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19 *Data Scape Limited*

20 **UNITED STATES DISTRICT COURT**
21 **CENTRAL DISTRICT OF CALIFORNIA**
22 **WESTERN DIVISION**

23 DATA SCAPE LIMITED,

24 Plaintiff,

25 vs.

26 SPOTIFY USA INC., and SPOTIFY
27 TECHNOLOGY S.A.,

28 Defendants.

Case No. 2:18-cv-10653

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

29 This is an action for patent infringement arising under the Patent Laws of the
30 United States of America, 35 U.S.C. § 1 *et seq.* in which plaintiff Data Scape Limited

1 (“Plaintiff,” “Data Scape”) makes the following allegations against defendants Spotify
2 USA Inc. and Spotify Technology S.A. (“Defendants” or “Spotify”):

3 **PARTIES**

4 1. Data Scape is a company organized under the laws of Ireland with its office
5 located at Office 115, 4-5 Burton Hall Road, Sandyford, Dublin 18, Ireland.

6 2. On information and belief, Defendant Spotify USA Inc. is a Delaware
7 corporation with a principal place of business at 45 W. 18th Street, 7th Floor, New York,
8 NY 1001. Spotify Technology S.A. is a company organized under the laws of the Grand
9 Duchy of Luxembourg, with its principal place of business at 42-44, Avenue de la Gare,
10 L-1610 Luxembourg. Spotify USA Inc. is a subsidiary of Spotify Technology S.A.
11 Spotify can be served with process through its registered agent, National Registered
12 Agents, Inc., 160 Greentree Dr. Ste. 101, Dover, DE 19904.

13 **JURISDICTION AND VENUE**

14 3. This action arises under the patent laws of the United States, Title 35 of
15 the United States Code. This Court has original subject matter jurisdiction pursuant to
16 28 U.S.C. §§ 1331 and 1338(a).

17 4. This Court has personal jurisdiction over Spotify in this action because
18 Spotify has committed acts within the Central District of California giving rise to this
19 action and has established minimum contacts with this forum such that the exercise of
20 jurisdiction over Spotify would not offend traditional notions of fair play and substantial
21 justice. Spotify, directly and through subsidiaries or intermediaries, has committed and
22 continues to commit acts of infringement in this District by, among other things,
23 offering to sell and selling products and/or services that infringe the asserted patents.

24 5. Venue is proper in this district under 28 U.S.C. § 1400(b). Spotify is
25 registered to do business in California, and upon information and belief, Spotify has
26 transacted business in the Central District of California and has committed acts of direct
27 and indirect infringement in the Central District of California. Spotify has a regular and
28 established place of business in this District. For example, Spotify has a regional

1 headquarters at 9200 Sunset Blvd., West Hollywood, CA 90069, where it employs
2 product marketing personnel.

3 **COUNT I**

4 **INFRINGEMENT OF U.S. PATENT NO. 7,720,929**

5 6. Plaintiff realleges and incorporates by reference the foregoing paragraphs,
6 as if fully set forth herein.

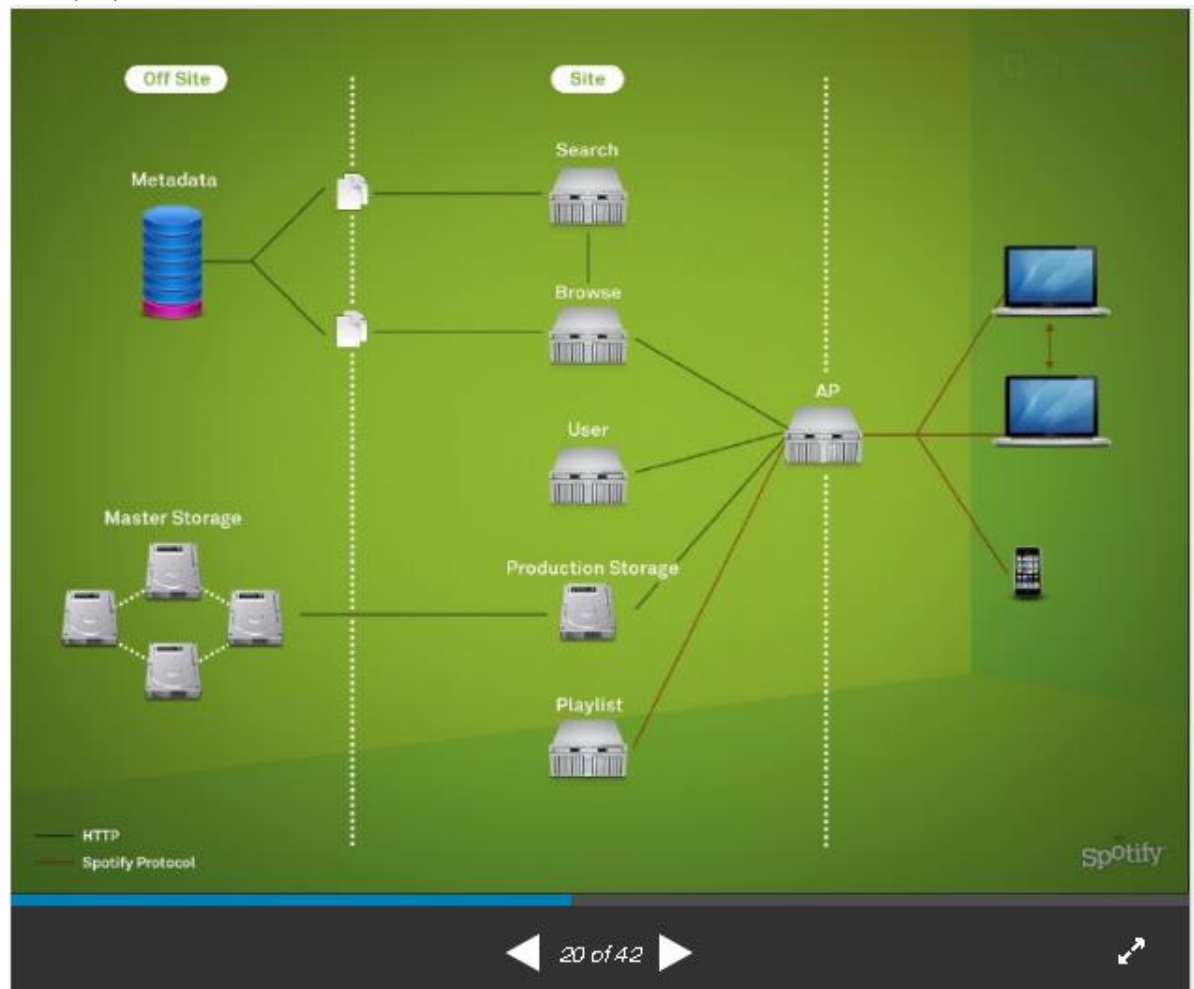
7 7. Data Scape is the owner by assignment of United States Patent No.
8 7,720,929 (“the ’929 Patent”), entitled “Communication System And Its Method and
9 Communication Apparatus And Its Method.” The ’929 Patent was duly and legally
10 issued by the United States Patent and Trademark Office on May 18, 2010. A true and
11 correct copy of the ’929 Patent is included as Exhibit A.

12 8. Defendants have offered for sale, sold and/or imported into the United
13 States products and services that infringe the ’929 patent, and continues to do so. By
14 way of illustrative example, these infringing products and services include, without
15 limitation, Defendants’ products and services, *e.g.*, the Spotify music streaming
16 platform, and all versions and variations thereof since the issuance of the ’929 Patent
17 (“Accused Instrumentalities”).

18 9. Defendants have directly infringed and continues to infringe the ’929
19 Patent, for example, by making, selling, offering for sale, and/or importing the Accused
20 Instrumentalities, and through their own use and testing of the Accused
21 Instrumentalities. Defendants use the Accused Instrumentalities for their own internal
22 non-testing business purposes, while testing the Accused Instrumentalities, and while
23 providing technical support and repair services for the Accused Instrumentalities to
24 Defendants’ customers.

25 10. For example, the Accused Instrumentalities, including Spotify Premium,
26 infringe Claim 1 of the ’929 Patent. One non-limiting example of the Accused
27 Instrumentalities’ infringement is presented below:
28

11. The Accused Instrumentalities include “[a] communication system including a first apparatus having a first storage medium, and a second apparatus.” For example, the Accused Instrumentalities communicate music files and playlists stored on one device (e.g., a desktop computer with the Spotify app installed, or Access Point, Production Storage, User and Playlist) to another device (e.g., a user’s mobile device or tablet with the Spotify app installed). *See, e.g., “Local Files,” available at https://support.spotify.com/us/using_spotify/features/listen-to-local-files/* (“[Y]ou can also use your Spotify app to play music files stored on your computer (which we call “local files).”).



<https://www.slideshare.net/ricardovoice/spotify-behind-the-scenes>

12. The Accused Instrumentalities include a second apparatus comprising: “a second storage medium configured to store management information of data to be

1 transferred to said first storage medium.” For example, the desktop computer, mobile
2 devices, and server components include a storage medium, e.g. a hard drive. The second
3 storage medium is configured to store management information of data to be
4 transferred. *See, e.g., “Local Files,” available at*
5 https://support.spotify.com/us/using_spotify/features/listen-to-local-files/ (“Import
6 your local files to Spotify using the desktop app...[a]dd the files to a playlist.”) (“In
7 addition to over 35 million tracks we offer, you can also use your Spotify app to play
8 music files stored on your computer (which we call “local files”).”).

9 13. The Accused Instrumentalities further include a second apparatus
10 comprising “a communicator configured to communicate with said first apparatus.” For
11 example, the desktop computer with the Spotify app installed (as well as Access Point,
12 Production Storage, User and Playlist) includes a communicator configured to
13 communicate with the mobile device or tablet. *See, e.g., “Local Files”* (“Log in on your
14 mobile or tablet using the same WiFi network as your desktop app.”).

15 14. The Accused Instrumentalities further include a second apparatus
16 comprising “a detector configured to detect whether said first apparatus and a second
17 apparatus are connected.” For example, the desktop computer with the Spotify app
18 installed (as well as Access Point, Production Storage, User and Playlist) includes a
19 detector that determines whether the mobile device is connected to the Internet using
20 the same WiFi network as the desktop application. *See, e.g., “Local Files”* (“Log in on
21 your mobile or tablet using the same WiFi network as your desktop app.”) “Spotify
22 Connect” *available at*
23 https://support.spotify.com/us/listen_everywhere/in_the_car/spotify-connect/, (“Click
24 connect to a device in the bottom-right. Select the device you’d like to play on.”).

25 15. The Accused Instrumentalities further include a second apparatus
26 comprising “an editor configured to select certain data to be transferred and to edit said
27 management information based on said selection without regard to the connection of
28 said first apparatus.” For example, the desktop computer with the Spotify app installed

1 (as well as Access Point, Production Storage, User and Playlist) allows a user to select
2 the uploaded files and add the files to a playlist without regard to whether the mobile
3 device or tablet is connected to the web server. *See, e.g.*, “Local Files” (“2. Add the files
4 to a playlist. 3. Log in on your mobile or tablet using the same WiFi network as your
5 desktop app.”).

6 16. The Accused Instrumentalities further include a second apparatus
7 comprising “a controller configured to control transfer of the selected data stored in said
8 second apparatus to said first apparatus via said communicator based on said
9 management information edited by said editor when said detector detects that said first
10 apparatus and said second apparatus are connected.” For example, the desktop computer
11 with the Spotify app installed (as well as Access Point, Production Storage, User and
12 Playlist) will allow the local files to be transferred to the mobile device or tablet if the
13 mobile device or tablet is connected to the same WiFi network as the desktop. *See, e.g.*,
14 “Local Files” (“2. Add the files to a playlist. 3. Log in on your mobile or tablet using
15 the same WiFi network as your desktop app. 4. Select the playlist containing the local
16 files. 5. Switch on download.”).

17 17. The Accused Instrumentalities further include a second apparatus
18 “wherein said controller is configured to compare said management information edited
19 by said editor with management information of data stored in said first storage medium
20 and to transmit data in said second apparatus based on result of the comparison.” For
21 example, before providing the mobile device or tablet the option to select the playlist
22 containing the local files, the desktop computer with the Spotify app installed (as well
23 as Access Point, Production Storage, User and Playlist) compares the playlist with the
24 added local files with the corresponding playlist on the mobile device or tablet, and
25 determines which songs on the playlist stored on the desktop computer are local files
26 not yet stored on the mobile device or tablet. The desktop computer with the Spotify
27 app installed then makes the local files available for download onto the mobile device
28 or tablet. *See, e.g.*, “Local Files” (“2. Add the files to a playlist. 3. Log in on your mobile

1 or tablet using the same WiFi network as your desktop app. 4. Select the playlist
2 containing the local files. 5. Switch on download.”).

3 18. Defendants have had knowledge of the ’929 Patent and their infringement
4 since at least the filing of the original Complaint in this action, or shortly thereafter,
5 including by way of this lawsuit. By the time of trial, Defendants will have known and
6 intended (since receiving such notice) that their continued actions would actively induce
7 and contribute to the infringement of the claims of the ’929 Patent.

8 19. Defendants’ affirmative acts of making, using, selling, offering for sale,
9 and/or importing the Accused Instrumentalities have induced and continue to induce
10 users of the Accused Instrumentalities to use the Accused Instrumentalities in their
11 normal and customary way to infringe the claims of the ’929 Patent. Use of the Accused
12 Instrumentalities in their ordinary and customary fashion results in infringement of the
13 claims of the ’929 Patent.

14 20. For example, Defendants explain to customers the benefits of using the
15 Accused Instrumentalities, such as by touting their advantages of allowing users to use
16 the Spotify app to play music files stored on the users’ desktop computer. Defendants
17 also induce their customers to use the Accused Instrumentalities to infringe other claims
18 of the ’929 Patent. Defendants specifically intended and was aware that the normal and
19 customary use of the Accused Instrumentalities on compatible systems would infringe
20 the ’929 Patent. Defendants performed the acts that constitute induced infringement,
21 and would induce actual infringement, with the knowledge of the ’929 Patent and with
22 the knowledge, or willful blindness to the probability, that the induced acts would
23 constitute infringement. On information and belief, Defendants engaged in such
24 inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through their
25 user manuals, product support, marketing materials, demonstrations, installation
26 support, and training materials to actively induce the users of the accused products to
27 infringe the ’929 Patent. Accordingly, Defendants have induced and continue to induce
28 end users of the accused products to use the accused products in their ordinary and

1 customary way with compatible systems to make and/or use systems infringing the '929
2 Patent, knowing that such use of the Accused Instrumentalities with compatible systems
3 will result in infringement of the '929 Patent. Accordingly, Defendants have been (since
4 at least as of filing of the original complaint), and currently are, inducing infringement
5 of the '929 Patent, in violation of 35 U.S.C. § 271(b).

6 21. Defendants have also infringed, and continues to infringe, claims of
7 the '929 Patent by offering to commercially distribute, commercially distributing,
8 making, and/or importing the Accused Instrumentalities, which are used in practicing
9 the process, or using the systems, of the '929 Patent, and constitute a material part of
10 the invention. Defendants know the components in the Accused Instrumentalities to be
11 especially made or especially adapted for use in infringement of the '929 Patent, not a
12 staple article, and not a commodity of commerce suitable for substantial noninfringing
13 use. For example, the ordinary way of using the Accused Instrumentalities infringes the
14 patent claims, and as such, is especially adapted for use in infringement. Accordingly,
15 Defendants have been, and currently are, contributorily infringing the '929 Patent, in
16 violation of 35 U.S.C. § 271(c).

17 22. For similar reasons, Defendants also infringe the '929 Patent by supplying
18 or causing to be supplied in or from the United States all or a substantial portion of the
19 components of the Accused Instrumentalities, where such components are uncombined
20 in whole or in part, in such manner as to actively induce the combination of such
21 components outside of the United States in a manner that would infringe the '929 Patent
22 if such combination occurred within the United States. For example, Defendants supply
23 or cause to be supplied in or from the United States all or a substantial portion of the
24 software (e.g., the Spotify app) components of the Accused Instrumentalities in such a
25 manner as to actively induce the combination of such components (e.g., by instructing
26 users to use multiple devices, each with the Spotify app installed, to share files stored
27 on distinct devices) outside of the United States.

1 23. Defendants also indirectly infringe the '929 Patent by supplying or causing
2 to be supplied in or from the United States components of the Accused Instrumentalities
3 that are especially made or especially adapted for use in infringing the '929 Patent and
4 are not a staple article or commodity of commerce suitable for substantial non-
5 infringing use, and where such components are uncombined in whole or in part,
6 knowing that such components are so made or adapted and intending that such
7 components are combined outside of the United States in a manner that would infringe
8 the '929 Patent if such combination occurred within the United States. Because the
9 Accused Instrumentalities are designed to operate as the claimed system and apparatus,
10 the Accused Instrumentalities have no substantial non-infringing uses, and any other
11 uses would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or
12 experimental. For example, Defendants supply or cause to be supplied in or from the
13 United States all or a substantial portion of the software (e.g., the Spotify Premium app)
14 components that are especially made or especially adapted for use in the Accused
15 Instrumentalities, where such hardware and software components are not staple articles
16 or commodities of commerce suitable for substantial noninfringing use, knowing that
17 such components are so made or adapted and intending that such components are
18 combined outside of the United States, as evidenced by Defendants' own actions or
19 instructions to users in, e.g., combining multiple devices with the Spotify app installed,
20 into infringing systems, and enabling and configuring the infringing functionalities of
21 the Accused Instrumentalities.

22 24. As a result of Defendants' infringement of the '929 Patent, Plaintiff Data
23 Scape is entitled to monetary damages in an amount adequate to compensate for
24 Defendants' infringement, but in no event less than a reasonable royalty for the use
25 made of the invention by Defendants, together with interest and costs as fixed by the
26 Court.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 7,617,537

25. Plaintiff realleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

26. Data Scape is the owner by assignment of United States Patent No. 7,617,537 (“the ’537 Patent”), entitled “Communication System And Its Method and Communication Apparatus And Its Method.” The ’537 Patent was duly and legally issued by the United States Patent and Trademark Office on May 18, 2010. A true and correct copy of the ’ 537 Patent is included as Exhibit B.

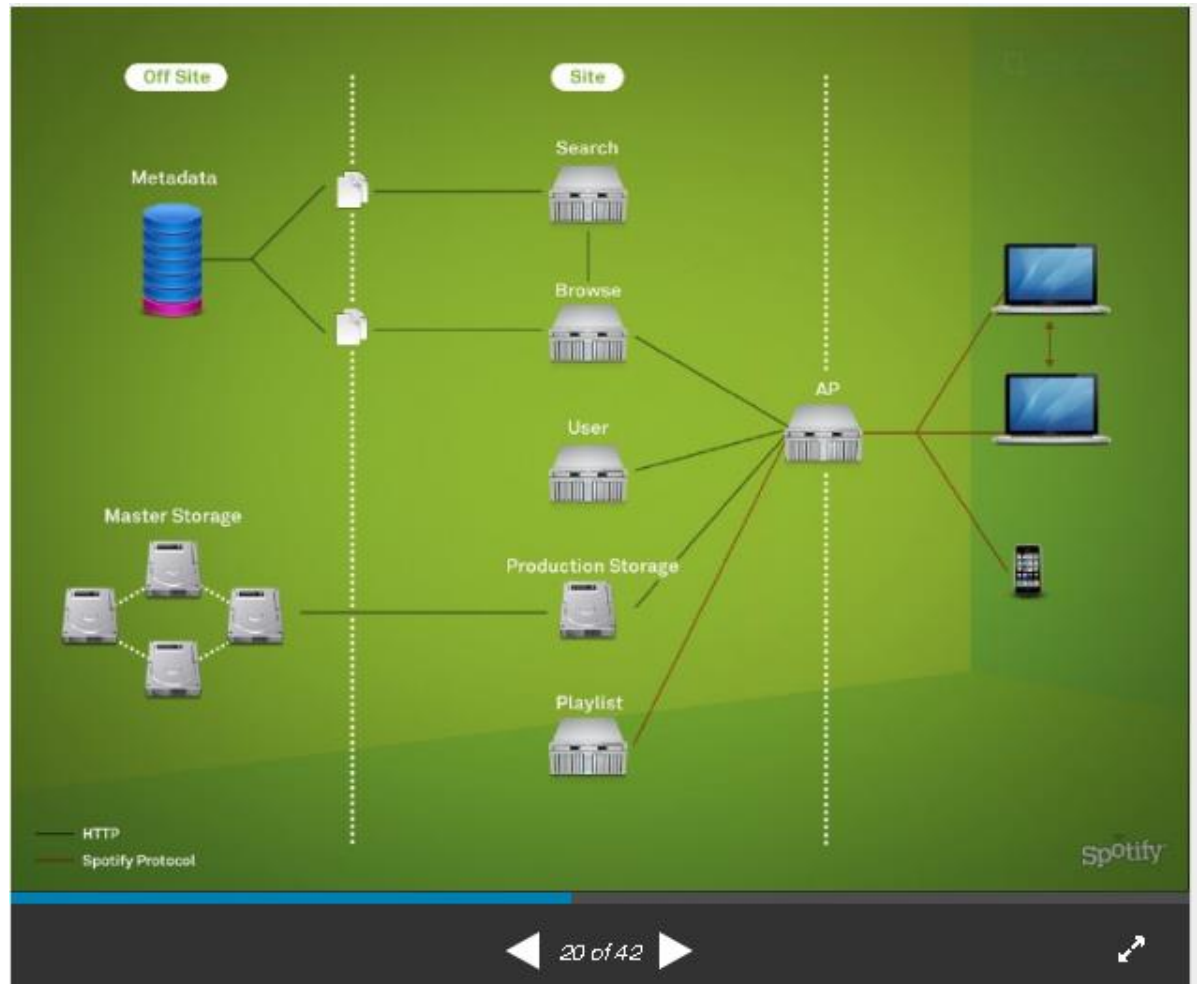
27. Defendants have offered for sale, sold and/or imported into the United States products and services that infringe the ’537 patent, and continues to do so. By way of illustrative example, these infringing products and services include, without limitation, Defendants’ products and services, *e.g.*, the Spotify music streaming platform, and all versions and variations thereof since the issuance of the ’537 Patent (“Accused Instrumentalities”).

28. Defendants have directly infringed and continue to infringe the ’537 Patent, for example, by making, selling, offering for sale, and/or importing the Accused Instrumentalities, and through their own use and testing of the Accused Instrumentalities. Defendants use the Accused Instrumentalities for their own internal non-testing business purposes, while testing the Accused Instrumentalities, and while providing technical support and repair services for the Accused Instrumentalities to Defendants’ customers.

29. For example, the Accused Instrumentalities, including Spotify Premium, infringe Claim 1 of the ’537 Patent. One non-limiting example of the Accused Instrumentalities’ infringement is presented below:

30. The Accused Instrumentalities perform a communication method to transfer content data to a first apparatus from a second apparatus. For example, a mobile device with the Spotify app (*e.g.* a first apparatus) can connect to a desktop computer

1 with the Spotify app (or to Access Point, Production Storage, User and Playlist), to
 2 transfer files, e.g. music files, stored in the desktop computer to the mobile device (e.g.
 3 a second apparatus). See, e.g., “Local Files”, available at
 4 https://support.spotify.com/us/using_spotify/features/listen-to-local-files/ (“[Y]ou can
 5 also use your Spotify app to play music files stored on your computer (which we call
 6 “local files).”).



<https://www.slideshare.net/ricardovice/spotify-behind-the-scenes>

31. The Accused Instrumentalities perform a communication method to
 transfer content data from a first apparatus to a second apparatus further comprising
 judging whether said first apparatus and said second apparatus are connected. For
 example, the Spotify app on the desktop computer can only transfer music files between
 the desktop computer and the mobile device if it determines that the devices are

1 connected on the same WiFi network. *See, e.g.*, “Local Files” (“Log in on your mobile
2 or tablet using the same WiFi network as your desktop app.”) (“Didn’t work?...check
3 the following:...your devices are connected to the same WiFi network.”).

4 32. The Accused Instrumentalities perform a communication method to
5 transfer content data from a first apparatus to a second apparatus further comprising
6 comparing, upon judging that said first apparatus and said second apparatus are
7 connected, an identifier of said first apparatus with an identifier stored in said second
8 apparatus. For example, when the mobile device is connected to the desktop computer,
9 the Spotify app on the desktop computer will display an identifier associated with the
10 mobile device. *See, e.g.*, “Spotify Connect” (“Click connect to a device in the bottom-
11 right. Select the device you’d like to play on.”).
12 https://support.spotify.com/us/listen_everywhere/in_the_car/spotify-connect/

13 33. The Accused Instrumentalities perform a communication method to
14 transfer content data from a first apparatus to a second apparatus further comprising
15 comparing, when said identifier of said first apparatus corresponds to said identifier
16 stored in second apparatus, a first list of content data of said first apparatus and a second
17 list of content data of said second apparatus. For example, when the mobile device is
18 connected to the desktop (or to Access Point, Production Storage, User and Playlist),
19 the Spotify app will compare playlists of music present on the mobile device to playlists
20 present on the desktop to determine which files to transfer to the mobile device. *See,*
21 *e.g.*, “Local Files” (“2. Add the files to a playlist. 3. Log in on your mobile or tablet
22 using the same WiFi network as your desktop app. 4. Select [on the mobile device] the
23 playlist containing the local files.”).

24 34. The Accused Instrumentalities perform a communication method to
25 transfer content data from a first apparatus to a second apparatus further comprising
26 transferring, from the second apparatus to the first apparatus, first content data, which
27 is registered in said second list and is not registered in said first list. For example, the
28 Spotify app will transfer only songs found in the playlist of the desktop (or Access Point,

1 Production Storage, User and Playlist) that are not found in the playlist of the mobile
2 device. *See, e.g.*, “Local Files” (“2. Add the [local] files to a playlist. 3. Log in on your
3 mobile or tablet using the same WiFi network as your desktop app. 4. Select [on the
4 mobile device] the playlist containing the local files. 5. Switch on Download”).

5 35. The Accused Instrumentalities perform a communication method to
6 transfer content data from a first apparatus to a second apparatus further comprising
7 deleting, from the first apparatus, second content data, which registered in said first list
8 and is not registered in the second list. For example, if a “local file” on the desktop is
9 deleted from the desktop (or Access Point, Production Storage, User and Playlist), that
10 local file is also deleted from any playlist on the desktop Spotify app that included the
11 deleted local file. Upon the next sync between the Spotify app on the desktop and the
12 Spotify app on mobile device, the local file is then deleted from the mobile device.

13 36. Defendants have had knowledge of the ’537 Patent and their
14 infringement since at least the filing of the original Complaint in this action, or shortly
15 thereafter, including by way of this lawsuit. By the time of trial, Defendants will have
16 known and intended (since receiving such notice) that their continued actions would
17 actively induce and contribute to the infringement of the claims of the ’537 Patent.

18 37. Defendants’ affirmative acts of making, using, selling, offering for sale,
19 and/or importing the Accused Instrumentalities have induced and continue to induce
20 users of the Accused Instrumentalities to use the Accused Instrumentalities in their
21 normal and customary way to infringe the claims of the ’537 Patent. Use of the Accused
22 Instrumentalities in their ordinary and customary fashion results in infringement of the
23 claims of the ’537 Patent.

24 38. For example, Defendants explain to customers the benefits of using the
25 Accused Instrumentalities, such as by touting their advantages of allowing users to use
26 the Spotify app to play music files stored on the users’ desktop computer. Defendants
27 also induce their customers to use the Accused Instrumentalities to infringe other claims
28 of the ’537 Patent. Defendants specifically intended and were aware that the normal and

1 customary use of the Accused Instrumentalities on compatible systems would infringe
2 the '537 Patent. Defendants performed the acts that constitute induced infringement,
3 and would induce actual infringement, with the knowledge of the '537 Patent and with
4 the knowledge, or willful blindness to the probability, that the induced acts would
5 constitute infringement. On information and belief, Defendants engaged in such
6 inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through its user
7 manuals, product support, marketing materials, demonstrations, installation support,
8 and training materials to actively induce the users of the accused products to infringe
9 the '537 Patent. Accordingly, Defendants have induced and continue to induce end
10 users of the accused products to use the accused products in their ordinary and
11 customary way with compatible systems to make and/or use systems infringing the '537
12 Patent, knowing that such use of the Accused Instrumentalities with compatible systems
13 will result in infringement of the '537 Patent. Accordingly, Defendants have been (since
14 at least as of filing of the original complaint), and currently are, inducing infringement
15 of the '537 Patent, in violation of 35 U.S.C. § 271(b).

16 39. Defendants have also infringed, and continue to infringe, claims of
17 the '537 Patent by offering to commercially distribute, commercially distributing,
18 making, and/or importing the Accused Instrumentalities, which are used in practicing
19 the process, or using the systems, of the '537 Patent, and constitute a material part of
20 the invention. Defendants know the components in the Accused Instrumentalities to be
21 especially made or especially adapted for use in infringement of the '537 Patent, not a
22 staple article, and not a commodity of commerce suitable for substantial noninfringing
23 use. For example, the ordinary way of using the Accused Instrumentalities infringes the
24 patent claims, and as such, is especially adapted for use in infringement. Accordingly,
25 Defendants have been, and currently are, contributorily infringing the '537 Patent, in
26 violation of 35 U.S.C. § 271(c).

27 40. For similar reasons, Defendants also infringe the '537 Patent by supplying
28 or causing to be supplied in or from the United States all or a substantial portion of the

1 components of the Accused Instrumentalities, where such components are uncombined
2 in whole or in part, in such manner as to actively induce the combination of such
3 components outside of the United States in a manner that would infringe the '537 Patent
4 if such combination occurred within the United States. For example, Defendants supply
5 or cause to be supplied in or from the United States all or a substantial portion of the
6 software (e.g., the Spotify app) components of the Accused Instrumentalities in such a
7 manner as to actively induce the combination of such components (e.g., by instructing
8 users to use multiple devices, each with the Spotify app installed, to share files stored
9 on distinct devices) outside of the United States.

10 41. Defendants also indirectly infringe the '537 Patent by supplying or causing
11 to be supplied in or from the United States components of the Accused Instrumentalities
12 that are especially made or especially adapted for use in infringing the '537 Patent and
13 are not a staple article or commodity of commerce suitable for substantial non-
14 infringing use, and where such components are uncombined in whole or in part,
15 knowing that such components are so made or adapted and intending that such
16 components are combined outside of the United States in a manner that would infringe
17 the '537 Patent if such combination occurred within the United States. Because the
18 Accused Instrumentalities are designed to operate as the claimed system and apparatus,
19 the Accused Instrumentalities have no substantial non-infringing uses, and any other
20 uses would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or
21 experimental. For example, Defendants supply or cause to be supplied in or from the
22 United States all or a substantial portion of the software (e.g., the Spotify Premium app)
23 components that are especially made or especially adapted for use in the Accused
24 Instrumentalities, where such hardware and software components are not staple articles
25 or commodities of commerce suitable for substantial noninfringing use, knowing that
26 such components are so made or adapted and intending that such components are
27 combined outside of the United States, as evidenced by Defendants' own actions or
28 instructions to users in, e.g., combining multiple devices with the Spotify app installed,

1 into infringing systems, and enabling and configuring the infringing functionalities of
2 the Accused Instrumentalities.

3 42. As a result of Defendants' infringement of the '537 Patent, Plaintiff Data
4 Scape is entitled to monetary damages in an amount adequate to compensate for
5 Defendants' infringement, but in no event less than a reasonable royalty for the use
6 made of the invention by Defendants, together with interest and costs as fixed by the
7 Court.

8 **COUNT III**

9 **INFRINGEMENT OF U.S. PATENT NO. 9,380,112**

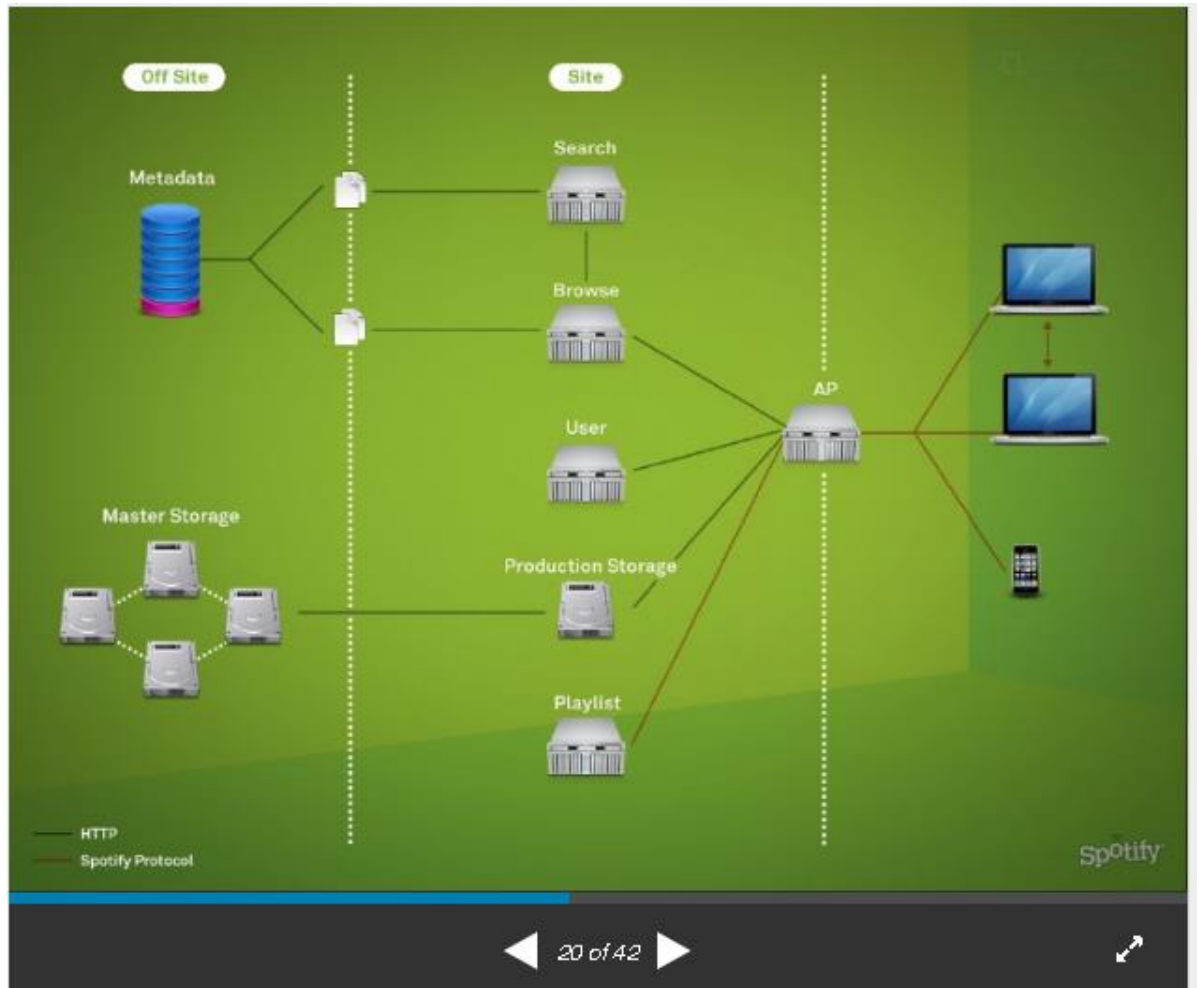
10 43. Plaintiff realleges and incorporates by reference the foregoing
11 paragraphs, as if fully set forth herein.

12 44. Data Scape is the owner by assignment of United States Patent No.
13 9,380,112 ("the '112 Patent") entitled "Communication System And Its Method and
14 Communication Apparatus And Its Method." The '112 Patent was duly and legally
15 issued by the United States Patent and Trademark Office on June 28, 2016. A true
16 and correct copy of the '112 Patent is included as Exhibit C.

17 45. Defendants have offered for sale, sold and/or imported into the United
18 States products and services that infringe the '112 patent, and continues to do so. By
19 way of illustrative example, these infringing products and services include, without
20 limitation, Defendants' products and services, *e.g.*, the Spotify music streaming
21 platform, and all versions and variations thereof since the issuance of the '112 Patent
22 ("Accused Instrumentalities").

23 46. The Accused Instrumentalities includes "[a] communication apparatus
24 configured to transfer data to a portable apparatus." For example, a mobile device
25 with the Spotify app installed (*e.g.* a portable apparatus) can be connected to a desktop
26 computer with the Spotify app installed (or Access Point, Production Storage, User
27 and Playlist), to transfer files, *e.g.* local files, stored on the desktop computer (*e.g.* a
28 communication apparatus) to the mobile device. *See, e.g.*, "Local Files", *available at*

https://support.spotify.com/us/using_spotify/features/listen-to-local-files/ (“In addition to over 35 million tracks we offer, you can also use your Spotify app to play music files stored on your computer (which we call "local files").”).



<https://www.slideshare.net/ricardovice/spotify-behind-the-scenes>

47. The Accused Instrumentalities include a communication apparatus comprising “a memory configured to store a first list of musical content data.” For example, the desktop computer with the Spotify app installed (and mobile devices and server components) contains memory that will store musical files as individual files, or as playlists: *See, e.g.*, “Local Files” (“In addition to over 35 million tracks we offer, you can also use your Spotify app to play music files stored on your computer (which we call "local files").”).

1 48. The Accused Instrumentalities include a communication apparatus
2 comprising “a data interface configured to detect a connection between the
3 communication apparatus and the portable apparatus.” For example, when the mobile
4 device is connected to the desktop computer (or Access Point, Production Storage, User
5 and Playlist), the Spotify app on the desktop computer will display an identifier
6 associated with the mobile device. *See, e.g.*, “Spotify Connect” *available at*
7 https://support.spotify.com/us/listen_everywhere/in_the_car/spotify-connect/, (“Click
8 connect to a device in the bottom-right. Select the device you’d like to play on.”).

9 49. The Accused Instrumentalities further include circuitry configured to “edit
10 the first list of musical content based on input from a user without regard to the
11 connection of the communication apparatus and the portable apparatus.” For example,
12 the Spotify app installed on the desktop computer allows a user to select the uploaded
13 files and add the files to a playlist without regard to whether the mobile device is
14 connected to the desktop computer. *See, e.g.*, “Local Files” (“2. Add the files to a
15 playlist. 3. Log in on your mobile or tablet using the same WiFi network as your desktop
16 app.”).

17 50. The Accused Instrumentalities further include circuitry configured to
18 “compare the edited first list of musical content with a list of musical content stored in
19 the portable apparatus.” For example, when the mobile device is connected to the
20 desktop, the Spotify app will compare playlists of music present on the mobile device
21 to playlists present on the desktop to determine which files to transfer to the mobile
22 device. *See, e.g.*, “Local Files” (“2. Add the files to a playlist. 3. Log in on your mobile
23 or tablet using the same WiFi network as your desktop app. 4. Select [on the mobile
24 device] the playlist containing the local files.”).

25 51. The Accused Instrumentalities further include circuitry configured to
26 “control transfer of selected musical content data stored in the communication apparatus
27 to the portable apparatus via the data interface based on a result of the comparison after
28 the connection of the communication apparatus and the portable apparatus in

1 connected.” For example, when the mobile device is connected to the desktop, the
2 Spotify app will compare playlists of music present on the mobile device to playlists
3 present on the desktop to determine which files to transfer to the mobile device. *See*,
4 *e.g.*, “Local Files” (“2. Add the files to a playlist. 3. Log in on your mobile or tablet
5 using the same WiFi network as your desktop app. 4. Select [on the mobile device] the
6 playlist containing the local files.”).

7 52. The Accused Instrumentalities further include circuitry configured to
8 “control playback of musical content data based on the edited first list of musical
9 content data so that the musical content data referenced in the edited first list of musical
10 content data is played back as a collection, the edited first list of musical content data
11 being associated with an identifier stored in the communication apparatus that uniquely
12 identifies the portable apparatus.” For example, the local files stored on the desktop
13 computer are transferred to the portable device as part of a playlist, and can be played
14 back as part of a collection on the portable device. *See, e.g.*, “Local Files” (“2. Add the
15 files to a playlist. 3. Log in on your mobile or tablet using the same WiFi network as
16 your desktop app. 4. Select [on the mobile device] the playlist containing the local
17 files.”). Further, when a portable device with the Spotify app installed (*e.g.*, a mobile
18 device or tablet) is connected to a desktop computer with the Spotify app installed, the
19 desktop computer will display an identifier associated with the portable device. *See*,
20 *e.g.*, “Spotify Connect” (“Click connect to a device in the bottom-right. Select the
21 device you’d like to play on.”).

22 53. Defendants have had knowledge of the ’112 Patent and their infringement
23 since at least the filing of the original Complaint in this action, or shortly thereafter,
24 including by way of this lawsuit. By the time of trial, Defendants will have known and
25 intended (since receiving such notice) that their continued actions would actively induce
26 and contribute to the infringement of the claims of the ’112 Patent.

27 54. Defendants’ affirmative acts of making, using, selling, offering for sale,
28 and/or importing the Accused Instrumentalities have induced and continue to induce

1 users of the Accused Instrumentalities to use the Accused Instrumentalities in their
2 normal and customary way to infringe the claims of the '112 Patent. Use of the Accused
3 Instrumentalities in their ordinary and customary fashion results in infringement of the
4 claims of the '112 Patent.

5 55. For example, Defendants explain to customers the benefits of using the
6 Accused Instrumentalities, such as by touting their advantages of allowing users to use
7 the Spotify app to play music files stored on the users' desktop computer. Defendants
8 also induce their customers to use the Accused Instrumentalities to infringe other claims
9 of the '112 Patent. Defendants specifically intended and was aware that the normal and
10 customary use of the Accused Instrumentalities on compatible systems would infringe
11 the '112 Patent. Defendants performed the acts that constitute induced infringement,
12 and would induce actual infringement, with the knowledge of the '112 Patent and with
13 the knowledge, or willful blindness to the probability, that the induced acts would
14 constitute infringement. On information and belief, Defendants engaged in such
15 inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through its user
16 manuals, product support, marketing materials, demonstrations, installation support,
17 and training materials to actively induce the users of the accused products to infringe
18 the '112 Patent. Accordingly, Defendants have induced and continue to induce end
19 users of the accused products to use the accused products in their ordinary and
20 customary way with compatible systems to make and/or use systems infringing the '112
21 Patent, knowing that such use of the Accused Instrumentalities with compatible systems
22 will result in infringement of the '112 Patent. Accordingly, Defendants have been (since
23 at least as of filing of the original complaint), and currently are, inducing infringement
24 of the '112 Patent, in violation of 35 U.S.C. § 271(b).

25 56. Defendants have also infringed, and continue to infringe, claims of
26 the '112 Patent by offering to commercially distribute, commercially distributing,
27 making, and/or importing the Accused Instrumentalities, which are used in practicing
28 the process, or using the systems, of the '112 Patent, and constitute a material part of

1 the invention. Defendants know the components in the Accused Instrumentalities to be
2 especially made or especially adapted for use in infringement of the '112 Patent, not a
3 staple article, and not a commodity of commerce suitable for substantial noninfringing
4 use. For example, the ordinary way of using the Accused Instrumentalities infringes the
5 patent claims, and as such, is especially adapted for use in infringement. Accordingly,
6 Defendants have been, and currently are, contributorily infringing the '112 Patent, in
7 violation of 35 U.S.C. § 271(c).

8 57. For similar reasons, Defendants also infringe the '112 Patent by supplying
9 or causing to be supplied in or from the United States all or a substantial portion of the
10 components of the Accused Instrumentalities, where such components are uncombined
11 in whole or in part, in such manner as to actively induce the combination of such
12 components outside of the United States in a manner that would infringe the '112 Patent
13 if such combination occurred within the United States. For example, Defendants supply
14 or cause to be supplied in or from the United States all or a substantial portion of the
15 software (e.g., the Spotify app) components of the Accused Instrumentalities in such a
16 manner as to actively induce the combination of such components (e.g., by instructing
17 users to use multiple devices, each with the Spotify app installed, to share files stored
18 on distinct devices) outside of the United States.

19 58. Defendants also indirectly infringe the '112 Patent by supplying or causing
20 to be supplied in or from the United States components of the Accused Instrumentalities
21 that are especially made or especially adapted for use in infringing the '112 Patent and
22 are not a staple article or commodity of commerce suitable for substantial non-
23 infringing use, and where such components are uncombined in whole or in part,
24 knowing that such components are so made or adapted and intending that such
25 components are combined outside of the United States in a manner that would infringe
26 the '112 Patent if such combination occurred within the United States. Because the
27 Accused Instrumentalities are designed to operate as the claimed system and apparatus,
28 the Accused Instrumentalities have no substantial non-infringing uses, and any other

1 uses would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or
2 experimental. For example, Defendants supply or cause to be supplied in or from the
3 United States all or a substantial portion of the software (e.g., the Spotify Premium app)
4 components that are especially made or especially adapted for use in the Accused
5 Instrumentalities, where such hardware and software components are not staple articles
6 or commodities of commerce suitable for substantial noninfringing use, knowing that
7 such components are so made or adapted and intending that such components are
8 combined outside of the United States, as evidenced by Defendants' own actions or
9 instructions to users in, e.g., combining multiple devices with the Spotify app installed,
10 into infringing systems, and enabling and configuring the infringing functionalities of
11 the Accused Instrumentalities.

12 59. As a result of Defendants' infringement of the '112 Patent, Plaintiff Data
13 Scape is entitled to monetary damages in an amount adequate to compensate for
14 Defendants' infringement, but in no event less than a reasonable royalty for the use
15 made of the invention by Defendants, together with interest and costs as fixed by the
16 Court.

17 COUNT IV

18 INFRINGEMENT OF U.S. PATENT NO. 9,712,614

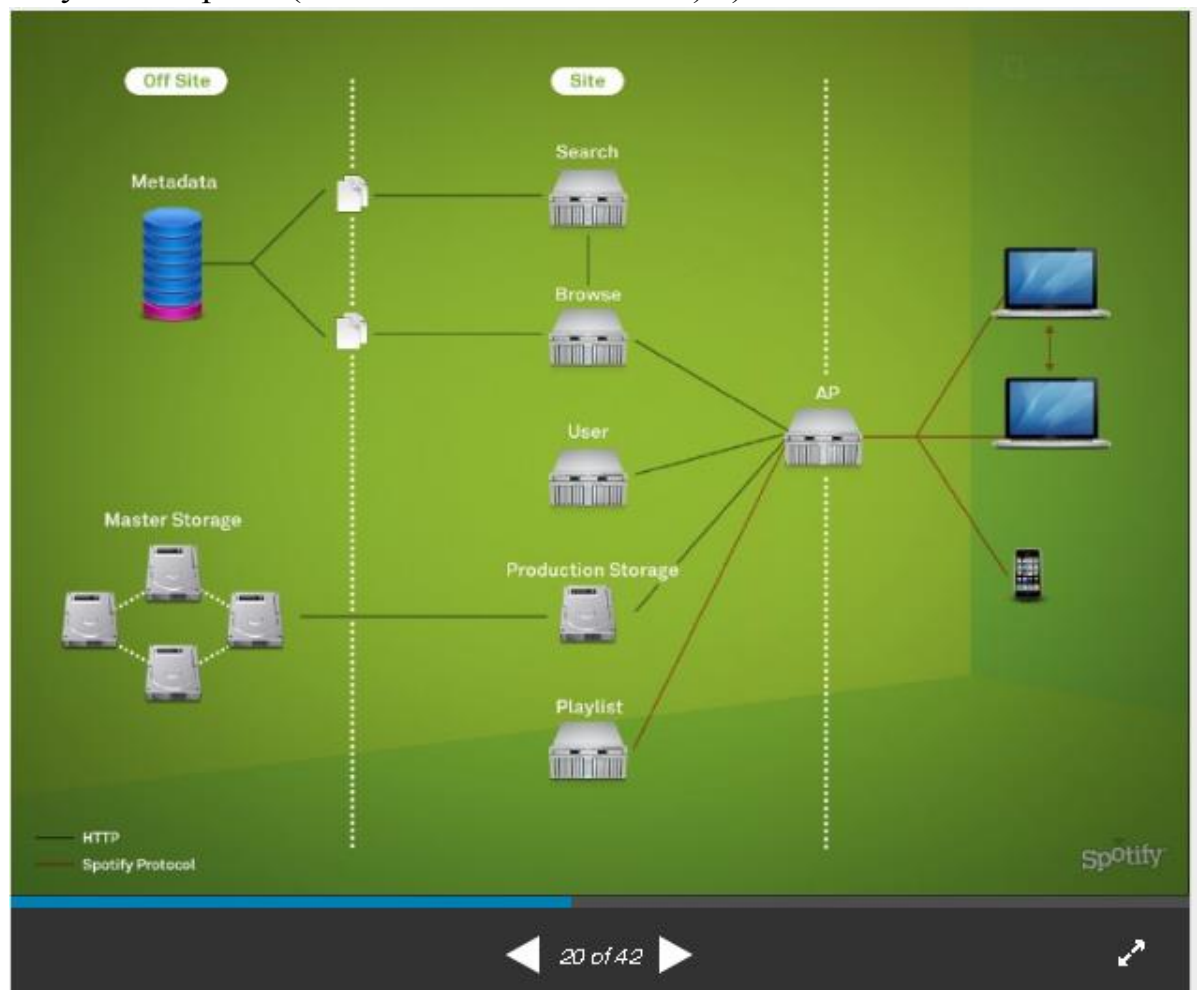
19 60. Plaintiff realleges and incorporates by reference the foregoing
20 paragraphs, as if fully set forth herein.

21 61. Data Scape is the owner by assignment of United States Patent No.
22 9,712,614 ("the '614 Patent") entitled "Communication System And Its Method and
23 Communication Apparatus And Its Method." The '614 Patent was duly and legally
24 issued by the United States Patent and Trademark Office on July 18, 2017. A true and
25 correct copy of the '614 Patent is included as Exhibit D.

26 62. Defendants have offered for sale, sold and/or imported into the United
27 States products and services that infringe the '614 patent, and continues to do so. By
28 way of illustrative example, these infringing products and services include, without

1 limitation, Defendants' products and services, *e.g.*, the Spotify music streaming
 2 platform, and all versions and variations thereof since the issuance of the '614 Patent
 3 ("Accused Instrumentalities").

4 63. The Accused Instrumentalities includes "[a] communication apparatus."
 5 For example, a mobile device with the Spotify app installed can be connected to a
 6 desktop computer with the Spotify app installed, to transfer files, *e.g.* local files, stored
 7 on the desktop computer (or Access Point, Production Storage, User and Playlist) (*e.g.*
 8 a communication apparatus) to the mobile device. *See, e.g.*, "Local Files", *available at*
 9 https://support.spotify.com/us/using_spotify/features/listen-to-local-files/ ("In addition
 10 to over 35 million tracks we offer, you can also use your Spotify app to play music files
 11 stored on your computer (which we call "local files").").



12 <https://www.slideshare.net/ricardovice/spotify-behind-the-scenes>

1 64. The Accused Instrumentalities include a communication apparatus
2 comprising “a memory configured to store musical content data and a plurality of
3 program lists associated with the musical content data.” For example, the desktop
4 computer with the Spotify app installed (or mobile devices or server components)
5 contains memory that will store musical files as individual files, or as playlists: *See*,
6 *e.g.*, “Local Files” (“In addition to over 35 million tracks we offer, you can also use
7 your Spotify app to play music files stored on your computer (which we call “local
8 files”).”).

9 65. The Accused Instrumentalities include a communication apparatus further
10 comprising “a data interface configured to interface with an external reproduction
11 apparatus.” For example, when a mobile device or tablet (*e.g.* external reproduction
12 apparatus) is connected to the desktop computer with the Spotify app installed (or
13 Access Point, Production Storage, User and Playlist) (*e.g.* the communication
14 apparatus), the desktop computer will display a graphic user interface through the
15 Spotify app, allowing access to the data contained on the portable device. *See, e.g.*,
16 “Spotify Connect” (“Click connect to a device in the bottom-right. Select the device
17 you’d like to play on.”).

18 66. The Accused Instrumentalities further include a communication apparatus
19 comprising circuitry configured to “control playback of musical content data based on
20 a program lists so that the musical content data referenced in the program list is played
21 back as a collection, the program list being associated with a predetermined identifier
22 uniquely identifying a predetermined external reproduction apparatus among a plurality
23 of reproduction apparatuses. For example, the Spotify app allows musical files to be
24 played as a “Playlist” consisting of a collection of musical files. *See, e.g.*, “Playlists”
25 *available at* https://support.spotify.com/us/using_spotify/playlists/create-a-playlist/,
26 (“Put simply, a playlist is a collection of music. You can make them for yourself, you
27 can share them, and you can enjoy the millions of other playlists created by Spotify,
28 artists, and fans.” Further, when a mobile device with the Spotify app installed is

1 connected to a desktop computer with the Spotify app installed, the desktop computer
2 will display an identifier associated with the mobile device, while also displaying other
3 identifiers associated with other playback devices (e.g., a plurality of external
4 reproduction apparatuses).

5 67. The Accused Instrumentalities further include a communication apparatus
6 comprising circuitry configured to “control presentation of the program list to a user via
7 user interface.” For example, the Spotify app includes a graphic user interface that will
8 show the Playlists that are available.

9 68. The Accused Instrumentalities further include a communication apparatus
10 comprising circuitry configured to accept edits to the program list via the user interface.
11 For example, using the Spotify app, a user can edit or modify Playlists. *See, e.g.*,
12 “Playlists” (“Create a playlist 1. Click New Playlist in the menu on the left. 2. Give your
13 playlist a name and click CREATE.”).

14 69. The Accused Instrumentalities further include circuitry configured to
15 “determine whether an identifier received by the circuitry via the data interface is the
16 predetermined identifier.” For example, when external reproduction apparatus (*e.g.* a
17 mobile device or tablet) is connected to the desktop computer, the Spotify app will
18 display an identifier associated with that device. *See, e.g.*, “Spotify Connect” (“Click
19 connect to a device in the bottom-right. Select the device you’d like to play on.”).

20 70. The Accused Instrumentalities further include circuitry configured to
21 “control transfer of the musical content data to the predetermine external reproduction
22 apparatus via the data interface based on the program list when the received identifier
23 is the predetermined identifier without receiving information on selection of the musical
24 content data from the predetermined external reproduction apparatus.” For example, if
25 a “local file” on the desktop is deleted from the desktop, that local file is also deleted
26 from any playlist on the desktop Spotify app that included the deleted local file. Upon
27 the next sync between the Spotify app on the desktop and the Spotify app on mobile
28 device, the local file is then deleted from the mobile device.

1 71. The Accused Instrumentalities further include circuitry configured to
2 “compare the program list with a second list of musical content data stored in the
3 predetermined external reproduction apparatus.” For example, when the mobile device
4 is connected to the desktop, the Spotify app will compare playlists of music present on
5 the mobile device to playlists present on the desktop to determine which files to transfer
6 to the mobile device. *See, e.g.*, “Local Files” (“2. Add the files to a playlist. 3. Log in
7 on your mobile or tablet using the same WiFi network as your desktop app. 4. Select
8 [on the mobile device] the playlist containing the local files.”).

9 72. The Accused Instrumentalities further include circuitry configured to
10 “identify a piece of musical content data common to the program list and the second list
11 based on the result of the comparison.” For example, the Spotify app will determine
12 what files in the playlist are “local files” that can be downloaded, and what files are
13 already on both the desktop computer and the mobile device. *See, e.g.*, “Local Files”
14 (“2. Add the files to a playlist. 3. Log in on your mobile or tablet using the same WiFi
15 network as your desktop app. 4. Select [on the mobile device] the playlist containing
16 the local files.”). Local files already present on both the mobile device and the desktop
17 computer can be played and remain so when the “Download Songs” switch is in the
18 “Off” position.

19 73. The Accused Instrumentalities further include circuitry configured to
20 “control transfer to the predetermined external reproduction apparatus of the musical
21 content data that is in the program list and is not in the second list of musical content
22 data based on the result of the comparison such that transfer of the identified piece of
23 musical content data common to the program list and the second list is omitted.” For
24 example, after determining which Local Files have already been downloaded to the
25 mobile device, the Spotify app will download only those Local Files from the desktop
26 computer that are not present in the mobile device. *See, e.g.*, “Local Files” (“2. Add the
27 files to a playlist. 3. Log in on your mobile or tablet using the same WiFi network as
28

1 your desktop app. 4. Select the playlist containing the local files. 5. Switch on
2 download.”).

3 74. Defendants have had knowledge of the ’614 Patent and their
4 infringement since at least the filing of the original Complaint in this action, or shortly
5 thereafter, including by way of this lawsuit. By the time of trial, Defendants will have
6 known and intended (since receiving such notice) that their continued actions would
7 actively induce and contribute to the infringement of the claims of the ’614 Patent.

8 75. Defendants’ affirmative acts of making, using, selling, offering for sale,
9 and/or importing the Accused Instrumentalities have induced and continue to induce
10 users of the Accused Instrumentalities to use the Accused Instrumentalities in their
11 normal and customary way to infringe the claims of the ’614 Patent. Use of the Accused
12 Instrumentalities in their ordinary and customary fashion results in infringement of the
13 claims of the ’614 Patent.

14 76. For example, Defendants explain to customers the benefits of using the
15 Accused Instrumentalities, such as by touting their advantages of allowing users to use
16 the Spotify app to play music files stored on the users’ desktop computer. Defendants
17 also induce their customers to use the Accused Instrumentalities to infringe other claims
18 of the ’614 Patent. Defendants specifically intended and was aware that the normal and
19 customary use of the Accused Instrumentalities on compatible systems would infringe
20 the ’614 Patent. Defendants performed the acts that constitute induced infringement,
21 and would induce actual infringement, with the knowledge of the ’614 Patent and with
22 the knowledge, or willful blindness to the probability, that the induced acts would
23 constitute infringement. On information and belief, Defendants engaged in such
24 inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through their
25 user manuals, product support, marketing materials, demonstrations, installation
26 support, and training materials to actively induce the users of the accused products to
27 infringe the ’614 Patent. Accordingly, Defendants have induced and continue to induce
28 end users of the accused products to use the accused products in their ordinary and

1 customary way with compatible systems to make and/or use systems infringing the '614
2 Patent, knowing that such use of the Accused Instrumentalities with compatible systems
3 will result in infringement of the '614 Patent. Accordingly, Defendants have been (since
4 at least as of filing of the original complaint), and currently are, inducing infringement
5 of the '614 Patent, in violation of 35 U.S.C. § 271(b).

6 77. Defendants have also infringed, and continue to infringe, claims of
7 the '614 Patent by offering to commercially distribute, commercially distributing,
8 making, and/or importing the Accused Instrumentalities, which are used in practicing
9 the process, or using the systems, of the '614 Patent, and constitute a material part of
10 the invention. Defendants know the components in the Accused Instrumentalities to be
11 especially made or especially adapted for use in infringement of the '614 Patent, not a
12 staple article, and not a commodity of commerce suitable for substantial noninfringing
13 use. For example, the ordinary way of using the Accused Instrumentalities infringes the
14 patent claims, and as such, is especially adapted for use in infringement. Accordingly,
15 Defendants have been, and currently are, contributorily infringing the '614 Patent, in
16 violation of 35 U.S.C. § 271(c).

17 78. For similar reasons, Defendants also infringe the '614 Patent by supplying
18 or causing to be supplied in or from the United States all or a substantial portion of the
19 components of the Accused Instrumentalities, where such components are uncombined
20 in whole or in part, in such manner as to actively induce the combination of such
21 components outside of the United States in a manner that would infringe the '614 Patent
22 if such combination occurred within the United States. For example, Defendants supply
23 or cause to be supplied in or from the United States all or a substantial portion of the
24 software (e.g., the Spotify app) components of the Accused Instrumentalities in such a
25 manner as to actively induce the combination of such components (e.g., by instructing
26 users to use multiple devices, each with the Spotify app installed, to share files stored
27 on distinct devices) outside of the United States.

1 79. Defendants also indirectly infringe the '614 Patent by supplying or causing
2 to be supplied in or from the United States components of the Accused Instrumentalities
3 that are especially made or especially adapted for use in infringing the '614 Patent and
4 are not a staple article or commodity of commerce suitable for substantial non-
5 infringing use, and where such components are uncombined in whole or in part,
6 knowing that such components are so made or adapted and intending that such
7 components are combined outside of the United States in a manner that would infringe
8 the '614 Patent if such combination occurred within the United States. Because the
9 Accused Instrumentalities are designed to operate as the claimed system and apparatus,
10 the Accused Instrumentalities have no substantial non-infringing uses, and any other
11 uses would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or
12 experimental. For example, Defendants supply or cause to be supplied in or from the
13 United States all or a substantial portion of the software (e.g., the Spotify Premium app)
14 components that are especially made or especially adapted for use in the Accused
15 Instrumentalities, where such hardware and software components are not staple articles
16 or commodities of commerce suitable for substantial noninfringing use, knowing that
17 such components are so made or adapted and intending that such components are
18 combined outside of the United States, as evidenced by Defendants' own actions or
19 instructions to users in, e.g., combining multiple devices with the Spotify app installed,
20 into infringing systems, and enabling and configuring the infringing functionalities of
21 the Accused Instrumentalities.

22 80. As a result of Defendants' infringement of the '614 Patent, Plaintiff Data
23 Scape is entitled to monetary damages in an amount adequate to compensate for
24 Defendants' infringement, but in no event less than a reasonable royalty for the use
25 made of the invention by Defendants, together with interest and costs as fixed by the
26 Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Data Scape respectfully requests that this Court enter:

a. A judgment in favor of Plaintiff that Defendants have infringed, either literally and/or under the doctrine of equivalents, the '929 Patent, the '537 Patent, the '614 Patent, and the '112 Patent (collectively, "asserted patents");

b. A permanent injunction prohibiting Defendants from further acts of infringement of the asserted patents;

c. A judgment and order requiring Defendants to pay Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for its infringement of the asserted patents, as provided under 35 U.S.C. § 284;

d. A judgment and order requiring Defendants to provide an accounting and to pay supplemental damages to Data Scape, including without limitation, prejudgment and post-judgment interest;

e. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees against Defendants; and

f. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Respectfully Submitted,

Dated: December 26, 2018

/s/ Reza Mirzaie
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