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9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**  
11 **WESTERN DIVISION**

12 BLUE SPIKE LLC,  
13 Plaintiff,

14 v.

15 PANDORA MEDIA, INC.  
16 Defendant.  
17

Case No. 2:18-cv-04525-JAK-JPR

**SECOND AMENDED  
COMPLAINT FOR PATENT  
INFRINGEMENT**

**JURY TRIAL DEMANDED**

1 Plaintiff Blue Spike LLC (“Plaintiff” or “Blue Spike”) files this Second  
2 Amended Complaint against Pandora Media, Inc. (“Defendant” or “Pandora”)  
3 seeking damages and other relief for patent infringement, and alleges with  
4 knowledge to its own acts, and on information and belief as to other matters, as  
5 follows:

6 **I. NATURE OF ACTION**

7 1. This is an action for patent infringement arising under Title 35 of the  
8 United States Code, seeking monetary damages and other relief against Defendant  
9 due to its infringement of United States Patent Nos. 7,813,506 (“the ’506 Patent”),  
10 7,664,263 (“the ’263 Patent”), and 8,265,276 (“the ’276 Patent”) (the “Patents-in-  
11 Suit”) in accordance with 35 U.S.C. § 271.

12 **II. PARTIES**

13 2. Blue Spike is a limited liability company organized and existing under  
14 the laws of the State of Texas, having its principal place of business at 1820 Shiloh  
15 Road, Suite 1201-C, Tyler, Texas 75703.

16 3. Defendant is a Delaware corporation with its principal place of business  
17 at 3000 Ocean Park Blvd., Suite 3050, Santa Monica, California 90405. Defendant  
18 can be served through its registered agent, CT Corporation System, located at 818  
19 West Seventh Street, Suite 930, Los Angeles, California 90017.

20 **III. JURISDICTION AND VENUE**

21 4. This is an action under the patent laws of the United States, 35 U.S.C.  
22 §§1, et seq. This Court has subject matter jurisdiction over this action pursuant to  
23 28 U.S.C. §§1331 and 1338(a). Venue is proper under 28 U.S.C. §§1391(a) & (c),  
24 and 1400(b).

25 5. This Court has personal jurisdiction over Defendant under the laws of  
26 the State of California, including the California long-arm statute, CAL. CODE OF  
27 CIVIL PROCEDURE §410.10.

28 6. Plaintiff’s claims arise directly from Defendant’s business contacts and  
other activities in the State of California and in the Central District of California:

1 Defendant is present within or has minimum contacts within the State of California  
2 and the Central District of California; Defendant has purposefully availed itself of  
3 the privileges of conducting business in the State of California and in the Central  
4 District of California; Defendant has sought protection and benefit from the laws of  
5 the State of California; and Defendant regularly conducts business within the State  
6 of California and within the Central District of California.

7 7. Defendant directly or through intermediaries, makes, uses, offers for  
8 sale, imports, sells, advertises or distributes products and services in the United  
9 States, the State of California, and the Central District of California. This Court also  
10 has personal jurisdiction over Defendant because Defendant has committed acts of  
11 patent infringement in California, including within this District.

12 8. Defendant has regularly and systematically conducted and solicited  
13 business in this District by and through at least sales and offers for sale of  
14 Defendant's products and services.

15 9. Defendant has been, and currently is, continuously and systematically  
16 conducting business in this District and throughout California.

17 10. Defendant has systematically and continuously harmed Plaintiff in this  
18 District by infringing one or more claims of the Patents-in-Suit.

19 11. Venue is proper in this District because, inter alia, Defendant maintains  
20 a regular and established place of business in this judicial District.

21 12. Pandora has a regular and established place of business at 3000 Ocean  
22 Park Blvd., Suite 3050, Santa Monica, California 90405.

#### 23 **IV. PATENTS-IN-SUIT**

##### 24 **U.S. Patent No. 7,813,506**

25 13. On March 30, 2009, Blue Spike, Inc. filed United States Patent  
26 Application No. 12/383,879 entitled "System and Methods for Permitting Open  
27 Access to Data Objects and for Securing Data Within the Data Objects" with the  
28 United States Patent and Trademark Office ("USPTO").

1           14. Application No. 12/383,879 is a continuation application of United  
2 States Patent Application No. 11/647,861, which Blue Spike, Inc. filed on December  
3 29, 2006, which issued as United States Patent No. 7,532,725.

4           15. Application No. 11/647,861 is a continuation application of United  
5 States Patent Application No. 09/731,039, which Blue Spike, Inc. filed on December  
6 7, 2000, which issued as United States Patent No. 7,177,429.

7           16. The Cross Reference to Related Applications section of United States  
8 Patent No. 7,177,429 recites: “This application claims the benefit of pending U.S.  
9 patent application Ser. No. 08/674,726, filed Jul. 2, 1996, entitled “Exchange  
10 Mechanisms for Digital Information Packages with Bandwidth Securitization,  
11 Multichannel Digital Watermarks, and Key Management”; pending U.S. patent  
12 application Ser. No. 08/999,766, filed Jul. 23, 1997, entitled “Steganographic  
13 Method and Device”; pending U.S. patent application Ser. No. 09/046,627, filed  
14 Mar. 24, 1998, entitled “Method for Combining Transfer Function with  
15 Predetermined Key Creation”; pending U.S. patent application Ser. No. 09/053,628,  
16 filed Apr. 2, 1998, entitled “Multiple Transform Utilization and Application for  
17 Secure Digital Watermarking”; pending U.S. patent application Ser. No. 09/281,279,  
18 filed Mar. 30, 1999, entitled “Optimization Methods for the Insertion, Protection,  
19 and Detection of Digital Watermarks in Digital Data”; pending U.S. Provisional  
20 Application No. 60/169,274, filed Dec. 7, 1999, entitled “Systems, Methods And  
21 Devices For Trusted Transactions”; pending U.S. patent application Ser. No.  
22 09/456,319, filed Dec. 8, 1999, entitled “Z-Transform Implementation of Digital  
23 Watermarks”; pending U.S. patent application Ser. No. 09/545,589, filed Apr. 7,  
24 2000, entitled “Method and System for Digital Watermarking”; pending U.S. patent  
25 application Ser. No. 09/594,719, filed Jun. 16, 2000, entitled “Utilizing Data  
26 Reduction in Steganographic and Cryptographic Systems” (which is a continuation-  
27 in-part of International Application No. PCT/US00/06522, filed Mar. 14, 2000,  
28 which PCT application claimed priority to U.S. Provisional Application No.  
60/125,990, filed Mar. 24, 1999); International Application No. PCT/US00/21189,

1 filed Aug. 4, 2000 (which claims priority to U.S. patent application Ser. No.  
2 60/147,134, filed Aug. 4, 1999, and to U.S. patent application Ser. No. 60/213,489,  
3 filed Jun. 23, 2000, both of which are entitled “A Secure Personal Content Server”),  
4 U.S. patent application Ser. No. 09/657,181, filed Sep. 7, 2000, entitled “Method  
5 And Device For Monitoring And Analyzing Signals”; U.S. Provisional Patent  
6 Application No. 60/234,199, filed Sep. 20, 2000, entitled “Improved Security Based  
7 on Subliminal and Supraliminal Channels For Data Objects”; U.S. patent application  
8 Ser. No. 09/671,739, filed Sep. 29, 2000, entitled “Method And Device For  
9 Monitoring And Analyzing Signals”; and U.S. patent application Ser. No.  
10 09/731,040, entitled “Systems, Methods and Devices for Trusted Transactions,”  
11 filed Dec. 7, 2000. The previously identified patents and/or patent applications are  
12 hereby incorporated by reference, in their entireties.”

13 17. Application No. 12/383,879 issued as the ’506 Patent on October 12,  
14 2010. A true and correct copy of the ’506 Patent is attached hereto as “Exhibit A”  
15 and is incorporated herein by reference.

16 18. The ’506 Patent is presumed valid.

17 19. Plaintiff is the sole owner of the ’506 Patent.

18 20. The ’506 Patent is directed to electronically securing data objects by  
19 scrambling a data object to degrade the data object to a predetermined signal quality  
20 level. *See, e.g.*, Exhibit A, ’506 Patent, col. 2, ll. 38–52.

21 21. By scrambling a data object to degrade the data object to a  
22 predetermined signal quality level, the ’506 Patent describes a technical solution to  
23 a technical problem that is intrinsically tied to electronically securing data objects.  
*Id.* at Abstract.

24 22. The ’506 Patent describes improvements to electronically securing data  
25 objects. As an example, rather than providing disparate security schemes for audio  
26 files of different signal quality, the ’506 Patent describes methods for “designing  
27 security to meet either model [streaming and downloads].” *Id.* at col. 7, l. 66 – col.  
28 8, l. 5.



1           32. The '263 Patent is directed to protecting a digital signal by  
2 manipulating the digital signal using a predetermined key to generate a permutation  
3 of the digital signal parameterized by file format information defining how the  
4 digital signal is encoded. *See, e.g.*, Exhibit B, '263 Patent, col. 7, ll. 39–47.

5           33. By manipulating the digital signal in a manner that is parameterized by  
6 file format information, the '263 Patent describes a technical solution to a technical  
7 problem that is intrinsically tied to electronically securing data objects. *See, e.g., id.*  
8 at col. 4, ll. 38–54.

9           34. The '263 Patent describes improvements to protecting digital signals.  
10 As an example, by using a predetermined key to generate a permutation of the digital  
11 signal parameterized by file format information defining how the digital signal is  
12 encoded, the '263 Patent allows for the generation of degraded digital signals that  
13 may be “freely distributed in encoded form to the public . . . . This lets the public  
14 decide, based on the available lower quality version of the song, if they want to  
15 purchase a key from the publisher to decode, or ‘clean-up,’ the content.” *Id.* at col.  
16 4, ll. 38–54.

17           35. The '263 Patent is not directed to any abstract idea, method of  
18 organizing human activity, or any fundamental economic practice. The claims of the  
19 '263 Patent are directed toward technical solutions to technical problems—how to  
20 protect digital audio files when those files are widely distributed over a large,  
21 networked population. *See, e.g., id.* at col. 4, ll. 38–54.

22           36. The '263 Patent also discloses multiple inventive concepts and  
23 improvements over prior data security systems. *E.g., id.* at col. 6, ll. 39–52.

24           37. As demonstrated by its frequent citation by the USPTO in other later-  
25 issued patents and pending patent applications involving data security systems, the  
26 '263 Patent represents a fundamental technical improvement involving  
27 electronically securing data objects. Specifically, the '263 Patent has been cited  
28 during the prosecution of 31 subsequently issued U.S. patents and pending U.S.  
patent applications.

**U.S. Patent No. 8,265,276**

38. On June 25, 2003, Blue Spike, Inc. filed United States Patent Application No. 12/655,002, entitled “Method for Combining Transfer Functions with Predetermined Key Creation” with the USPTO.

39. Application No. 12/655,002 is a continuation application of United States Patent Application No. 10/602,777, which Blue Spike, Inc. filed on June 25, 2003, which issued as United States Patent No. 7,664,263.

40. Application No. 10/602,777 is a continuation application of United States Patent Application No. 09/046,627, which Blue Spike, Inc. filed on March 24, 1998, which issued as United States Patent No. 6,598,162.

41. Application No. 09/046,627 is a continuation-in-part of United States Patent Application No. 08/587,943, which Blue Spike, Inc. filed on January 17, 1996, which issued as United States Patent No. 5,745,569.

42. Application No. 12/665,002 issued as the '276 Patent on September 11, 2012. A true and correct copy of the '276 Patent is attached hereto as “Exhibit C” and is incorporated herein by reference.

43. The '276 Patent is presumed valid.

44. Plaintiff is the sole owner of the '276 Patent.

45. The '276 Patent is directed to protecting a digital signal by manipulating the digital signal using a predetermined key to generate a permutation of the digital signal parameterized by file format information defining how the digital signal is encoded. See, e.g., Exhibit C, '276 Patent, col. 7, ll. 40–48.

46. By manipulating the digital signal in a manner that is parameterized by file format information, the '276 Patent describes a technical solution to a technical problem that is intrinsically tied to electronically securing data objects. See, e.g., *id.* at col. 4, ll. 43–62.

47. The '276 Patent describes improvements to protecting digital signals. As an example, by using a predetermined key to generate a permutation of the digital signal parameterized by file format information defining how the digital signal is



1 encoded, the '276 Patent allows for the generation of degraded digital signals that  
2 may be “freely distributed in encoded form to the public . . . . This lets the public  
3 decide, based on the available lower quality version of the song, if they want to  
4 purchase a key from the publisher to decode, or ‘clean-up,’ the content.” *Id.* at col.  
5 4, ll. 43–62.

6 48. The '276 Patent also discloses multiple inventive concepts and  
7 improvements over prior data security systems. *E.g., id.* at col. 6, ll. 40–60.

8 49. The '276 Patent is not directed to any abstract idea, method of  
9 organizing human activity, or any fundamental economic practice. The claims of the  
10 '276 Patent are directed toward technical solutions to technical problems—how to  
11 protect digital audio files when those files are widely distributed over a large,  
12 networked population. *See, e.g.,* col. 4, ll. 43–58.

13 50. As demonstrated by its frequent citation by the USPTO in other later-  
14 issued patents and pending patent applications involving data security systems, the  
15 '276 Patent represents a fundamental technical improvement involving  
16 electronically securing data objects. Specifically, the '276 Patent has been cited  
17 during the prosecution of 31 subsequently issued U.S. patents and pending U.S.  
18 patent applications.

## 19 **V. COUNT I**

### 20 **Infringement of U.S. Patent No. 7,813,506**

21 51. Plaintiff hereby incorporates by reference the preceding paragraphs of  
22 this Complaint as if fully set forth here.

23 52. Defendant makes, uses, sells, imports, or offers for sale in the United  
24 States, without authority, products, equipment, or services that infringe one or more  
25 claims of the '506 Patent, including without limitation, the Pandora, Pandora Plus,  
26 and/or Pandora Premium music streaming services and associated apps (“Accused  
27 Products”). *See* Exhibit D, <https://www.pandora.com/upgrade> (last accessed  
28 September 26, 2018).

1           53. Defendant has been and continues to directly infringe, either literally or  
2 under the doctrine of equivalents, at least Claims 6, 7, 9 and 10 of the '506 Patent  
3 by making, using, offering to sell, importing, or selling the Accused Products. *See*  
4 '506 Patent Claim Chart, attached hereto as Exhibit E. Plaintiff notes that the '506  
5 Claim Chart and analysis constitute a preliminary and exemplary infringement  
6 analysis based on publicly available information. Plaintiff has not obtained  
7 discovery from Defendant, nor has Defendant disclosed any analysis in support of  
8 any purported non-infringement positions. Plaintiff hereby specifically reserves the  
9 right to supplement and/or amend the positions taken in this preliminary and  
10 exemplary infringement analysis, including with respect to literal infringement and  
11 infringement under the doctrine of equivalents, if and when warranted by further  
12 information obtained by Plaintiff during the pendency of litigation, including  
13 information adduced through fact discovery, claim construction, expert discovery,  
14 and/or further analysis.

15           54. At least as early as the date of service of the Original Complaint,  
16 Defendant indirectly infringed and continues to infringe the Patents-in-Suit within  
17 the United States by inducement under 35 U.S.C. §271(b). By failing to cease  
18 making, using, selling, importing, or offering for sale the Accused Products,  
19 Defendant has knowingly and intentionally induced users of the Accused Products  
20 to directly infringe one or more claims of the Patents-in-Suit, including, by: (1)  
21 providing instructions or information, for example on its publicly available website,  
22 to explain how to use the Accused Products in an infringing manner; and (2) touting  
23 these infringing uses of the Accused Products in advertisements, including but not  
24 limited to, those on its website.

25           55. At least as early as the date of service of the Original Complaint,  
26 Defendant has indirectly infringed, and continues to indirectly infringe, the Patents-  
27 in-Suit within the United States by contributory infringement under 35 U.S.C.  
28 §271(c). Defendant is aware, at least as early as the date of receipt of the  
Correspondence, that components of the Accused Products are a material and

1 substantial part of the invention claimed by the Patents-in-Suit, and that they are  
2 designed for a use that is both patented and infringing, and that has no substantial  
3 non-infringing uses.

4 56. Defendant's infringement of the Patents-in-Suit has injured Plaintiff,  
5 and Plaintiff is entitled to recover damages from Defendant (or any successor entity  
6 to Defendant).

## 7 **VI. COUNT II**

### 8 **Infringement of U.S. Patent No. 7,664,263**

9 57. Plaintiff hereby incorporates by reference the preceding paragraphs of  
10 this Complaint as if fully set forth here.

11 58. Defendant makes, uses, sells, imports, or offers for sale in the United  
12 States, without authority, products, equipment, or services that infringe one or more  
13 claims of the '263 Patent, including without limitation, the Pandora, Pandora Plus,  
14 and/or Pandora Premium music streaming services and associated apps ("Accused  
15 Products"). *See* Exhibit D, <https://www.pandora.com/upgrade> (last accessed  
16 September 26, 2018).

17 59. Defendant has been and continues to directly infringe, either literally or  
18 under the doctrine of equivalents, at least Claim 1 of the '263 Patent by making,  
19 using, offering to sell, importing, or selling the Accused Products. *See* '263 Patent  
20 Claim Chart, attached hereto as Exhibit F. Plaintiff notes that the '263 Claim Chart  
21 and analysis constitute a preliminary and exemplary infringement analysis based on  
22 publicly available information. Plaintiff has not obtained discovery from Defendant,  
23 nor has Defendant disclosed any analysis in support of any purported non-  
24 infringement positions. Plaintiff hereby specifically reserves the right to supplement  
25 and/or amend the positions taken in this preliminary and exemplary infringement  
26 analysis, including with respect to literal infringement and infringement under the  
27 doctrine of equivalents, if and when warranted by further information obtained by  
28 Plaintiff during the pendency of litigation, including information adduced through  
fact discovery, claim construction, expert discovery, and/or further analysis



1 Products”). See Exhibit D, <https://www.pandora.com/upgrade> (last accessed  
2 September 26, 2018).

3 65. Defendant has been and continues to directly infringe, either literally or  
4 under the doctrine of equivalents, at least Claims 1, 2, 5, 6, 7, and 9 of the ’276  
5 Patent by making, using, offering to sell, importing, or selling the Accused Products.  
6 See ’276 Patent Claim Chart, attached hereto as Exhibit G. Plaintiff notes that the  
7 ’276 Claim Chart and analysis constitute a preliminary and exemplary infringement  
8 analysis based on publicly available information. Plaintiff has not obtained  
9 discovery from Defendant, nor has Defendant disclosed any analysis in support of  
10 any purported non-infringement positions. Plaintiff hereby specifically reserves the  
11 right to supplement and/or amend the positions taken in this preliminary and  
12 exemplary infringement analysis, including with respect to literal infringement and  
13 infringement under the doctrine of equivalents, if and when warranted by further  
14 information obtained by Plaintiff during the pendency of litigation, including  
15 information adduced through fact discovery, claim construction, expert discovery,  
16 and/or further analysis

17 66. At least as early as the date of service of the Original Complaint,  
18 Defendant indirectly infringed and continues to infringe the Patents-in-Suit within  
19 the United States by inducement under 35 U.S.C. §271(b). By failing to cease  
20 making, using, selling, importing, or offering for sale the Accused Products,  
21 Defendant has knowingly and intentionally induced users of the Accused Products  
22 to directly infringe one or more claims of the Patents-in-Suit, including, by: (1)  
23 providing instructions or information, for example on its publicly available website,  
24 to explain how to use the Accused Products in an infringing manner; and (2) touting  
25 these infringing uses of the Accused Products in advertisements, including but not  
26 limited to, those on its website.

27 67. At least as early as the date of service of the Original Complaint,  
28 Defendant has indirectly infringed, and continues to indirectly infringe, the Patents-  
in-Suit within the United States by contributory infringement under 35 U.S.C.

1 §271(c). Defendant is aware, at least as early as the date of receipt of the  
2 Correspondence, that components of the Accused Products are a material and  
3 substantial part of the invention claimed by the Patents-in-Suit, and that they are  
4 designed for a use that is both patented and infringing, and that has no substantial  
5 non-infringing uses.

6 68. Defendant's infringement of the Patents-in-Suit has injured Plaintiff,  
7 and Plaintiff is entitled to recover damages from Defendant (or any successor entity  
8 to Defendant).

9 **VIII. RELIEF REQUESTED**

10 WHEREFORE, Plaintiff respectfully requests that this Court:

- 11 A. Enter judgment that Defendant has infringed one or more claims of the  
12 Patents-in-Suit literally or under the doctrine of equivalents;
- 13 B. Enter judgement that Defendant has induced infringement and  
14 continues to induce infringement of one or more claims of the Patents-  
15 in-Suit;
- 16 C. Enter judgement that Defendant has contributed to and continues to  
17 contribute to infringement of one or more claims of the Patents-in-Suit;
- 18 D. Enter judgement that Defendant's infringement has been willful;
- 19 E. Award Plaintiff past and future damages, to be paid by Defendant, in  
20 an amount no less than a reasonable royalty and adequate to compensate  
21 Plaintiff for such past and future damages, together with pre-judgment  
22 and post-judgment interest for Defendant's infringement of the Patents-  
23 in-Suit through the date that such judgment is entered in accordance  
24 with 35 U.S.C. §284, and increase such award by up to three times the  
25 amount found or assessed in accordance with 35 U.S.C. §284;
- 26 F. Declare this case exceptional pursuant to 35 U.S.C. §285; and
- 27 G. Award Plaintiff its costs, disbursements, attorneys' fees, and such  
28 further and additional relief as is deemed appropriate by this Court.

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**IX. JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: September 26, 2018

Respectfully submitted,  
By: */s/ Jeffrey Francis Craft*  
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**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of this document has been served on all parties through counsel of record on this September 26, 2018 via the Court's CM/ECF system.

By: /s/ Jeffrey Francis Craft  
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