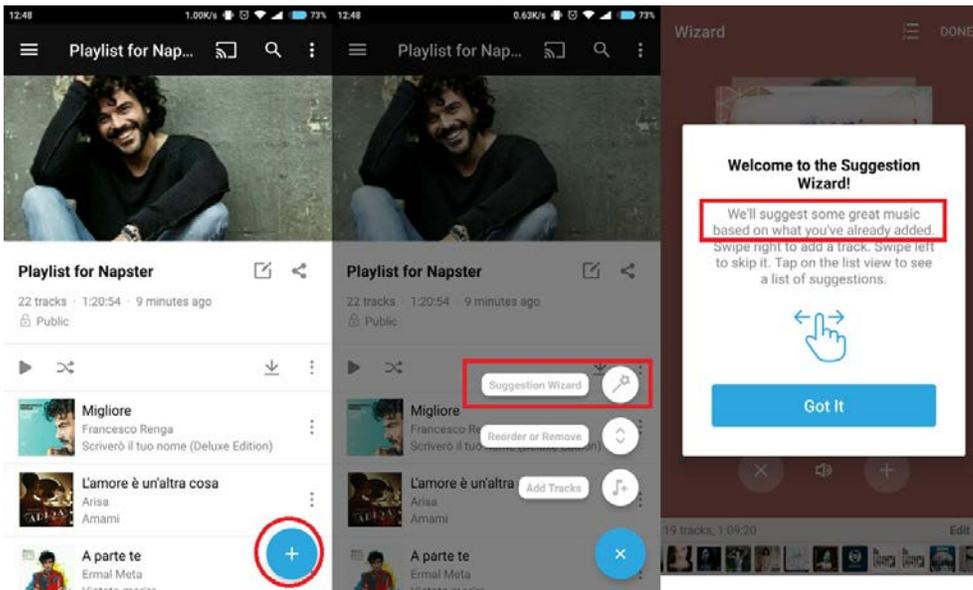
#	Track	Artist
1	Oronero	Giorgia
2	A parte te	Ermal Meta
3	Il cielo guarda te	Fred De Palma
4	Completamente	Thegiornalisti
5	Lo sai da qui	Negramaro
6	Certe notti [Remastered]	Ligabue
7	Scusa ma ti chiamo amore	Sugarfree

68. The playlists include at least one identifying characteristic of content stored on the media device, such as genre, tags, artists, etc.





69. Napster analyzes features including at least the genre and starts suggesting new songs based on those already present in the playlist. This demonstrates Napster analyzes the playlist contents.



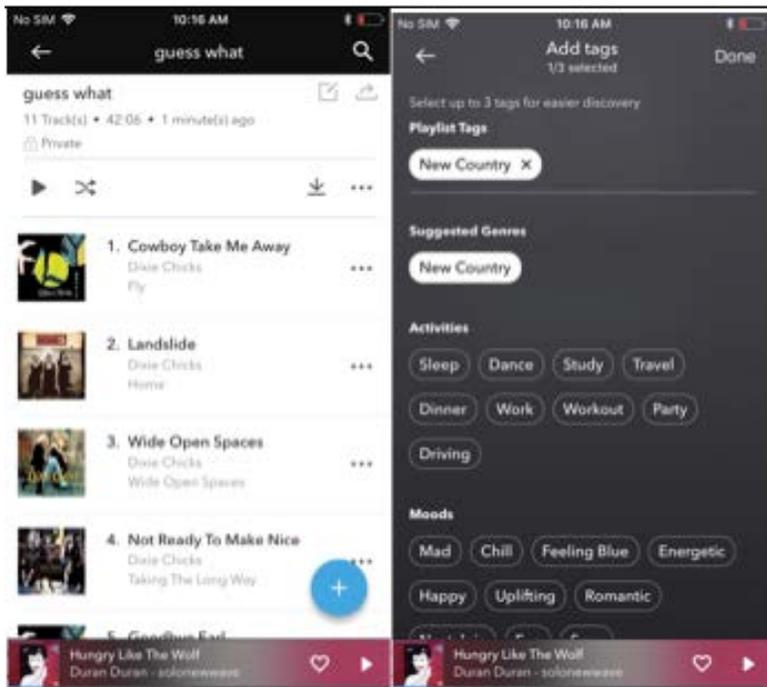
Recommended Content

GET Track Recommendations for a Member's Playlist

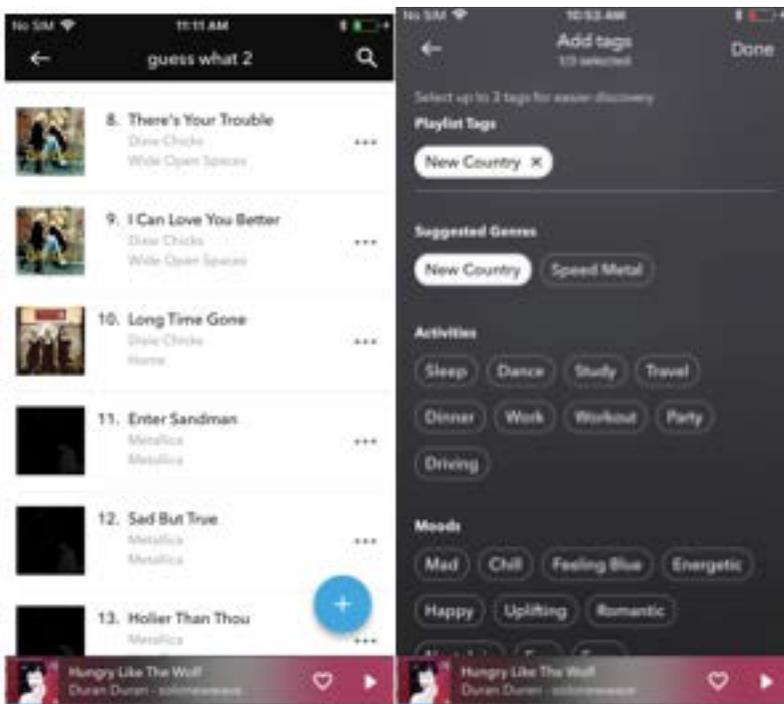
Returns a list of recommended tracks to add to your playlist.

```
curl -v -H "Authorization: Bearer {access_token}" "https://api.napster.com/v2.1/me/recommendations/tracks?playlistId=mp.7675464"
```

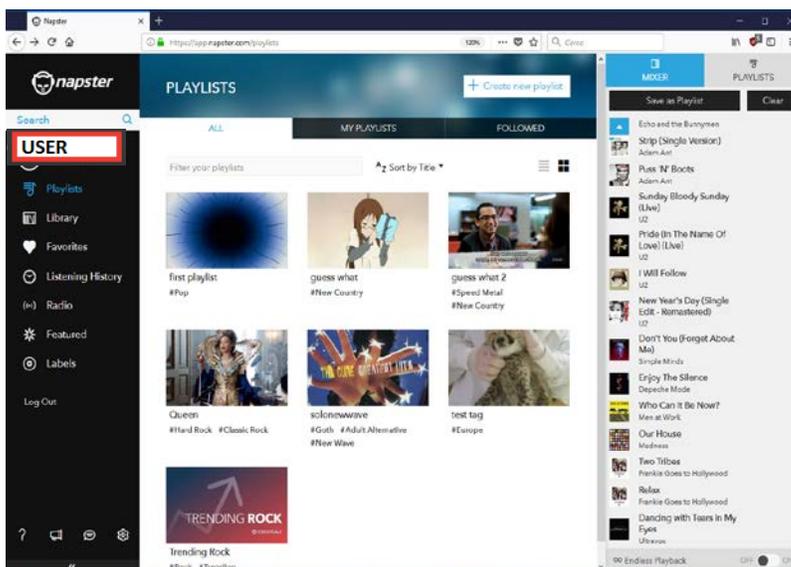
70. Napster analyzes an occurrence frequency or at least a content relationship of the plurality of playlists. Occurrence frequency is one of the key parameters when determining the music genres present in a playlist. As an example, the following playlist, containing 10 “New Country” songs plus one metal song is classified as “New Country” (the metal song is considered an outlier given the prevailing occurrence of country songs).



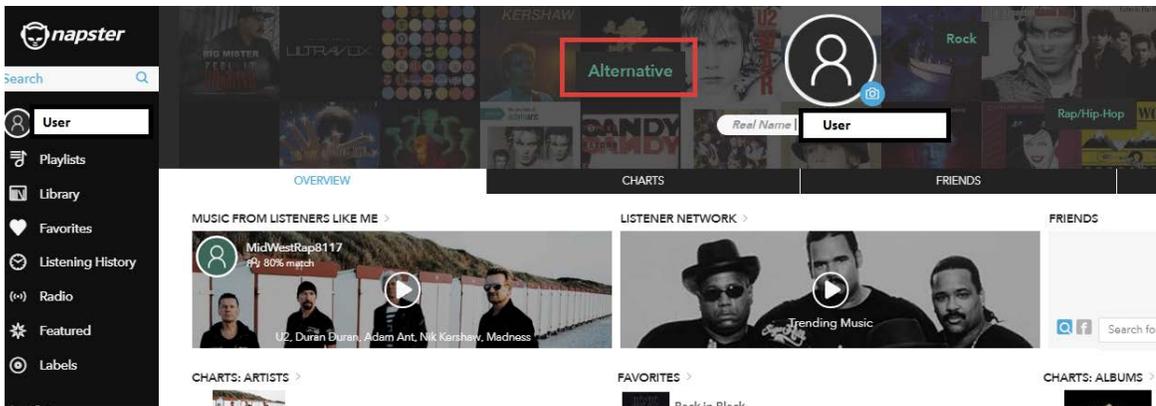
Contrastingly, when a playlist containing the same New Country songs and an equal number of “Speed Metal” songs is imported, the new classification will be “New Country” and “Speed Metal”, reflecting the change in the distribution of genre occurrences.



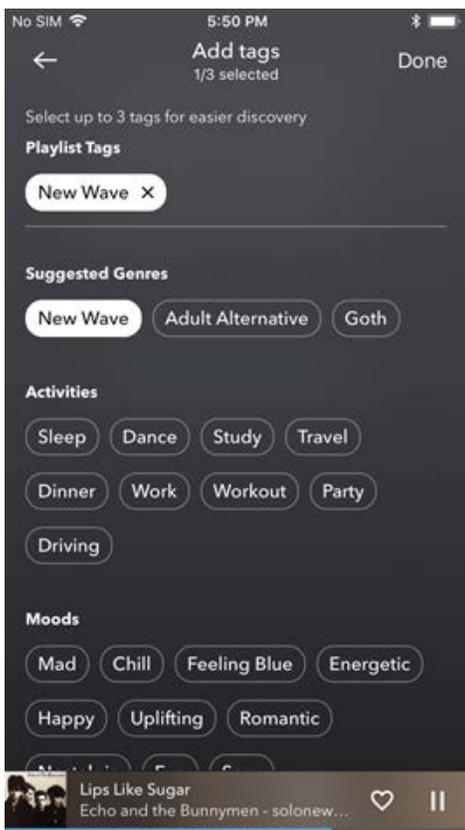
71. Napster automatically generates a user profile for a user based on the analyzed at least one first playlist and the derived at least one playlist feature, such as the aforementioned genre classification.



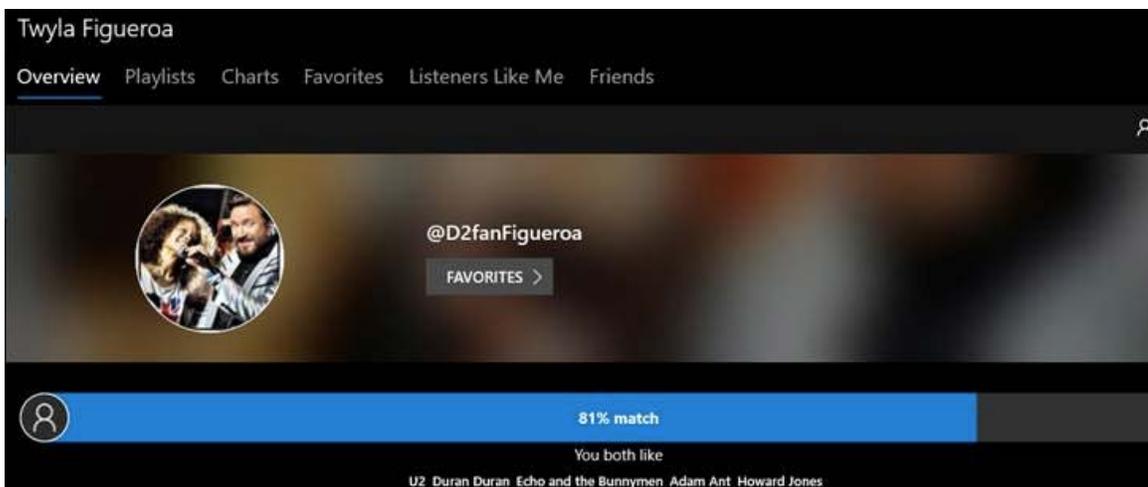
For example, after playing a given playlist, the tags associated directly with the user profile have been updated and provide the tag “Alternative,” as noted below.



The “Alternative” tag is consistent with the tags analyzed by Napster for the playlist noted below.

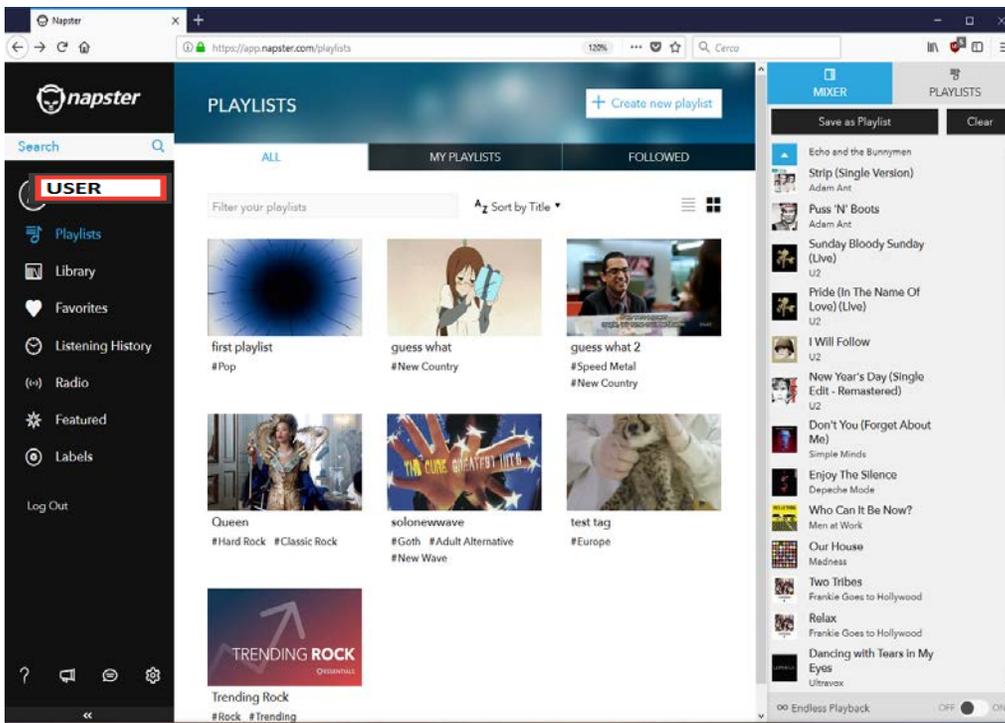


Moreover, based on the new listening activities and the updated preferences of the user, Napster recommended new “listeners like the user.”



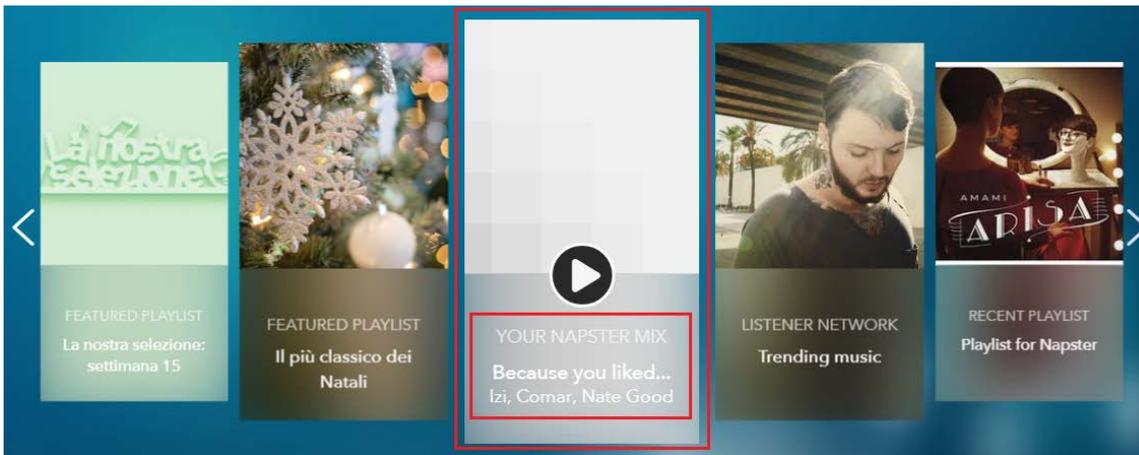
72. Claim 2 of the '123 patent recites the method of claim 1 where the at least one playlist feature comprises one or more of: a feature representing tempo variance, a feature representing a number of different artists, a feature representing relative tempo difference, one or more features representing one or more preferred genres, a feature representing a number of genre changes, a feature representing the presence or absence of a particular genre change, and a feature representing the number of true and false genre changes between songs.

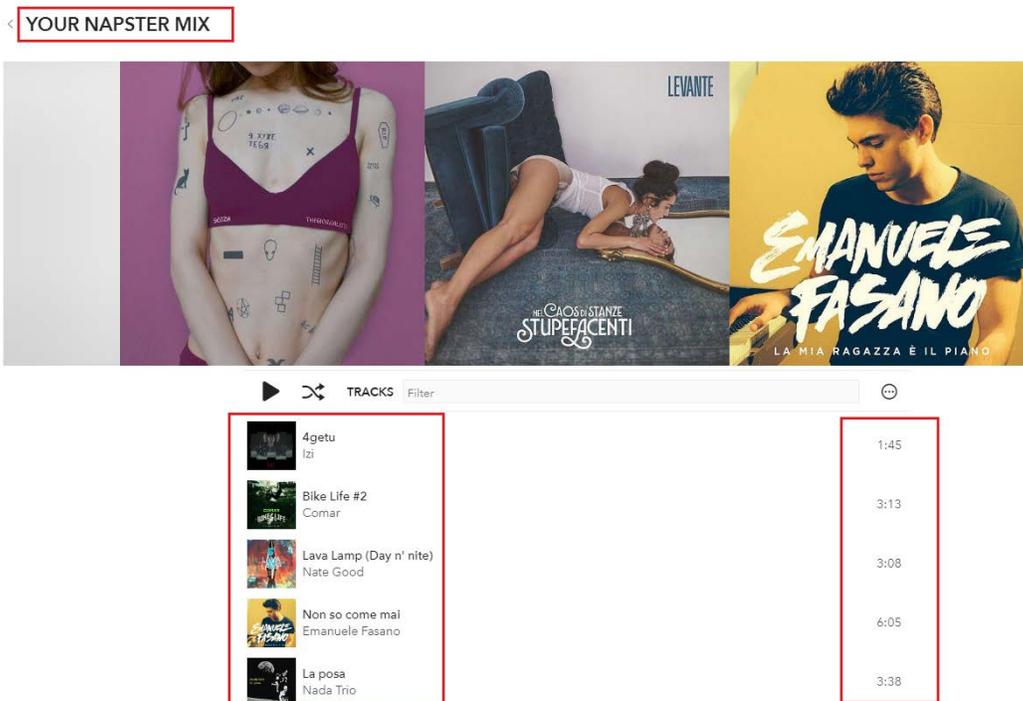
73. The Accused Instrumentalities infringe claim 2 of the '123 patent. The user interface below demonstrates the presence of one or more features representing one or more preferred genres.



74. Claim 3 of the '123 patent recites the method of claim 1 where the method further comprises generating at least one recommended playlist on the basis of a user profile.

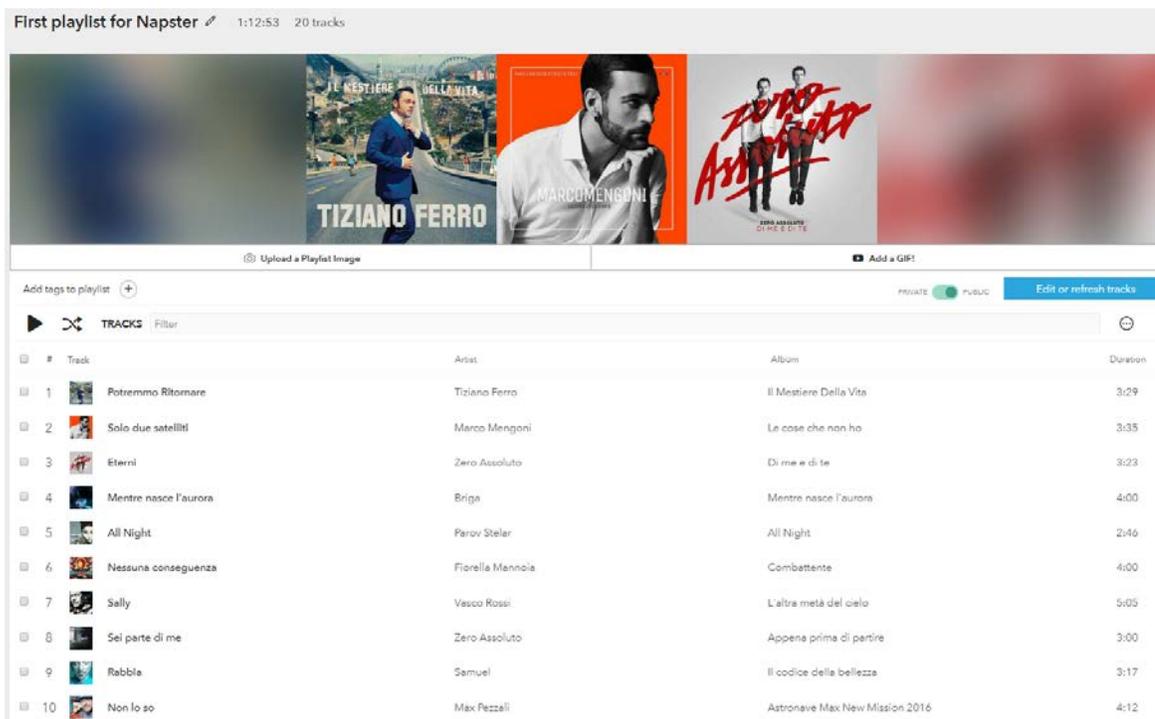
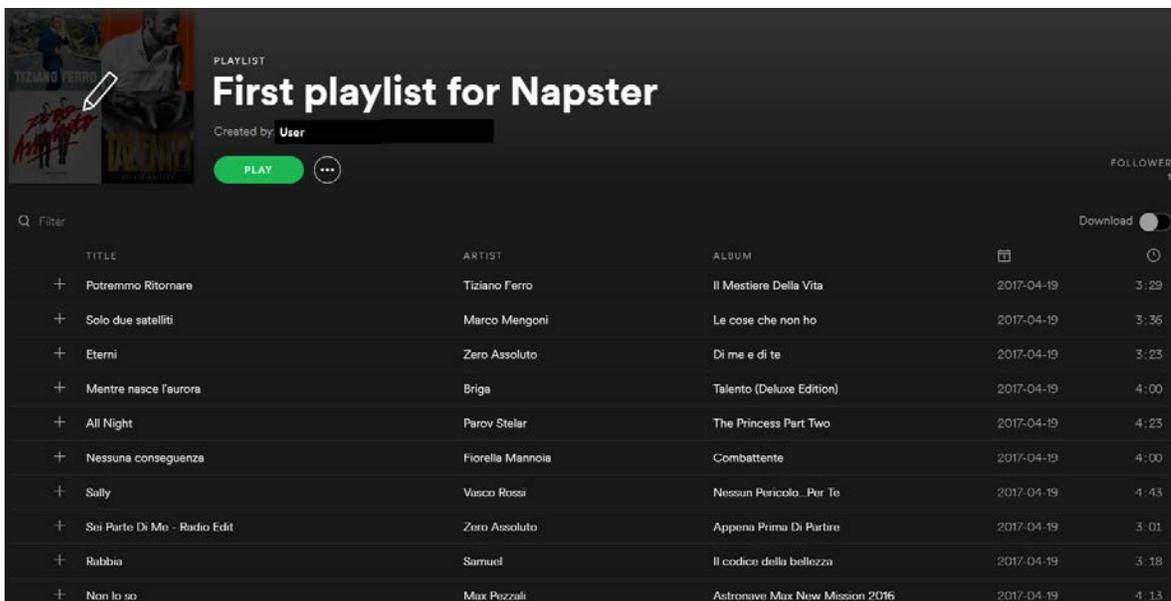
75. The Accused Instrumentalities infringe claim 3 of the '123 patent. Features including Napster's Your Napster mix demonstrate that Napster generates at least one recommended playlist on the basis of a user profile.





76. Claim 5 of the '123 patent recites the method of claim 1 where the at least one first playlist comprises an ordered list of content items, including songs or videos, and the content items include metadata.

77. The Accused Instrumentalities infringe claim 5 of the '123 patent. Imported playlists maintain the same ordered list of songs and metadata associated with those songs. *See, e.g.,* <https://tools.napster.com/converter/>; <https://tools.napster.com/converter/faq/>.



78. Claim 9 of the '123 patent recites the method of claim 1 where the media device is a jukebox, a set-top box, a TV, a PC, a DVD player, a hard disk recorder, a solid-state device, a radio or a VCR.

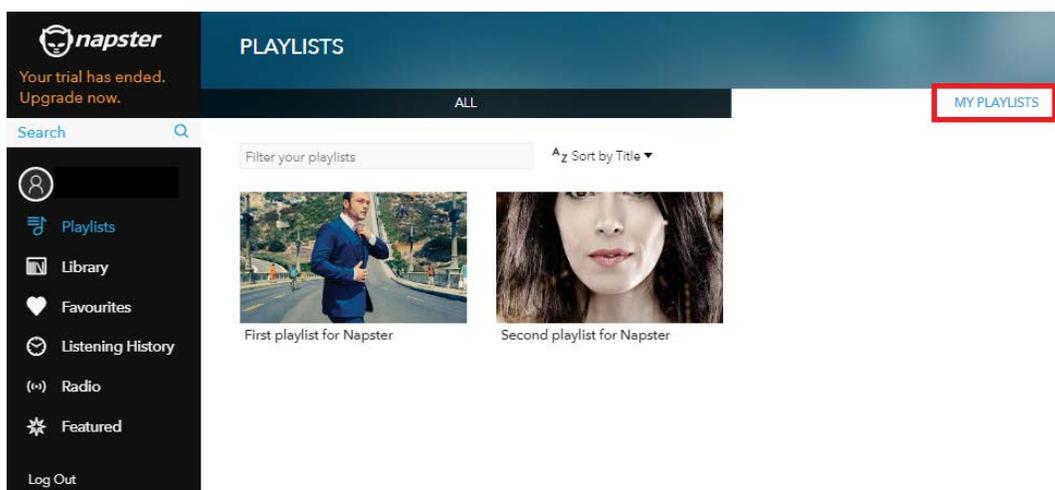
79. The Accused Instrumentalities infringe claim 9 of the '123 patent. *See, e.g.*, <http://us.napster.com/apps-devices>; <https://help.napster.com/hc/en-us/articles/213269167-Compatible-Devices>.

80. Claim 10 of the '123 patent recites the method of claim 1 where the at least one first playlist comprises one or more selected from the group of: a DVD MPEG Program Stream containing picture and sound signal; a Blu-Ray MPEG Transport Stream containing picture and sound signal; a CD sound signal; a given digital audio format; a given digital movie format; a given picture format; and/or any format capable of causing said media device to emit a picture signal and/or a sound signal.

81. The Accused Instrumentalities infringe claim 10 of the '123 patent. *See, e.g.*, <https://help.napster.com/hc/en-gb/articles/221501128-Napster-6-PC-Software-Guide>.

82. Claim 13 of the '123 patent recites the method of claim 1 further comprising distinguishing between manually created playlists and commercially available playlists.

83. The Accused Instrumentalities infringe claim 13 of the '123 patent. Napster distinguishes between playlists manually created and playlists made available by Napster itself.



napster **PLAYLISTS** [+ Create new playlist](#)

ALL MY PLAYLISTS **FOLLOWED**

Search

Filter your playlists Sort by Title ⌵

Tropical House
#Estate #Il meglio
#Pulire a ritmo

User
Playlists
Library
Favourites
Listening History
Radio
Featured
Log Out

TROPICAL HOUSE 4:11:28 60 TRACKS [Twitter](#) [Facebook](#) [Google+](#) [SoundCloud](#) [Code](#)

NapsterEurope

2161 [Following](#)

Pulire a ritmo Estate Per ballare Dance/Electonica
House Il meglio Playlist di Napster

TRACKS ⋮

	Feel (Radio Edit) Mahmut Orhan	2:52
	Love Like That Edeema Remix Sophie Elise	5:10
	Tripping Off	2:56

84. Claim 18 of the '123 patent recites the method of claim 1 where the at least one first playlist comprises a plurality of digital media files.

85. The Accused Instrumentalities infringe claim 18 of the '123 patent. *See, e.g.*, <https://help.napster.com/hc/en-gb/articles/221501128-Napster-6-PC-Software-Guide>.

86. On information and belief, these Accused Instrumentalities are used, marketed, provided to, and/or used by or for Defendant's partners, clients, customers and end users across the country and in this District.

87. Defendant was made aware of the '123 patent and its infringement thereof at least as early as May 11, 2017 when Defendant received a notice letter dated May 10, 2017.

88. Upon information and belief, since at least the time Defendant received notice, Defendant has induced and continues to induce others to infringe at least one claim of the '123 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to Defendant's partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '123 patent.

89. In particular, Defendant's actions that aid and abet others such as its partners, customers, clients, and end users to infringe include advertising and distributing the Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities. On information and belief, Defendant has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because Defendant has had actual knowledge of the '123 patent and knowledge that its acts were inducing infringement of the '123 patent since at least the date Rhapsody received notice that such activities infringed the '123 patent.

90. Upon information and belief, Defendant is liable as a contributory infringer of the '123 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States Napster multimedia streaming platforms to be especially made or adapted for use in an infringement of the '123 patent. The Accused Instrumentalities are a material component for use in practicing the '123 patent and are specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

91. Since at least May 11, 2017, Defendant's infringement has been willful.

92. Plaintiff has been harmed by Defendant's infringing activities.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment for itself and against Defendant as follows:

A. An adjudication that Defendant has infringed the '680, '863, and '123 patents, and that the infringement has been willful;

B. An award of damages to be paid by Defendant adequate to compensate Plaintiff for Defendant's past infringement of the '680, '863, and '123 patents, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;

C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees; and

D. An award to Plaintiff of such further relief at law or in equity as the Court deems just and proper.

Dated: January 8, 2018

DEVLIN LAW FIRM LLC

/s/ Timothy Devlin

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