

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

BLUE SPIKE LLC

Plaintiff,

v.

SOUNDCLOUD LTD.

Defendant.

Civil Action No. 1:18-cv-01402-LPS

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Blue Spike LLC (“Blue Spike” or “Plaintiff”), for its Complaint against Defendant SoundCloud Ltd., (referred to herein as “SoundCloud” 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 Blue Spike is a limited liability company organized under the laws of the State of Texas with a place of business at 1820 Shiloh Road, Suite 1201-C, Tyler, Texas 75703.

3. On information and belief, Defendant is a company organized under the law of Germany, with its principal place of business at Rheinberger Str. 76/77, 10115 Berlin, Germany. Defendant can be served through its general manager and wholly-owned subsidiary, SoundCloud Inc. On information and belief, SoundCloud Inc. is a corporation established under the laws of the State of Delaware, with its place of business at 5th Floor, 71 W 5th Avenue, New York, NY

10003. SoundCloud Inc. and SoundCloud Ltd. can be served through its registered agent, The Corporation Service Company, located at 251 Little Falls Drive, Wilmington, DE 19808.

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).

7. Venue is proper as to SoundCloud in this judicial district under 28 U.S.C. §1391(c)(3). On information and belief, SoundCloud is not resident in the United States and may be sued in any judicial district.

8. Further, this Court has personal jurisdiction over SoundCloud under the laws of the State of Delaware, due at least to their substantial business in Delaware and in this judicial district, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in the State of Delaware.

BACKGROUND

THE '506 PATENT

The Invention

9. Scott A. Moskowitz and Michael W. Berry are the inventors of U.S. Patent No. 7,813,506 (“the ’506 Patent”).

10. On March 30, 2009, Blue Spike, Inc. filed United States Patent Application No. 12/383,879 entitled “System and Methods for Permitting Open Access to Data Objects and for

Securing Data Within the Data Objects” with the United States Patent and Trademark Office (“USPTO”).

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

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

13. The Cross Reference to Related Applications section of United States Patent No. 7,177,429 recites: “This application claims the benefit of pending U.S. patent application Ser. No. 08/674,726, filed Jul. 2, 1996, entitled ‘Exchange Mechanisms for Digital Information Packages with Bandwidth Securitization, Multichannel Digital Watermarks, and Key Management’; pending U.S. patent application Ser. No. 08/999,766, filed Jul. 23, 1997, entitled ‘Steganographic Method and Device’; pending U.S. patent application Ser. No. 09/046,627, filed Mar. 24, 1998, entitled ‘Method for Combining Transfer Function with Predetermined Key Creation’; pending U.S. patent application Ser. No. 09/053,628, filed Apr. 2, 1998, entitled ‘Multiple Transform Utilization and Application for Secure Digital Watermarking’; pending U.S. patent application Ser. No. 09/281,279, filed Mar. 30, 1999, entitled ‘Optimization Methods for the Insertion, Protection, and Detection of Digital Watermarks in Digital Data’; pending U.S. Provisional Application No. 60/169,274, filed Dec. 7, 1999, entitled ‘Systems, Methods And Devices For Trusted Transactions’; pending U.S. patent application Ser. No. 09/456,319, filed Dec. 8, 1999, entitled ‘Z-Transform Implementation of Digital Watermarks’; pending U.S. patent application Ser. No. 09/545,589, filed Apr. 7, 2000, entitled ‘Method and System for Digital

Watermarking’; pending U.S. patent application Ser. No. 09/594,719, filed Jun. 16, 2000, entitled ‘Utilizing Data Reduction in Steganographic and Cryptographic Systems’ (which is a continuation-in-part of International Application No. PCT/US00/06522, filed Mar. 14, 2000, which PCT application claimed priority to U.S. Provisional Application No. 60/125,990, filed Mar. 24, 1999); International Application No. PCT/US00/21189, filed Aug. 4, 2000 (which claims priority to U.S. patent application Ser. No. 60/147,134, filed Aug. 4, 1999, and to U.S. patent application Ser. No. 60/213,489, filed Jun. 23, 2000, both of which are entitled ‘A Secure Personal Content Server’), U.S. patent application Ser. No. 09/657,181, filed Sep. 7, 2000, entitled ‘Method And Device For Monitoring And Analyzing Signals’; U.S. Provisional Patent Application No. 60/234,199, filed Sep. 20, 2000, entitled ‘Improved Security Based on Subliminal and Supraliminal Channels For Data Objects’; U.S. patent application Ser. No. 09/671,739, filed Sep. 29, 2000, entitled ‘Method And Device For Monitoring And Analyzing Signals’; and U.S. patent application Ser. No. 09/731,040, entitled ‘Systems, Methods and Devices for Trusted Transactions,’ filed Dec. 7, 2000. The previously identified patents and/or patent applications are hereby incorporated by reference, in their entireties.”

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

15. The ’506 Patent is presumed valid.

16. Plaintiff is the sole owner of the ’506 Patent.

Advantage Over the Prior Art

17. The patented inventions disclosed in the ’506 Patent provide many advantages over the prior art, and in particular improved the open access to data objects and securing data

within the data objects. *E.g.*, Exhibit A, '506 Patent at 2:23–31. One advantage of the patented invention is the protection of, and access to, copyrighted works that may be digitally sampled and made available to open networks such as the World Wide Web. *Id.*

18. Because of these significant advantages that can be achieved through the use of the patented invention, Blue Spike believes that the '506 Patent presents significant commercial value for companies like SoundCloud. Indeed, the technology described and claimed in the '506 Patent reads on the core functionality of SoundCloud's product and services.

Technological Innovation

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

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

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

22. The '506 Patent also discloses multiple inventive concepts and improvements over prior data security systems. *E.g., id.* at 11:36–62.

23. The '506 Patent is not directed to any abstract idea, method of organizing human activity, or any fundamental economic practice. The claims of the '506 Patent are directed

toward technical solutions to technical problems-how to protect digital audio files when those files are widely distributed over a large, networked population. *See, e.g., id.* at 11:36–63.

24. As demonstrated by its frequent citation by the USPTO in other later-issued patents and pending patent applications involving data security systems, the '506 Patent represents a fundamental technical improvement involving electronically securing data objects. Specifically, the '506 Patent has been cited during the prosecution of 112 subsequently issued U.S. patents and pending U.S. patent applications.

25. Accordingly, the claims in the '506 Patent recite a combination of elements sufficient to ensure that the claim in substance and in practice amounts to significantly more than a patent-ineligible abstract idea.

Prior Litigation

26. The '506 Patent was previously litigated in the Northern District of California: 5:18-cv-03392.

27. The '506 Patent was previously litigated in the Central District of California: 2:18-cv-05026; 2:18-cv-05391; 2:18-cv-03970; 2:18-cv-05396.

28. The '506 Patent was previously litigated in the Eastern District of Texas: 6:17-cv-00016; 6:16-cv-01384; 6:17-cv-00175; 2:16-cv-00329.

29. Collectively, these cases may be referred to as the “Prior '506 Patent Litigation.”

30. The scope and construction of the claims of the '506 Patent have been clarified by the Prior Litigation.

THE '116 AND '011 PATENTS

The Invention

31. Scott A. Moskowitz is the inventor of U.S. Patent Nos. 7,159,116 (“the ’116 Patent”). A true and correct copy of the ’116 Patent is attached as Exhibit C.

32. On December 7, 2000, Blue Spike, Inc. filed United States Patent Application No. 09/731,040 entitled “Systems, Methods and Devices for Trusted Transactions” with the United States Patent and Trademark Office (“USPTO”).

33. Application No. 09/731,040 claims priority to Provisional Application No. 60/234,199, filed on September 20, 2000, and Provisional Application No. 60/169,274, filed on December 7, 1999.

34. Scott A. Moskowitz is the inventor of U.S. Patent Nos. 8,538,011 (“the ’011 Patent”). A true and correct copy of the ’011 Patent is attached as Exhibit B.

35. On August 29, 2006, Blue Spike, Inc. filed United States Patent Application No. 11/512,701 entitled “Systems, Methods and Devices for Trusted Transactions” with the United States Patent and Trademark Office (“USPTO”).

36. Application No. 11/512,701 is a division of Application No. 09/731,040, filed on December 7, 2000, now Patent No. 7,159,116.

37. Application No. 11/512,701 claims priority to Provisional Application No. 60/234,199, filed on September 20, 2000, and Provisional Application No. 60/169,274, filed on December 7, 1999.

38. The ’116 Patent and the ’011 Patent resulted from the pioneering efforts of Mr. Moskowitz (hereinafter “the Inventor”) in the area of transferring information between parties. These efforts resulted in the development of systems, methods, and devices for trusted

transactions memorialized in mid-2000. At the time of these pioneering efforts, the most widely implemented technology used to address the difficulty of providing to a prospective acquirer of good or services full, accurate, and verifiable information regarding the nature, value, authenticity, and other suitability-related characteristics of the product in question. In that type of system, reciprocal and non-reciprocal systems could use non-secret algorithms to provide encryption and decryption. The Inventor conceived of the inventions claimed in the '116 and '011 Patents as a way to enhance trust on the part of participants in the transaction.

39. For example, the Inventor developed methods and systems which enhance trust in transactions in connection with sophisticated security, scrambling, and encryption technology by, for example, steganographic encryption, authentication, and security means.

Advantage Over the Prior Art

40. The patented inventions disclosed in the '116 Patent and the '011 Patents provide many advantages over the prior art, and in particular improved the operations of transaction devices. *E.g.*, Exhibit C, '116 Patent at 3:38–7:67; Exhibit B, '011 Patent at 3:42–7:60. One advantage of the patented invention is the handling of authentication, verification, and authorization with a combination of cryptographic and steganographic protocols to achieve efficient, trusted, secure exchange of digital information. *E.g.*, Exhibit C, '116 Patent at 3:46–51; Exhibit B, '011 Patent at 3:50–57.

41. Another advantage of the patented invention is leveraging the benefits of digital information (such as media content) to consumers and publishers, while ensuring the development and persistence of trust between all parties. *E.g.*, Exhibit C, '116 Patent at 3:16–30.

42. Another advantage of the patented invention is the integration of system components, optimally requiring comparatively little processing resources so as to maximize its

usefulness and minimize its cost. *E.g.*, Exhibit C, '116 Patent at 3:52–55; Exhibit B, '011 Patent at 3:53–57.

43. Because of these significant advantages that can be achieved through the use of the patented invention, Blue Spike believes that the '116 Patent and '011 Patents present significant commercial value for companies like SoundCloud. Indeed, the technology described and claimed in the '116 and '011 Patents reads on the core security functionality of SoundCloud's downloadable apps.

Technological Innovation

44. The patented invention disclosed in the '116 and '011 Patents resolves technical problems related to transferring information between parties, particularly problems related to the utilization of sophisticated security, scrambling, and encryption technology by, for example, steganographic encryption, authentication, and security means. As the '116 and '011 Patents explain, one of the limitations of the prior art as regards the technical problems related to transferring information between parties was the difficulty of providing to a prospective acquirer of good or services full, accurate, and verifiable information regarding the nature, value, authenticity, and other suitability-related characteristics of the product in question. In that type of system, reciprocal and non-reciprocal systems could use non-secret algorithms to provide encryption and decryption. *See* Exhibit C, '116 Patent at 2:53–3:35; Exhibit B, '011 Patent at 2:57–3:38.

45. The claims of the '116 and '011 Patents do not merely recite the performance of some well-known business practice from the pre-Internet world along with the requirement to perform it on the Internet. Instead, the claims of the '116 and '011 Patents recite inventive

concepts that are deeply rooted in engineering technology, and overcome problems specifically arising out of how to enhance trust on the part of participants in the transaction.

46. In addition, the claims of the '116 and '011 Patents recite inventive concepts that improve the functioning of devices for conducting trusted transactions, particularly by creating a bridge between mathematically determinable security and analog or human measure of trust.

47. Moreover, the claims of the '116 and '011 Patents recite inventive concepts that are not merely routine or conventional use of computer components. Instead, the patented invention disclosed in the '116 and '011 Patents provides a new and novel solution to specific problems related to enhancing trust on the part of participants in a transaction.

48. And finally, the patented inventions disclosed in the '116 and '011 Patents do not preempt all the ways that enhancing trust on the part of participants in a transaction may be used to improve devices for trusted transactions, nor do the '116 and '011 Patents preempt any other well-known or prior art technology.

49. Accordingly, the claims in the '116 and '011 Patents recite a combination of elements sufficient to ensure that the claim in substance and in practice amounts to significantly more than a patent-ineligible abstract idea.

Prior Litigation

50. The '116 Patent was previously litigated in the Northern District of California: 5:18-cv-03392; 5:17-cv-04780.

51. The '116 Patent was previously litigated in the Central District of California: 2:18-cv-05026; 2:18-cv-05391; 2:18-cv-03970; 2:18-cv-05396.

52. The '116 Patent was previously litigated in the Eastern District of Texas: 6:18-cv-00333 (E.D. Tex.); 6:18-cv-00382 (E.D. Tex.); 6:18-cv-00381 (E.D. Tex.); 6:18-cv-00223 (E.D.

Tex.); 6:18-cv-00174 (E.D. Tex.); 6:18-cv-00242 (E.D. Tex.); 6:18-cv-00181 (E.D. Tex.); 6:17-cv-00016; 6:16-cv-01384 (E.D. Tex.); 6:17-cv-00063 (E.D. Tex.); 6:17-cv-00096; (E.D. Tex.); 6:17-cv-00099 (E.D. Tex.); 6:17-cv-00053 (E.D. Tex.); 6:17-cv-00101 (E.D. Tex.); 17-cv-00060 (E.D. Tex.); 6:17-cv-00100 (E.D. Tex.); 6:17-cv-00097 (E.D. Tex.); 6:17-cv-00098 (E.D. Tex.); 6-17-cv-00175.

53. Collectively, these cases may be referred to as the “Prior ’116 Patent Litigation.”

54. The scope and construction of the claims of the ’116 Patent have been clarified by the Prior Litigation.

55. The ’011 Patent was previously litigated in the Northern District of California: 5:17-cv-04780; 5-18-cv-03392.

56. The ’011 Patent was previously litigated in the Central District of California: 2:18-cv-05026; 2:18-cv-05391; 2:18-cv-03970; 2:18-cv-05396.

57. The ’011 Patent was previously litigated in the Eastern District of Texas: 6:18-cv-00333 (E.D. Tex.); 6:18-cv-00223 (E.D. Tex.); 6:18-cv-00174 (E.D. Tex.); 6:18-cv-00242 (E.D. Tex.); 6:18-cv-00181 (E.D. Tex.); 6:17-cv-00063 (E.D. Tex.); 6:17-cv-00096 (E.D. Tex.); 6:17-cv-00099 (E.D. Tex.); 6:17-cv-00053 (E.D. Tex.); 6:17-cv-00101 (E.D. Tex.); 6:17-cv-00060 (E.D. Tex.); 6:17-cv-00100 (E.D. Tex.); 6:17-cv-00097 (E.D. Tex.); 6:17-cv-00098 (E.D. Tex.); 6:18-cv-00381 (E.D. Tex.); 6:18-cv-00382 (E.D. Tex.); 6:17-cv-00016 (E.D. Tex.); 6:16-cv-01384 (E.D. Tex.).

58. Collectively, these cases may be referred to as the “Prior ’011 Patent Litigation.”

59. The scope and construction of the claims of the ’011 Patent have been clarified by the Prior Litigation.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,813,506

60. The allegations set forth in the foregoing paragraphs 1 through 59 are incorporated into this First Claim for Relief.

61. On October 12, 2010, the '506 Patent was duly and legally issued by the United States Patent and Trademark Office under the title "System and Methods for Permitting Open Access to Data Objects and for Securing Data Within the Data Objects."

62. Blue Spike is the assignee and owner of the right, title and interest in and to the '506 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

63. Upon information and belief, SoundCloud has and continues to directly infringe one or more claims of the '506 Patent by selling, offering to sell, making, using, and/or providing and causing to be used products, specifically one or more streaming services, which by way of example include <http://www.soundcloud.com> (the "Accused Instrumentalities").

64. Upon information and belief, the Accused Instrumentalities performs a method for distributing accessible digital content.

65. The Accused Instrumentalities infringe and continue to infringe at least claims 6, 7, 9 and 10 of the '506 Patent during the pendency of the '506 Patent. *See* '506 Patent Claim Chart, attached hereto as Exhibit D. Plaintiff notes that the '506 Claim Chart and analysis constitute a preliminary and exemplary infringement analysis based on publicly available information. Plaintiff has not obtained discovery from Defendant, nor has Defendant disclosed any analysis in support of any purported non-infringement positions. Plaintiff hereby specifically reserves the right to supplement and/or amend the positions taken in this preliminary and exemplary infringement analysis, including with respect to literal infringement and infringement under the doctrine of equivalents, if and when warranted by further information

obtained by Plaintiff during the pendency of litigation, including information adduced through fact discovery, claim construction, expert discovery, and/or further analysis.

66. Upon information and belief, since at least the time of receiving the Original Complaint, SoundCloud has induced and continues to induce others to infringe at least claims 6, 7, 9 and 10 of the '506 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 SoundCloud's partners and customers, whose use of the Accused Instrumentalities constitutes direct infringement of at least claims 6, 7, 9 and 10 of the '506 Patent.

67. In particular, SoundCloud's actions that aid and abet others such as their partners and customers to infringe include distributing the Accused Instrumentalities and providing materials and/or services related to the Accused Instrumentalities. On information and belief, the SoundCloud has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because the SoundCloud has had actual knowledge of the '506 Patent and that its acts were inducing infringement of the '506 Patent since at least the time of receiving the Original Complaint.

68. On information and belief, SoundCloud's infringement has been and continues to be willful.

69. Blue Spike has been harmed by SoundCloud's infringing activities.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 7,159,116

70. The allegations set forth in the foregoing paragraphs 1 through 69 are incorporated into this Second Claim for Relief.

71. On January 2, 2007, the '116 Patent was duly and legally issued by the United States Patent and Trademark Office under the title "Systems, Methods and Devices for Trusted Transactions."

72. Blue Spike is the assignee and owner of the right, title and interest in and to the '116 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

73. Upon information and belief, SoundCloud has and continues to directly infringe one or more claims of the '116 Patent by selling, offering to sell, making, using, and/or providing and causing to be used SoundCloud's App Server (the "Accused Instrumentalities").

74. The Accused Instrumentalities infringe and continue to infringe at least claims 14, 16, 17, 18 and 19 of the '116 Patent during the pendency of the '116 Patent. *See* '116 Patent Claim Chart, attached hereto as Exhibit F. Plaintiff notes that the '116 Claim Chart and analysis constitute a preliminary and exemplary infringement analysis based on publicly available information. Plaintiff has not obtained discovery from Defendant, nor has Defendant disclosed any analysis in support of any purported non-infringement positions. Plaintiff hereby specifically reserves the right to supplement and/or amend the positions taken in this preliminary and exemplary infringement analysis, including with respect to literal infringement and infringement under the doctrine of equivalents, if and when warranted by further information obtained by Plaintiff during the pendency of litigation, including information adduced through fact discovery, claim construction, expert discovery, and/or further analysis.

75. Upon information and belief, since at least the time of receiving the Original Complaint, SoundCloud has induced and continues to induce others to infringe at least claims 14, 16, 17, 18 and 19 of the '116 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 SoundCloud's partners and customers, whose use of the Accused Instrumentalities constitutes direct infringement of at least claims 14, 16, 17, 18 and 19 of the '116 Patent.

76. In particular, SoundCloud's actions that aid and abet others such as their partners and customers to infringe include distributing the Accused Instrumentalities and providing materials and/or services related to the Accused Instrumentalities. On information and belief, the SoundCloud has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because SoundCloud has had actual knowledge of the '116 Patent and that its acts were inducing infringement of the '116 Patent since at least the time of receiving the Original Complaint.

77. On information and belief, SoundCloud's infringement has been and continues to be willful.

78. Blue Spike has been harmed by SoundCloud's infringing activities.

COUNT III – INFRINGEMENT OF U.S. PATENT NO. 8,538,011

79. The allegations set forth in the foregoing paragraphs 1 through 78 are incorporated into this Third Claim for Relief.

80. On September 17, 2013, the '011 Patent was duly and legally issued by the United States Patent and Trademark Office under the title "Systems, Methods and Devices for Trusted Transactions."

81. Blue Spike is the assignee and owner of the right, title and interest in and to the '011 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

82. Upon information and belief, SoundCloud has and continues to directly infringe one or more claims of the '011 Patent by selling, offering to sell, making, using, and/or providing and causing to be used SoundCloud's App Server (the "Accused Instrumentalities").

83. The Accused Instrumentalities infringe and continue to infringe at least claim 35 of the '011 Patent during the pendency of the '011 Patent. *See* '011 Patent Claim Chart, attached

hereto as Exhibit E. Plaintiff notes that the '011 Claim Chart and analysis constitute a preliminary and exemplary infringement analysis based on publicly available information. Plaintiff has not obtained discovery from Defendant, nor has Defendant disclosed any analysis in support of any purported non-infringement positions. Plaintiff hereby specifically reserves the right to supplement and/or amend the positions taken in this preliminary and exemplary infringement analysis, including with respect to literal infringement and infringement under the doctrine of equivalents, if and when warranted by further information obtained by Plaintiff during the pendency of litigation, including information adduced through fact discovery, claim construction, expert discovery, and/or further analysis.

84. Upon information and belief, since at least the time of receiving the Original Complaint, SoundCloud has induced and continues to induce others to infringe at least claim 35 of the '011 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 SoundCloud's partners and customers, whose use of the Accused Instrumentalities constitutes direct infringement of at least claim 35 of the '011 Patent.

85. In particular, SoundCloud's actions that aid and abet others such as their partners and customers to infringe include distributing the Accused Instrumentalities and providing materials and/or services related to the Accused Instrumentalities. On information and belief, the SoundCloud has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because SoundCloud has had actual knowledge of the '011 Patent and that its acts were inducing infringement of the '011 Patent since at least the time of receiving the Original Complaint.

86. On information and belief, SoundCloud's infringement has been and continues to be willful.

87. Blue Spike has been harmed by SoundCloud's infringing activities.

JURY DEMAND

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Blue Spike demands judgment for itself and against SoundCloud as follows:

- A. An adjudication that SoundCloud has infringed the '506, '011, and '116 Patents;
- B. An award of damages to be paid by SoundCloud adequate to compensate Blue Spike for SoundCloud's past infringement of the '506, '011, and '116 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 Blue Spike's reasonable attorneys' fees; and
- D. An award to Blue Spike of such further relief at law or in equity as the Court deems just and proper.

Dated: October 12, 2018

DEVLIN LAW FIRM LLC

/s/ Timothy Devlin

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Attorneys for Plaintiff Blue Spike LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document on October 12, 2018.

/s/ Timothy Devlin

Timothy Devlin