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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
25 Plaintiff,

26 vs.

27 PANDORA MEDIA, INC.,
28
29 Defendant.

Case No. 2:18-cv-10656

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement arising under the Patent Laws of the 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 defendant Pandora
2 Media, Inc. (“Defendant,” or “Pandora”):

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 Pandora Media, Inc. is a California
7 corporation with a principal place of business at 2101 Webster Street, Suite 1650,
8 Oakland, CA 94612. Pandora Media, Inc., can be served with process through its
9 registered agent, National Registered Agents, Inc., 111 Eighth Ave 13th Fl, New York
10 NY 10010.

11 **JURISDICTION AND VENUE**

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

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

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

1 3000 Ocean Park Blvd #3050, Santa Monica, CA 90405, where it employs sales and
2 client services 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. Defendant has offered for sale, sold and/or imported into the United States
13 products and services that infringe the ’929 patent, and continues to do so. By way of
14 illustrative example, these infringing products and services include, without limitation,
15 Defendant’s products and services, *e.g.*, the Pandora System, including Pandora
16 Premium, and all versions and variations thereof since the issuance of the ’929 Patent
17 (“Accused Instrumentalities”).

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

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

27 11. The Accused Instrumentalities include “[a] communication system
28 including a first apparatus having a first storage medium, and a second apparatus.” For

1 example, the Accused Instrumentalities communicate music files and playlists stored
 2 on one device (e.g., web servers in the Pandora System) to another device (e.g., a user's
 3 mobile device or tablet with the Pandora app installed). *See, e.g.*, "Pandora Premium
 4 Will Change The Way You Listen to Music", *available at*
 5 [http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/)
 6 [music/](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/) ("With Pandora Plus we introduced our predictive offline feature that
 7 automatically downloads your top stations and switches you to one of them when you
 8 lose a signal. We're bringing that feature to Pandora Premium, and adding the ability to
 9 download any album, song or playlist you want with no limits."); "Offline Mode and
 10 Downloads" *available at* [https://help.pandora.com/s/article/Offline-Mode-and-](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US)
 11 [Downloads?language=en_US](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US):

12 **For Pandora Plus Subscribers:**

13 Pandora Plus subscribers cannot choose which stations they'd like available for offline listening. Instead, Pandora will
 14 download up to four of your most-listened-to stations and add them to your Offline Station list. By default, these
 stations will be downloaded while your device is connected to wifi, and we will never use the last 500 mb of storage
 on your device.

15 **For Pandora Premium Subscribers:**

16 Pandora Premium subscribers have the ability to download many songs, albums, stations, or playlists from Pandora's
 17 library to listen to offline and download them by using the instructions below.

18 12. The Accused Instrumentalities include a second apparatus comprising: "a
 19 second storage medium configured to store management information of data to be
 20 transferred to said first storage medium." For example, the Pandora System includes a
 21 storage medium, e.g. a hard drive or server. The second storage medium is configured
 22 to store management information of data to be transferred. For example, the Pandora
 23 System stores a user's playlists, albums, and stations which can be transferred to a
 24 mobile device or tablet with the Pandora app installed. *See, e.g.*, "Playlists on Premium"
 25 *available at* [https://help.pandora.com/s/article/Playlists-on-Premium-](https://help.pandora.com/s/article/Playlists-on-Premium-1519949304429?language=en_US#editweb)
 26 [1519949304429?language=en_US#editweb](https://help.pandora.com/s/article/Playlists-on-Premium-1519949304429?language=en_US#editweb).

Edit your playlist on the web

To edit curated or auto-generated playlists, go to **My Music** and tap the name of the playlist you'd like to make changes to. Next, tap the **Edit** icon below the album art.

- **To remove songs from your playlist**, scroll down and press the circled (X) to the left of the songs you would like to remove or swipe the track name from right to left. (Deleting songs from your custom playlists will not remove the original Thumb rating from your stations).
- **To adjust the order of your playlist**, hold and drag the list icon on the right of the track title to the desired position.
- **To rename your playlist**, tap the current name then enter whatever you'd like to call it.
- Tap the **Add Similar Songs** button located at the bottom of your playlist if you need some assistance with building your playlist. Pandora will add songs that match the musical qualities of the tracks already in your playlist. You can re-order songs we've added or delete any unwanted songs.

Download Music for Offline Mode

Pandora Plus Subscribers:

Pandora will automatically download four of your most listened to stations in the last 6 months to get you started, as well as your Thumbprint Radio (if available). Plus subscribers do not get to choose which stations they'd like to download.

Pandora Premium Subscribers:

To download content from My Music, click the download button (icon with arrow pointing downward). *Keep in mind that this button will only appear for eligible tracks.*

If you change your mind at any point during the downloading process, simply tap the download button again, and we'll halt progress.

If you lose connection while downloading, we'll save your spot with your partially downloaded playlists, albums and stations. The next time you gain a signal, we'll attempt to complete the download process for you.

https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US#download

13. The Accused Instrumentalities further include a second apparatus comprising “a communicator configured to communicate with said first apparatus.” For example, the Pandora System includes a communicator configured to communicate, e.g., playlists, albums, and stations to the mobile device or tablet. *See, e.g.*, “Offline Mode and Downloads” *available at* https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US:

For Pandora Premium Subscribers:

Pandora Premium subscribers have the ability to download many songs, albums, stations, or playlists from Pandora's library to listen to offline and download them by using the instructions below.

14. The Accused Instrumentalities further include a second apparatus comprising “a detector configured to detect whether said first apparatus and a second apparatus are connected.” For example, the Pandora System includes a detector that

determines whether the mobile device is connected to the Internet. *See, e.g.*, “Offline Mode and Downloads”:

Download Music for Offline Mode

Pandora Plus Subscribers:

Pandora will automatically download four of your most listened to stations in the last 6 months to get you started, as well as your Thumbprint Radio (if available). Plus subscribers do not get to choose which stations they'd like to download.

Pandora Premium Subscribers:

To download content from My Music, click the download button (icon with arrow pointing downward). *Keep in mind that this button will only appear for eligible tracks.*

If you change your mind at any point during the downloading process, simply tap the download button again, and we'll halt progress.

If you lose connection while downloading, we'll save your spot with your partially downloaded playlists, albums and stations. The next time you gain a signal, we'll attempt to complete the download process for you.

Automatic Offline Mode

If you lose your Wi-Fi and cell network connection, we'll automatically switch you to Offline Mode. When this happens, Pandora will alert you with a notification to let you know that we are switching you to offline listening and choose a station for you to listen to.

Also, the Pandora System can determine whether a specific device is connected:
Someone else is listening to your Pandora account

Home > Account

Pandora Plus and Pandora Premium accounts are meant for individual, non-commercial use. The cost of an individual subscription only covers the costs of one stream of ad-free songs.

You can play your account on any supported computer or device you own, however, only one person can listen at a time on your account. If our system detects that your account is playing on more than one device at the same time, you will be notified with an audio and/or display message that pauses your music.

How do I continue listening to my music?

How do I prevent this message from appearing?

I'm the only listener on my account, and keep getting this message! What do I do?

I purchased a Family Plan so I could stream to multiple devices. Why am I receiving this error message?

How do I remove devices from my account?

How do I continue listening to my music?

Choose **Let Me Listen** to continue listening to music from the device you are currently controlling.

Choose **Let Them Listen** to close this message, and allow the other device to continue streaming music from your account.

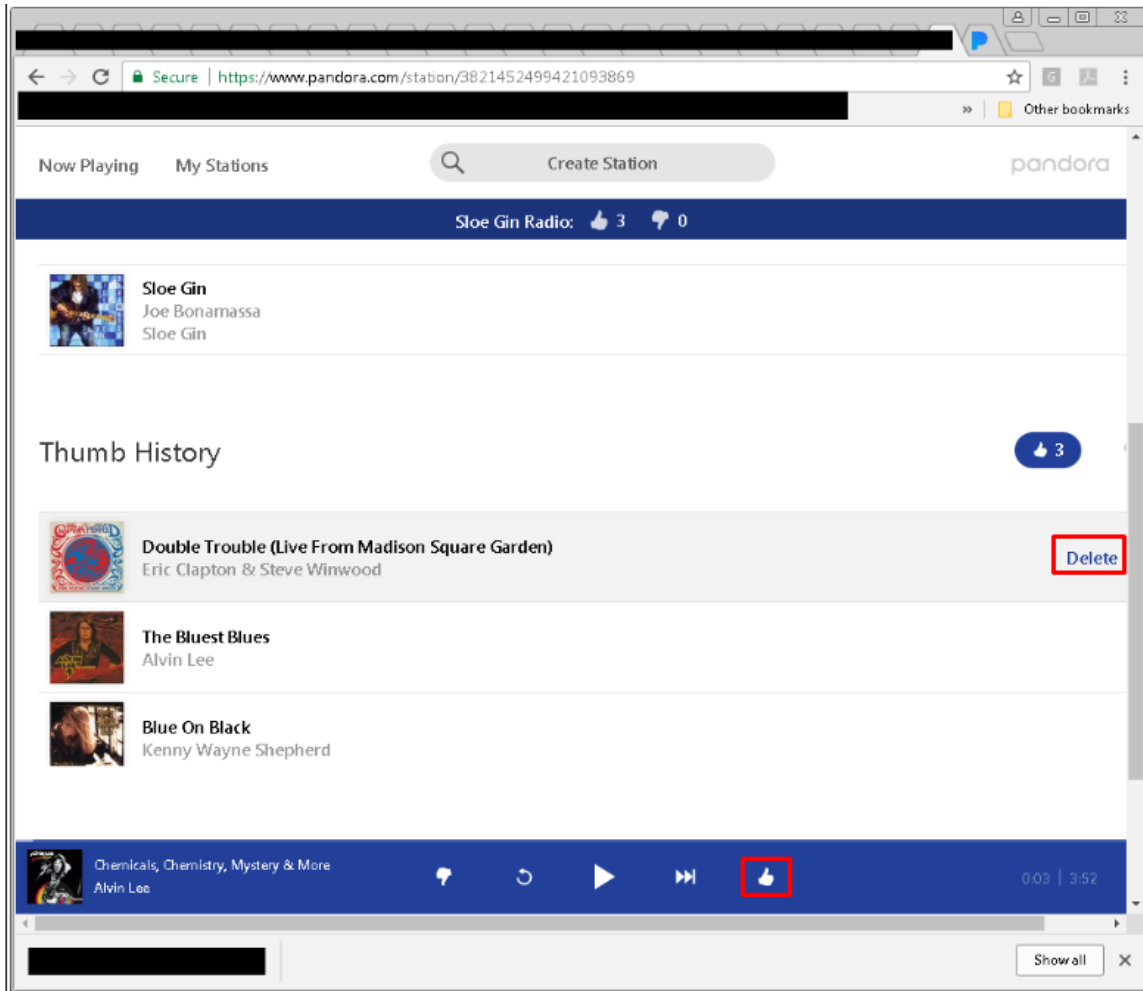
https://help.pandora.com/s/article/000001191?language=en_US

1 15. The Accused Instrumentalities further include a second apparatus
 2 comprising “an editor configured to select certain data to be transferred and to edit said
 3 management information based on said selection without regard to the connection of
 4 said first apparatus.” For example, the Pandora System allows items to be added to a
 5 playlist by using the “Thumbs-up” icon on a song that is playing, and to delete songs
 6 from a playlist, regardless of the mobile device or tablet is connected to the Pandora
 7 Server. *See, e.g.*, “Playlists on Premium”:

8 **Edit your playlist on the web**

9 To edit curated or auto-generated playlists, go to **My Music** and tap the name of the playlist you'd like to make changes to. Next, tap the **Edit** icon below the album art.

- 10 • **To remove songs from your playlist**, scroll down and press the circled (X) to the left of the songs you would
 11 like to remove or swipe the track name from right to left. (Deleting songs from your custom playlists will not
 12 remove the original Thumb rating from your stations).
 13 • **To adjust the order of your playlist**, hold and drag the list icon on the right of the track title to the desired
 14 position.
 15 • **To rename your playlist**, tap the current name then enter whatever you'd like to call it.
 16 • Tap the **Add Similar Songs** button located at the bottom of your playlist if you need some assistance with
 17 building your playlist. Pandora will add songs that match the musical qualities of the tracks already in your
 18 playlist. You can re-order songs we've added or delete any unwanted songs.



16. The Accused Instrumentalities further include a second apparatus comprising “a controller configured to control transfer of the selected data stored in said second apparatus to said first apparatus via said communicator based on said management information edited by said editor when said detector detects that said first apparatus and said second apparatus are connected.” For example, the Pandora System will resume a download to the mobile device or tablet if the a connection is lost and then restored. *See, e.g.*, “Offline Mode and Downloads”:

Download Music for Offline Mode**Pandora Plus Subscribers:**

Pandora will automatically download four of your most listened to stations in the last 6 months to get you started, as well as your Thumbprint Radio (if available). Plus subscribers do not get to choose which stations they'd like to download.

Pandora Premium Subscribers:

To download content from My Music, click the download button (icon with arrow pointing downward). *Keep in mind that this button will only appear for eligible tracks.*

If you change your mind at any point during the downloading process, simply tap the download button again, and we'll halt progress.

If you lose connection while downloading, we'll save your spot with your partially downloaded playlists, albums and stations. The next time you gain a signal, we'll attempt to complete the download process for you.

Automatic Offline Mode

If you lose your Wi-Fi and cell network connection, we'll automatically switch you to Offline Mode. When this happens, Pandora will alert you with a notification to let you know that we are switching you to offline listening and choose a station for you to listen to.

17. The Accused Instrumentalities further include a second apparatus “wherein said controller is configured to compare said management information edited by said editor with management information of data stored in said first storage medium and to transmit data in said second apparatus based on result of the comparison.” For example, the Pandora System will resume downloads that have already begun when a connection is lost, when the connection is later restored. *See, e.g., “Offline Mode and Downloads”*:

Download Music for Offline Mode**Pandora Plus Subscribers:**

Pandora will automatically download four of your most listened to stations in the last 6 months to get you started, as well as your Thumbprint Radio (if available). Plus subscribers do not get to choose which stations they'd like to download.

Pandora Premium Subscribers:

To download content from My Music, click the download button (icon with arrow pointing downward). *Keep in mind that this button will only appear for eligible tracks.*

If you change your mind at any point during the downloading process, simply tap the download button again, and we'll halt progress.

If you lose connection while downloading, we'll save your spot with your partially downloaded playlists, albums and stations. The next time you gain a signal, we'll attempt to complete the download process for you.

Automatic Offline Mode

If you lose your Wi-Fi and cell network connection, we'll automatically switch you to Offline Mode. When this happens, Pandora will alert you with a notification to let you know that we are switching you to offline listening and choose a station for you to listen to.

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

19. Defendant's affirmative acts of making, using, selling, offering for sale, and/or importing the Accused Instrumentalities have induced and continue to induce users of the Accused Instrumentalities to use the Accused Instrumentalities in their normal and customary way to infringe the claims of the '929 Patent. Use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the claims of the '929 Patent.

20. For example, Defendant explains to customers the benefits of using the Accused Instrumentalities, such as by touting their advantages of allowing users to use the Pandora app to download content from Pandora's library. Defendant also induces its customers to use the Accused Instrumentalities to infringe other claims of the '929 Patent. Defendant specifically intended and was aware that the normal and customary use of the Accused Instrumentalities on compatible systems would infringe the '929 Patent. Defendant performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '929 Patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Defendant engaged in such inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through its user manuals, product support, marketing materials, demonstrations, installation support, and training materials to actively induce the users of the accused products to infringe the '929 Patent.

1 Accordingly, Defendant has induced and continues to induce end users of the accused
2 products to use the accused products in their ordinary and customary way with
3 compatible systems to make and/or use systems infringing the '929 Patent, knowing
4 that such use of the Accused Instrumentalities with compatible systems will result in
5 infringement of the '929 Patent. Accordingly, Defendant has been (since at least as of
6 filing of the original complaint), and currently is, inducing infringement of the '929
7 Patent, in violation of 35 U.S.C. § 271(b).

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

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

24 **COUNT II**

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

26 23. Plaintiff realleges and incorporates by reference the foregoing
27 paragraphs, as if fully set forth herein.
28

1 24. Data Scape is the owner by assignment of United States Patent No.
2 7,617,537 (“the ’537 Patent”), entitled “Communication System And Its Method and
3 Communication Apparatus And Its Method.” The ’537 Patent was duly and legally
4 issued by the United States Patent and Trademark Office on May 18, 2010. A true
5 and correct copy of the ’ 537 Patent is included as Exhibit B.

6 25. Defendant has offered for sale, sold and/or imported into the United States
7 products and services that infringe the ’537 patent, and continues to do so. By way of
8 illustrative example, these infringing products and services include, without limitation,
9 Defendant’s products and services, *e.g.*, the Pandora System, and all versions and
10 variations thereof since the issuance of the ’537 Patent (“Accused Instrumentalities”).

11 26. Defendant has directly infringed and continues to infringe the ’537 Patent,
12 for example, by making, selling, offering for sale, and/or importing the Accused
13 Instrumentalities, and through its own use and testing of the Accused Instrumentalities.
14 Defendant uses the Accused Instrumentalities for its own internal non-testing business
15 purposes, while testing the Accused Instrumentalities, and while providing technical
16 support and repair services for the Accused Instrumentalities to Defendant’s customers.

17 27. For example, the Accused Instrumentalities, including Pandora Premium,
18 infringe Claim 1 of the ’537 Patent. One non-limiting example of the Accused
19 Instrumentalities’ infringement is presented below:

20 28. The Accused Instrumentalities perform a communication method to
21 transfer content data to a first apparatus from a second apparatus. For example, the
22 Accused Instrumentalities communicate music files and playlists stored on one device
23 (*e.g.*, web servers in the Pandora System) to another device (*e.g.*, a user’s mobile device
24 or tablet with the Pandora app installed). *See, e.g.*, “Pandora Premium Will Change
25 The Way You Listen to Music”, *available at* [http://blog.pandora.com/us/pandora-](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/)
26 [premium-will-change-the-way-you-listen-to-music/](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/) (“With Pandora Plus we
27 introduced our predictive offline feature that automatically downloads your top stations
28 and switches you to one of them when you lose a signal. We’re bringing that feature to

Pandora Premium, and adding the ability to download any album, song or playlist you want with no limits.”); “Offline Mode and Downloads” *available at* https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US:

For Pandora Plus Subscribers:

Pandora Plus subscribers cannot choose which stations they'd like available for offline listening. Instead, Pandora will download up to four of your most-listened-to stations and add them to your Offline Station list. By default, these stations will be downloaded while your device is connected to wifi, and we will never use the last 500 mb of storage on your device.

For Pandora Premium Subscribers:

Pandora Premium subscribers have the ability to download many songs, albums, stations, or playlists from Pandora's library to listen to offline and download them by using the instructions below.

29. 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 Pandora System can determine whether the server is connected to a mobile device or tablet. *See, e.g.*, “Offline Mode and Downloads”:

Download Music for Offline Mode

Pandora Plus Subscribers:

Pandora will automatically download four of your most listened to stations in the last 6 months to get you started, as well as your Thumbprint Radio (if available). Plus subscribers do not get to choose which stations they'd like to download.

Pandora Premium Subscribers:

To download content from My Music, click the download button (icon with arrow pointing downward). *Keep in mind that this button will only appear for eligible tracks.*

If you change your mind at any point during the downloading process, simply tap the download button again, and we'll halt progress.

If you lose connection while downloading, we'll save your spot with your partially downloaded playlists, albums and stations. The next time you gain a signal, we'll attempt to complete the download process for you.

Automatic Offline Mode

If you lose your Wi-Fi and cell network connection, we'll automatically switch you to Offline Mode. When this happens, Pandora will alert you with a notification to let you know that we are switching you to offline listening and choose a station for you to listen to.

30. The Accused Instrumentalities perform a communication method to transfer content data from a first apparatus to a second apparatus further comprising

1 comparing, upon judging that said first apparatus and said second apparatus are
 2 connected, an identifier of said first apparatus with an identifier stored in said second
 3 apparatus. For example, the Pandora System can determine whether a device associated
 4 with a specific user account is connected to the server:

Choose **Let Them Listen** to close this message, and allow the other device to continue streaming music from your account.

https://help.pandora.com/s/article/000001191?language=en_US

7 31. The Accused Instrumentalities perform a communication method to
 8 transfer content data from a first apparatus to a second apparatus further comprising
 9 comparing, when said identifier of said first apparatus corresponds to said identifier
 10 stored in second apparatus, a first list of content data of said first apparatus and a second
 11 list of content data of said second apparatus. For example, the Pandora System will
 12 resume a download to the mobile device or tablet if the connection is lost and then
 13 restored. *See, e.g.*, “Offline Mode and Downloads”:

Download Music for Offline Mode

Pandora Plus Subscribers:

Pandora will automatically download four of your most listened to stations in the last 6 months to get you started, as well as your Thumbprint Radio (if available). Plus subscribers do not get to choose which stations they'd like to download.

Pandora Premium Subscribers:

To download content from My Music, click the download button (icon with arrow pointing downward). *Keep in mind that this button will only appear for eligible tracks.*

If you change your mind at any point during the downloading process, simply tap the download button again, and we'll halt progress.

If you lose connection while downloading, we'll save your spot with your partially downloaded playlists, albums and stations. The next time you gain a signal, we'll attempt to complete the download process for you.

22 32. The Accused Instrumentalities perform a communication method to
 23 transfer content data from a first apparatus to a second apparatus further comprising
 24 transferring, from the second apparatus to the first apparatus, first content data, which
 25 is registered in said second list and is not registered in said first list. For example, the
 26 Pandora System will resume a download previously started when a connection with the
 27 mobile device or tablet is lost and restored, and will not resend the same information.
 28 *See, e.g.*, “Offline Mode and Downloads”:

Download Music for Offline Mode

Pandora Plus Subscribers:

Pandora will automatically download four of your most listened to stations in the last 6 months to get you started, as well as your Thumbprint Radio (if available). Plus subscribers do not get to choose which stations they'd like to download.

Pandora Premium Subscribers:

To download content from My Music, click the download button (icon with arrow pointing downward). *Keep in mind that this button will only appear for eligible tracks.*

If you change your mind at any point during the downloading process, simply tap the download button again, and we'll halt progress.

If you lose connection while downloading, we'll save your spot with your partially downloaded playlists, albums and stations. The next time you gain a signal, we'll attempt to complete the download process for you.

33. The Accused Instrumentalities perform a communication method to transfer content data from a first apparatus to a second apparatus further comprising deleting, from the first apparatus, second content data, which registered in said first list and is not registered in the second list. For instance, if a Playlist stored in Pandora servers is edited to remove a song, the Playlist on the mobile device will have the same song deleted.

Edit your playlist on the web

To edit curated or auto-generated playlists, go to **My Music** and tap the name of the playlist you'd like to make changes to. Next, tap the **Edit** icon below the album art.

- **To remove songs from your playlist**, scroll down and press the circled (X) to the left of the songs you would like to remove or swipe the track name from right to left. (Deleting songs from your custom playlists will not remove the original Thumb rating from your stations).
- **To adjust the order of your playlist**, hold and drag the list icon on the right of the track title to the desired position.
- **To rename your playlist**, tap the current name then enter whatever you'd like to call it.
- Tap the **Add Similar Songs** button located at the bottom of your playlist if you need some assistance with building your playlist. Pandora will add songs that match the musical qualities of the tracks already in your playlist. You can re-order songs we've added or delete any unwanted songs.

Download your Playlist

To download content from **My Music**, click the download button (icon with arrow pointing downward). Keep in mind that this button will only appear for eligible tracks.

If you change your mind at any point during the downloading process, simply tap the download button again, and we'll halt progress.

If you lose connection while downloading, we'll save your spot with your partially downloaded playlists, albums and stations. The next time you gain a signal, we'll attempt to complete the download process for you.

**Downloading content is a mobile-only experience. You will need an internet connection in order to listen to Pandora Premium on the web.*

https://help.pandora.com/s/article/Playlists-on-Premium1519949304429?language=en_US#download

1 34. Defendant has had knowledge of the '537 Patent and its infringement since
2 at least the filing of the original Complaint in this action, or shortly thereafter, including
3 by way of this lawsuit. By the time of trial, Defendant will have known and intended
4 (since receiving such notice) that its continued actions would actively induce and
5 contribute to the infringement of the claims of the '537 Patent.

6 35. Defendant's affirmative acts of making, using, selling, offering for sale,
7 and/or importing the Accused Instrumentalities have induced and continue to induce
8 users of the Accused Instrumentalities to use the Accused Instrumentalities in their
9 normal and customary way to infringe the claims of the '537 Patent. Use of the Accused
10 Instrumentalities in their ordinary and customary fashion results in infringement of the
11 claims of the '537 Patent.

12 36. For example, Defendant explains to customers the benefits of using the
13 Accused Instrumentalities, such as by touting their advantages of allowing users to use
14 the Pandora app to play music files and store music files and playlists on the users'
15 devices. Defendant also induces its customers to use the Accused Instrumentalities to
16 infringe other claims of the '537 Patent. Defendant specifically intended and was aware
17 that the normal and customary use of the Accused Instrumentalities on compatible
18 systems would infringe the '537 Patent. Defendant performed the acts that constitute
19 induced infringement, and would induce actual infringement, with the knowledge of
20 the '537 Patent and with the knowledge, or willful blindness to the probability, that the
21 induced acts would constitute infringement. On information and belief, Defendant
22 engaged in such inducement to promote the sales of the Accused Instrumentalities, *e.g.*,
23 through its user manuals, product support, marketing materials, demonstrations,
24 installation support, and training materials to actively induce the users of the accused
25 products to infringe the '537 Patent. Accordingly, Defendant has induced and continues
26 to induce end users of the accused products to use the accused products in their ordinary
27 and customary way with compatible systems to make and/or use systems infringing
28 the '537 Patent, knowing that such use of the Accused Instrumentalities with compatible

1 systems will result in infringement of the '537 Patent. Accordingly, Defendant has been
2 (since at least as of filing of the original complaint), and currently is, inducing
3 infringement of the '537 Patent, in violation of 35 U.S.C. § 271(b).

4 37. Defendant has also infringed, and continues to infringe, claims of the '537
5 Patent by offering to commercially distribute, commercially distributing, making,
6 and/or importing the Accused Instrumentalities, which are used in practicing the
7 process, or using the systems, of the '537 Patent, and constitute a material part of the
8 invention. Defendant knows the components in the Accused Instrumentalities to be
9 especially made or especially adapted for use in infringement of the '537 Patent, not a
10 staple article, and not a commodity of commerce suitable for substantial noninfringing
11 use. For example, the ordinary way of using the Accused Instrumentalities infringes the
12 patent claims, and as such, is especially adapted for use in infringement. Accordingly,
13 Defendant has been, and currently is, contributorily infringing the '537 Patent, in
14 violation of 35 U.S.C. § 271(c).

15 38. As a result of Defendant's infringement of the '537 Patent, Plaintiff Data
16 Scape is entitled to monetary damages in an amount adequate to compensate for
17 Defendant's infringement, but in no event less than a reasonable royalty for the use
18 made of the invention by Defendant, together with interest and costs as fixed by the
19 Court.

20 **COUNT III**

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

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

24 40. Data Scape is the owner by assignment of United States Patent No.
25 9,380,112 ("the '112 Patent") entitled "Communication System And Its Method and
26 Communication Apparatus And Its Method." The '112 Patent was duly and legally
27 issued by the United States Patent and Trademark Office on June 28, 2016. A true
28 and correct copy of the '112 Patent is included as Exhibit C.

1 41. Defendant has offered for sale, sold and/or imported into the United States
 2 products and services that infringe the '112 patent, and continues to do so. By way of
 3 illustrative example, these infringing products and services include, without limitation,
 4 Defendant's products and services, *e.g.*, the Pandora System, and all versions and
 5 variations thereof since the issuance of the '112 Patent ("Accused Instrumentalities").

6 42. The Accused Instrumentalities includes "[a] communication apparatus
 7 configured to transfer data to a portable apparatus." For example, the Accused
 8 Instrumentalities communicate music files and playlists stored on servers in the Pandora
 9 System to a mobile device or tablet with the Pandora app installed. *See, e.g.*, "Pandora
 10 Premium Will Change The Way You Listen to Music", *available at*
 11 [http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/)
 12 [music/](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/) ("With Pandora Plus we introduced our predictive offline feature that
 13 automatically downloads your top stations and switches you to one of them when you
 14 lose a signal. We're bringing that feature to Pandora Premium, and adding the ability to
 15 download any album, song or playlist you want with no limits."); "Offline Mode and
 16 Downloads" *available at* [https://help.pandora.com/s/article/Offline-Mode-and-](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US)
 17 [Downloads?language=en_US](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US):

18 **For Pandora Plus Subscribers:**

19 Pandora Plus subscribers cannot choose which stations they'd like available for offline listening. Instead, Pandora will
 20 download up to four of your most-listened-to stations and add them to your Offline Station list. By default, these
 21 stations will be downloaded while your device is connected to wifi, and we will never use the last 500 mb of storage
 22 on your device.

23 **For Pandora Premium Subscribers:**

24 Pandora Premium subscribers have the ability to download many songs, albums, stations, or playlists from Pandora's
 25 library to listen to offline and download them by using the instructions below.

26 43. The Accused Instrumentalities include a communication apparatus
 27 comprising "a memory configured to store a first list of musical content data." For
 28 example, the Pandora System, stores a user's playlists, albums, and stations, which can
 be transferred to a mobile device or tablet with the Pandora App installed. *See, e.g.*,

1 “Playlists on Premium” *available at* [https://help.pandora.com/s/article/Playlists-on-](https://help.pandora.com/s/article/Playlists-on-Premium-1519949304429?language=en_US#editweb)
 2 [Premium-1519949304429?language=en_US#editweb](https://help.pandora.com/s/article/Playlists-on-Premium-1519949304429?language=en_US#editweb).

3 **Edit your playlist on the web**

4 To edit curated or auto-generated playlists, go to **My Music** and tap the name of the playlist you'd like to make changes to. Next, tap the **Edit** icon below the album art.

- 5 • **To remove songs from your playlist**, scroll down and press the circled (X) to the left of the songs you would like to remove or swipe the track name from right to left. (Deleting songs from your custom playlists will not remove the original Thumb rating from your stations).
- 6 • **To adjust the order of your playlist**, hold and drag the list icon on the right of the track title to the desired position.
- 7 • **To rename your playlist**, tap the current name then enter whatever you'd like to call it.
- 8 • Tap the **Add Similar Songs** button located at the bottom of your playlist if you need some assistance with building your playlist. Pandora will add songs that match the musical qualities of the tracks already in your playlist. You can re-order songs we've added or delete any unwanted songs.

11 **Download Music for Offline Mode**

12 **Pandora Plus Subscribers:**

12 Pandora will automatically download four of your most listened to stations in the last 6 months to get you started, as well as your Thumbprint Radio (if available). Plus subscribers do not get to choose which stations they'd like to download.

13 **Pandora Premium Subscribers:**

14 To download content from My Music, click the download button (icon with arrow pointing downward). *Keep in mind that this button will only appear for eligible tracks.*

15 If you change your mind at any point during the downloading process, simply tap the download button again, and we'll halt progress.

16 If you lose connection while downloading, we'll save your spot with your partially downloaded playlists, albums and stations. The next time you gain a signal, we'll attempt to complete the download process for you.

17 [https://help.pandora.com/s/article/Offline-Mode-and-](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US#download)
 18 [Downloads?language=en_US#download](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US#download)

19 44. The Accused Instrumentalities include a communication apparatus
 20 comprising “a data interface configured to detect a connection between the
 21 communication apparatus and the portable apparatus.” For example, the Pandora
 22 System can determine whether the server is connected to a mobile device or tablet.

Download Music for Offline Mode

Pandora Plus Subscribers:

Pandora will automatically download four of your most listened to stations in the last 6 months to get you started, as well as your Thumbprint Radio (if available). Plus subscribers do not get to choose which stations they'd like to download.

Pandora Premium Subscribers:

To download content from My Music, click the download button (icon with arrow pointing downward). *Keep in mind that this button will only appear for eligible tracks.*

If you change your mind at any point during the downloading process, simply tap the download button again, and we'll halt progress.

If you lose connection while downloading, we'll save your spot with your partially downloaded playlists, albums and stations. The next time you gain a signal, we'll attempt to complete the download process for you.

Automatic Offline Mode

If you lose your Wi-Fi and cell network connection, we'll automatically switch you to Offline Mode. When this happens, Pandora will alert you with a notification to let you know that we are switching you to offline listening and choose a station for you to listen to.

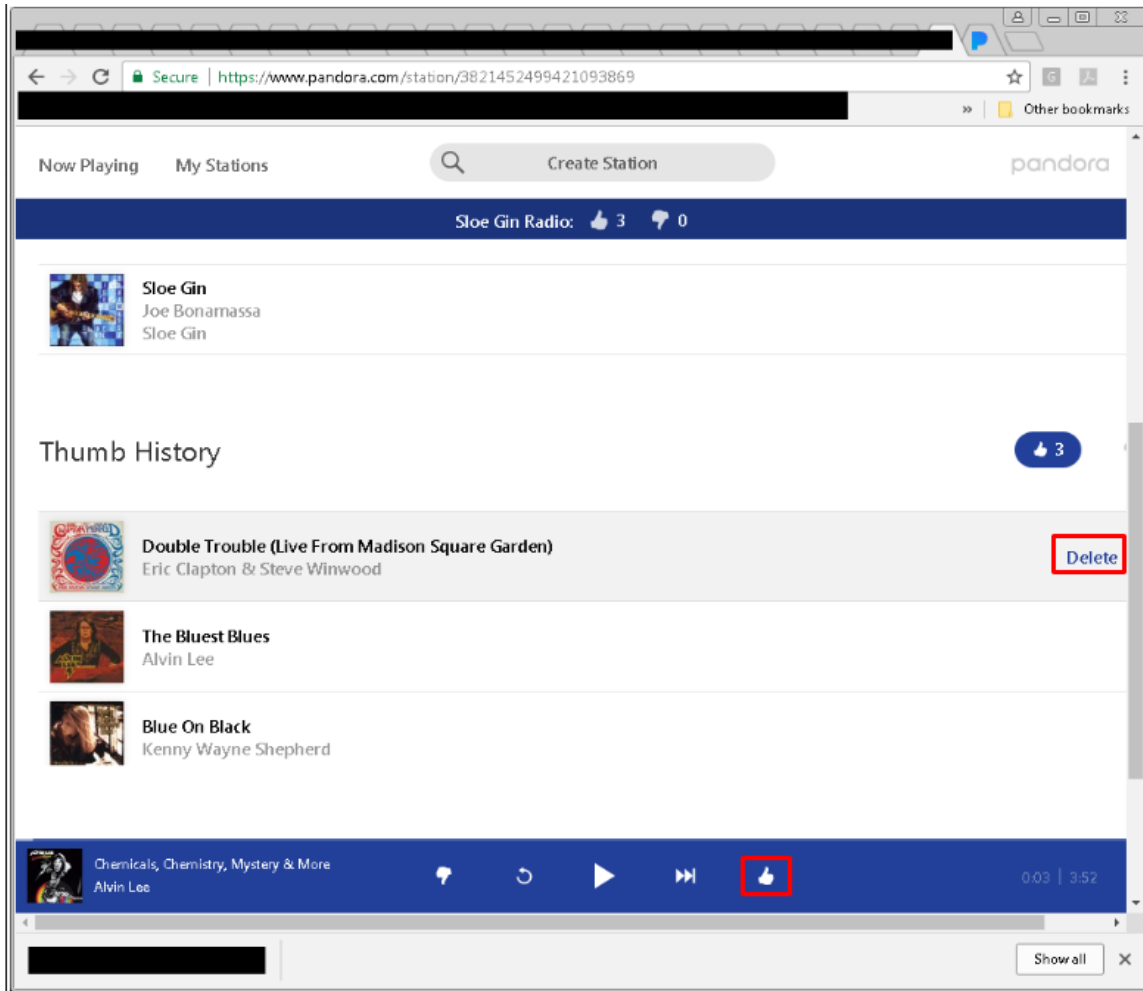
https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US:

45. The Accused Instrumentalities further include circuitry configured to “edit the first list of musical content based on input from a user without regard to the connection of the communication apparatus and the portable apparatus.” For example, the Pandora System allows items to be added to a playlist by using the “Thumbs-up” icon on a song that is playing, and to delete songs from a playlist, regardless of whether the mobile device or tablet is connected to the Pandora Server. *See, e.g.*, “Playlists on Premium”:

Edit your playlist on the web

To edit curated or auto-generated playlists, go to **My Music** and tap the name of the playlist you'd like to make changes to. Next, tap the **Edit** icon below the album art.

- **To remove songs from your playlist**, scroll down and press the circled (X) to the left of the songs you would like to remove or swipe the track name from right to left. (Deleting songs from your custom playlists will not remove the original Thumb rating from your stations).
- **To adjust the order of your playlist**, hold and drag the list icon on the right of the track title to the desired position.
- **To rename your playlist**, tap the current name then enter whatever you'd like to call it.
- Tap the **Add Similar Songs** button located at the bottom of your playlist if you need some assistance with building your playlist. Pandora will add songs that match the musical qualities of the tracks already in your playlist. You can re-order songs we've added or delete any unwanted songs.



46. The Accused Instrumentalities further include circuitry configured to “compare the edited first list of musical content with a list of musical content stored in the portable apparatus.” For instance, if the Playlist stored in Pandora servers is edited to remove a song, the Playlist on the mobile device will have the same song deleted.

Edit your playlist on the web

To edit curated or auto-generated playlists, go to **My Music** and tap the name of the playlist you'd like to make changes to. Next, tap the **Edit** icon below the album art.

- **To remove songs from your playlist**, scroll down and press the circled (X) to the left of the songs you would like to remove or swipe the track name from right to left. (Deleting songs from your custom playlists will not remove the original Thumb rating from your stations).
- **To adjust the order of your playlist**, hold and drag the list icon on the right of the track title to the desired position.
- **To rename your playlist**, tap the current name then enter whatever you'd like to call it.
- Tap the **Add Similar Songs** button located at the bottom of your playlist if you need some assistance with building your playlist. Pandora will add songs that match the musical qualities of the tracks already in your playlist. You can re-order songs we've added or delete any unwanted songs.

Download your Playlist

To download content from **My Music**, click the download button (icon with arrow pointing downward). Keep in mind that this button will only appear for eligible tracks.

If you change your mind at any point during the downloading process, simply tap the download button again, and we'll halt progress.

If you lose connection while downloading, we'll save your spot with your partially downloaded playlists, albums and stations. The next time you gain a signal, we'll attempt to complete the download process for you.

**Downloading content is a mobile-only experience. You will need an internet connection in order to listen to Pandora Premium on the web.*

https://help.pandora.com/s/article/Playlists-on-Premium1519949304429?language=en_US#download

47. The Accused Instrumentalities further include circuitry configured to “control transfer of selected musical content data stored in the communication apparatus to the portable apparatus via the data interface based on a result of the comparison after the connection of the communication apparatus and the portable apparatus in connected.” For instance, the if Playlist stored in Pandora servers is edited to remove a song, the Playlist on the mobile device will have the same song deleted.

Edit your playlist on the web

To edit curated or auto-generated playlists, go to **My Music** and tap the name of the playlist you'd like to make changes to. Next, tap the **Edit** icon below the album art.

- **To remove songs from your playlist**, scroll down and press the circled (X) to the left of the songs you would like to remove or swipe the track name from right to left. (Deleting songs from your custom playlists will not remove the original Thumb rating from your stations).
 - **To adjust the order of your playlist**, hold and drag the list icon on the right of the track title to the desired position.
 - **To rename your playlist**, tap the current name then enter whatever you'd like to call it.
 - Tap the **Add Similar Songs** button located at the bottom of your playlist if you need some assistance with building your playlist. Pandora will add songs that match the musical qualities of the tracks already in your playlist. You can re-order songs we've added or delete any unwanted songs.
-

Download your Playlist

To download content from **My Music**, click the download button (icon with arrow pointing downward). Keep in mind that this button will only appear for eligible tracks.

If you change your mind at any point during the downloading process, simply tap the download button again, and we'll halt progress.

If you lose connection while downloading, we'll save your spot with your partially downloaded playlists, albums and stations. The next time you gain a signal, we'll attempt to complete the download process for you.

**Downloading content is a mobile-only experience. You will need an internet connection in order to listen to Pandora Premium on the web.*

https://help.pandora.com/s/article/Playlists-on-Premium1519949304429?language=en_US#download.

48. The Accused Instrumentalities further include circuitry configured to “control playback of musical content data based on the edited first list of musical content data so that the musical content data referenced in the edited first list of musical content data is played back as a collection, the edited first list of musical content data being associated with an identifier stored in the communication apparatus that uniquely identifies the portable apparatus.” For example, the Pandora System can uniquely identify the user account and the device on which the playlists are stored:

Someone else is listening to your Pandora account

Home > Account

Pandora Plus and Pandora Premium accounts are meant for individual, non-commercial use. The cost of an individual subscription only covers the costs of one stream of ad-free songs.

You can play your account on any supported computer or device you own, however, only one person can listen at a time on your account. If our system detects that your account is playing on more than one device at the same time, you will be notified with an audio and/or display message that pauses your music.

[How do I continue listening to my music?](#)

[How do I prevent this message from appearing?](#)

[I'm the only listener on my account, and keep getting this message! What do I do?](#)

[I purchased a Family Plan so I could stream to multiple devices. Why am I receiving this error message?](#)

[How do I remove devices from my account?](#)

How do I continue listening to my music?

Choose **Let Me Listen** to continue listening to music from the device you are currently controlling.

Choose **Let Them Listen** to close this message, and allow the other device to continue streaming music from your account.

https://help.pandora.com/s/article/000001191?language=en_US

49. Defendant has had knowledge of the '112 Patent and its infringement since at least the filing of the original Complaint in this action, or shortly thereafter, including by way of this lawsuit. By the time of trial, Defendant will have known and intended (since receiving such notice) that its continued actions would actively induce and contribute to the infringement of the claims of the '112 Patent.

50. Defendant's affirmative acts of making, using, selling, offering for sale, and/or importing the Accused Instrumentalities have induced and continue to induce users of the Accused Instrumentalities to use the Accused Instrumentalities in their normal and customary way to infringe the claims of the '112 Patent. Use of the Accused

1 Instrumentalities in their ordinary and customary fashion results in infringement of the
2 claims of the '112 Patent.

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

23 52. Defendant has also infringed, and continues to infringe, claims of the '112
24 Patent by offering to commercially distribute, commercially distributing, making,
25 and/or importing the Accused Instrumentalities, which are used in practicing the
26 process, or using the systems, of the '112 Patent, and constitute a material part of the
27 invention. Defendant knows the components in the Accused Instrumentalities to be
28 especially made or especially adapted for use in infringement of the '112 Patent, not a

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

6 **COUNT IV**

7 **INFRINGEMENT OF U.S. PATENT NO. 9,712,614**

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

10 54. Data Scape is the owner by assignment of United States Patent No.
11 9,712,614 (“the ’614 Patent”) entitled “Communication System And Its Method and
12 Communication Apparatus And Its Method.” The ’614 Patent was duly and legally
13 issued by the United States Patent and Trademark Office on July 18, 2017. A true and
14 correct copy of the ’614 Patent is included as Exhibit D.

15 55. Defendant has offered for sale, sold and/or imported into the United States
16 products and services that infringe the ’614 patent, and continues to do so. By way of
17 illustrative example, these infringing products and services include, without limitation,
18 Defendant’s products and services, *e.g.*, the Pandora System, and all versions and
19 variations thereof since the issuance of the ’614 Patent (“Accused Instrumentalities”).

20 56. The Accused Instrumentalities includes “[a] communication apparatus.”
21 For example, the Accused Instrumentalities communicate music files and playlists
22 stored on one device (*e.g.*, web servers in the Pandora System) to another device (*e.g.*,
23 a user’s mobile device or tablet with the Pandora app installed). *See, e.g.*, “Pandora
24 Premium Will Change The Way You Listen to Music”, *available at*
25 [http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/)
26 [music/](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/) (“With Pandora Plus we introduced our predictive offline feature that
27 automatically downloads your top stations and switches you to one of them when you
28 lose a signal. We’re bringing that feature to Pandora Premium, and adding the ability to

1 download any album, song or playlist you want with no limits.”); “Offline Mode and
 2 Downloads” *available at* [https://help.pandora.com/s/article/Offline-Mode-and-](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US)
 3 [Downloads?language=en_US](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US):

4 **For Pandora Plus Subscribers:**

Pandora Plus subscribers cannot choose which stations they'd like available for offline listening. Instead, Pandora will download up to four of your most-listened-to stations and add them to your Offline Station list. By default, these stations will be downloaded while your device is connected to wifi, and we will never use the last 500 mb of storage on your device.

7 **For Pandora Premium Subscribers:**

Pandora Premium subscribers have the ability to download many songs, albums, stations, or playlists from Pandora's library to listen to offline and download them by using the instructions below.

10 57. The Accused Instrumentalities include a communication apparatus
 11 comprising “a memory configured to store musical content data and a plurality of
 12 program lists associated with the musical content data.” For example, the mobile device
 13 or tablet with the Pandora App installed, as well as the Pandora Server, contains
 14 memory that will store musical files as individual files, station, albums or as playlists:
 15 *See, e.g.,* “Pandora Premium Will Change The Way You Listen to Music”, *available at*
 16 [http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/)
 17 [music/](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/) (“With Pandora Plus we introduced our predictive offline feature that
 18 automatically downloads your top stations and switches you to one of them when you
 19 lose a signal. We’re bringing that feature to Pandora Premium, and adding the ability to
 20 download any album, song or playlist you want with no limits.”); “Offline Mode and
 21 Downloads” *available at* [https://help.pandora.com/s/article/Offline-Mode-and-](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US)
 22 [Downloads?language=en_US](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US):

23 **For Pandora Plus Subscribers:**

Pandora Plus subscribers cannot choose which stations they'd like available for offline listening. Instead, Pandora will download up to four of your most-listened-to stations and add them to your Offline Station list. By default, these stations will be downloaded while your device is connected to wifi, and we will never use the last 500 mb of storage on your device.

26 **For Pandora Premium Subscribers:**

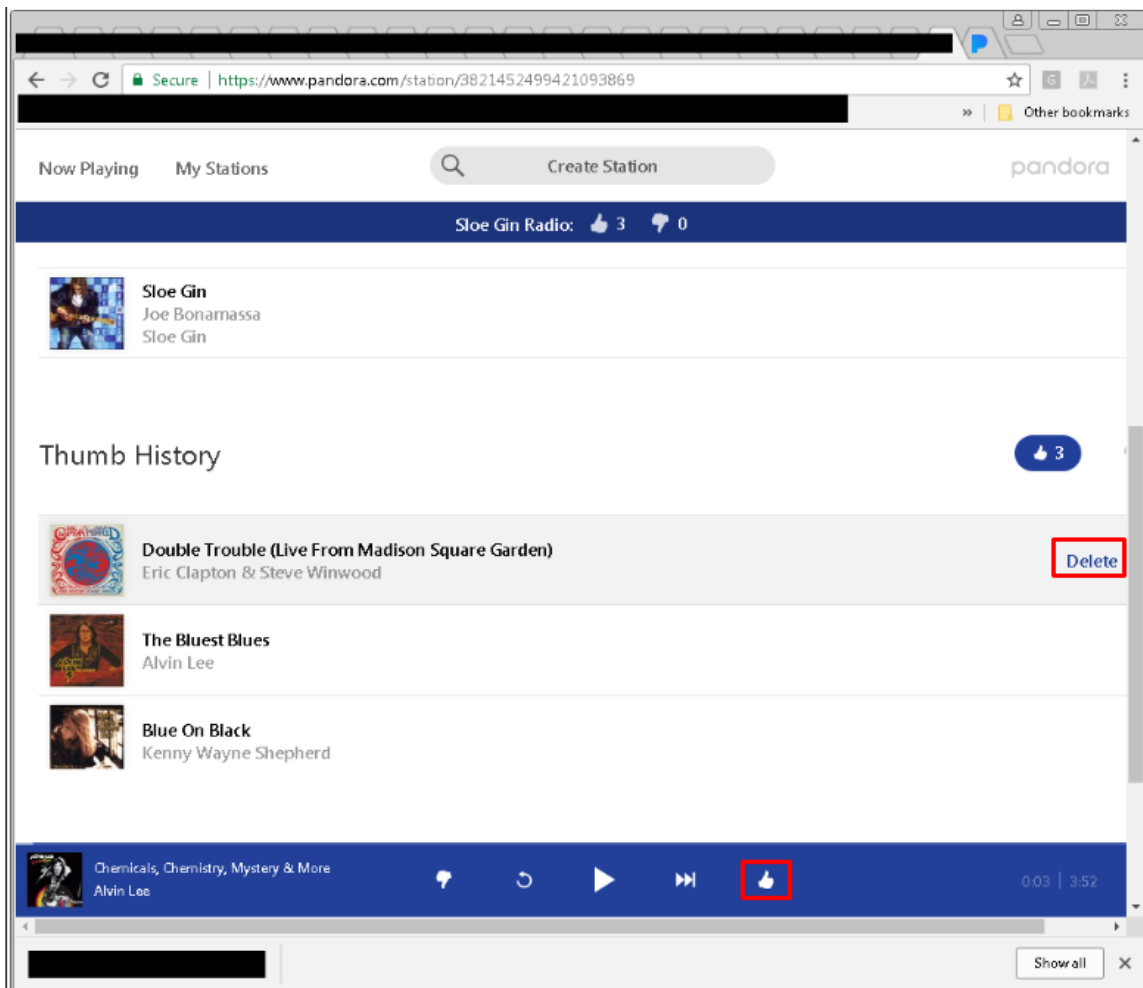
Pandora Premium subscribers have the ability to download many songs, albums, stations, or playlists from Pandora's library to listen to offline and download them by using the instructions below.

58. The Accused Instrumentalities include a communication apparatus further comprising “a data interface configured to interface with an external reproduction apparatus.” For example, the Pandora App, as run by the Pandora servers, includes a graphic user interface that allows for the creation of Playlists on a web browser, mobile device, or tablet:

Edit your playlist on the web

To edit curated or auto-generated playlists, go to **My Music** and tap the name of the playlist you'd like to make changes to. Next, tap the **Edit** icon below the album art.

- **To remove songs from your playlist**, scroll down and press the circled (X) to the left of the songs you would like to remove or swipe the track name from right to left. (Deleting songs from your custom playlists will not remove the original Thumb rating from your stations).
- **To adjust the order of your playlist**, hold and drag the list icon on the right of the track title to the desired position.
- **To rename your playlist**, tap the current name then enter whatever you'd like to call it.
- Tap the **Add Similar Songs** button located at the bottom of your playlist if you need some assistance with building your playlist. Pandora will add songs that match the musical qualities of the tracks already in your playlist. You can re-order songs we've added or delete any unwanted songs.



59. The Accused Instrumentalities further include a communication apparatus comprising circuitry configured to “control playback of musical content data based on a program lists so that the musical content data referenced in the program list is played back as a collection, the program list being associated with a predetermined identifier uniquely identifying a predetermined external reproduction apparatus among a plurality of reproduction apparatuses. For example, the Pandora App allows musical files to be played as a “Playlist” consisting of a collection of musical files.

What are Playlists?

Playlists are a feature of Pandora Premium that allows you full control of what music you want to hear. You can fully customize your playlists and add specific songs, artists, and albums in the order you prefer. If you need help building your custom playlists, ask Pandora to help you build your playlist by using the Add Similar Songs button.

- **Auto-generated playlists** are created after you have Thumbed-up five or more songs on stations you've created. We will sync your Thumbs up from that station so you can access all of your favorite tracks whenever you want.
- **My Thumbs Up** is a playlist that collects your Thumbed up tracks from each of your stations. Every time you thumb up a song on your stations, it will be automatically added to this playlist. My Thumbs Up playlists will only play the songs you have Thumbed Up. To listen to this playlist, go to My Music, sort by Playlists and select My Thumbs Up.

https://help.pandora.com/s/article/Playlists-on-Premium-1519949304429?language=en_US#download

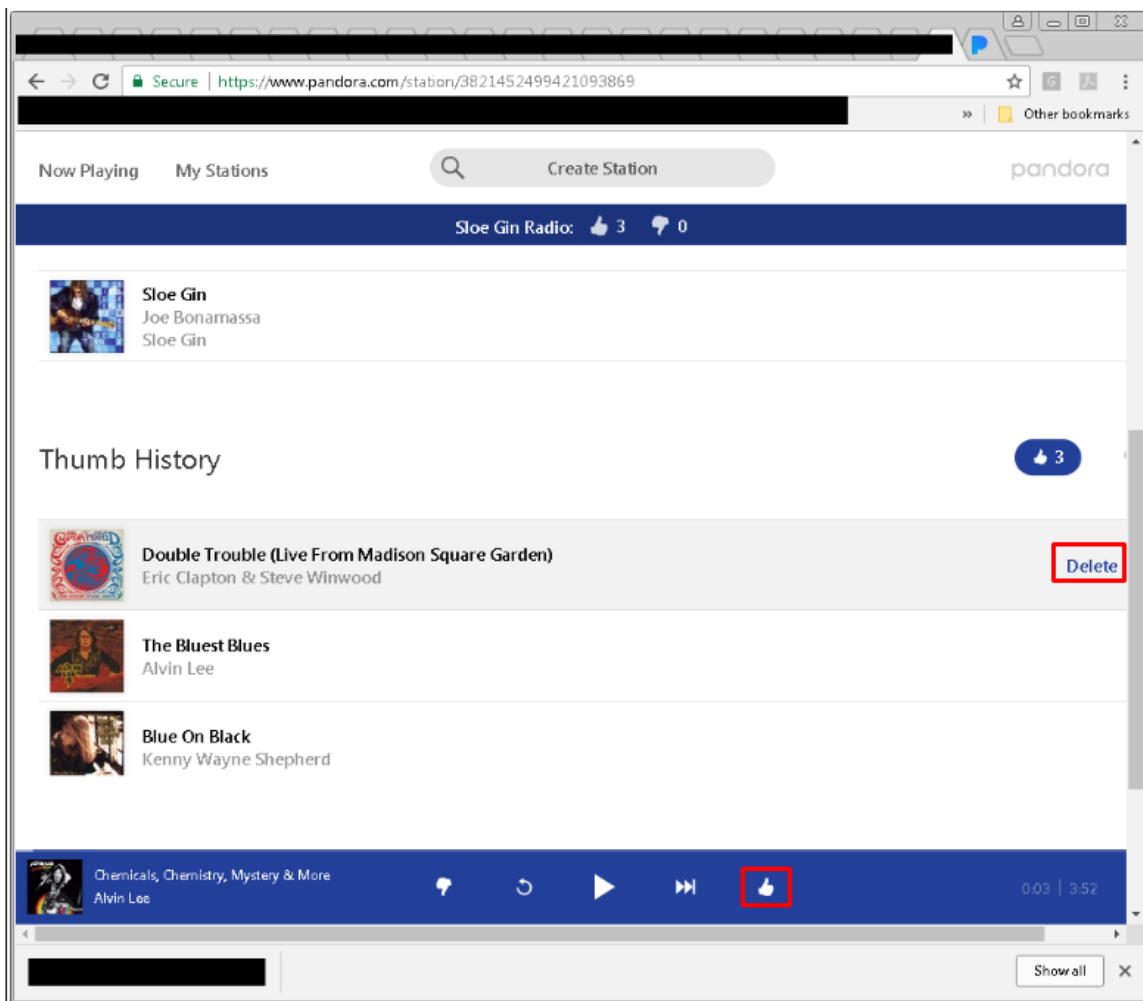
60. The Accused Instrumentalities further include a communication apparatus comprising circuitry configured to “control presentation of the program list to a user via user interface.” For example, the Pandora App includes a graphic user interface that will show the Playlists that are available.

61. The Accused Instrumentalities further include a communication apparatus comprising circuitry configured to accept edits to the program list via the user interface. For example, the Pandora System allows items to be added to a playlist by using the “Thumbs-up” icon on a song that is playing, and to delete songs from a playlist, regardless of the mobile device or tablet is connected to the Pandora Server. *See, e.g., “Playlists on Premium”*:

Edit your playlist on the web

To edit curated or auto-generated playlists, go to **My Music** and tap the name of the playlist you'd like to make changes to. Next, tap the **Edit** icon below the album art.

- **To remove songs from your playlist**, scroll down and press the circled (X) to the left of the songs you would like to remove or swipe the track name from right to left. (Deleting songs from your custom playlists will not remove the original Thumb rating from your stations).
- **To adjust the order of your playlist**, hold and drag the list icon on the right of the track title to the desired position.
- **To rename your playlist**, tap the current name then enter whatever you'd like to call it.
- Tap the **Add Similar Songs** button located at the bottom of your playlist if you need some assistance with building your playlist. Pandora will add songs that match the musical qualities of the tracks already in your playlist. You can re-order songs we've added or delete any unwanted songs.



62. The Accused Instrumentalities further include circuitry configured to “determine whether an identifier received by the circuitry via the data interface is the predetermined identifier.” For example, the Pandora System can determine whether a specific user account is associated with a device connected to the server:

Someone else is listening to your Pandora account

Home > Account

Pandora Plus and Pandora Premium accounts are meant for individual, non-commercial use. The cost of an individual subscription only covers the costs of one stream of ad-free songs.

You can play your account on any supported computer or device you own, however, only one person can listen at a time on your account. If our system detects that your account is playing on more than one device at the same time, you will be notified with an audio and/or display message that pauses your music.

[How do I continue listening to my music?](#)

[How do I prevent this message from appearing?](#)

[I'm the only listener on my account, and keep getting this message! What do I do?](#)

[I purchased a Family Plan so I could stream to multiple devices. Why am I receiving this error message?](#)

[How do I remove devices from my account?](#)

[How do I continue listening to my music?](#)

Choose **Let Me Listen** to continue listening to music from the device you are currently controlling.

Choose **Let Them Listen** to close this message, and allow the other device to continue streaming music from your account.

https://help.pandora.com/s/article/000001191?language=en_US

63. The Accused Instrumentalities further include circuitry configured to “control transfer of the musical content data to the predetermined external reproduction apparatus via the data interface based on the program list when the received identifier is the predetermined identifier without receiving information on selection of the musical content data from the predetermined external reproduction apparatus.” For instance, if a Playlist stored on Pandora servers is edited to remove a song, the Playlist on the mobile device will have the same song deleted.

Edit your playlist on the web

To edit curated or auto-generated playlists, go to **My Music** and tap the name of the playlist you'd like to make changes to. Next, tap the **Edit** icon below the album art.

- **To remove songs from your playlist**, scroll down and press the circled (X) to the left of the songs you would like to remove or swipe the track name from right to left. (Deleting songs from your custom playlists will not remove the original Thumb rating from your stations).
 - **To adjust the order of your playlist**, hold and drag the list icon on the right of the track title to the desired position.
 - **To rename your playlist**, tap the current name then enter whatever you'd like to call it.
 - Tap the **Add Similar Songs** button located at the bottom of your playlist if you need some assistance with building your playlist. Pandora will add songs that match the musical qualities of the tracks already in your playlist. You can re-order songs we've added or delete any unwanted songs.
-

Download your Playlist

To download content from **My Music**, click the download button (icon with arrow pointing downward). Keep in mind that this button will only appear for eligible tracks.

If you change your mind at any point during the downloading process, simply tap the download button again, and we'll halt progress.

If you lose connection while downloading, we'll save your spot with your partially downloaded playlists, albums and stations. The next time you gain a signal, we'll attempt to complete the download process for you.

**Downloading content is a mobile-only experience. You will need an internet connection in order to listen to Pandora Premium on the web.*

https://help.pandora.com/s/article/Playlists-on-Premium1519949304429?language=en_US#download

64. The Accused Instrumentalities further include circuitry configured to “compare the program list with a second list of musical content data stored in the predetermined external reproduction apparatus.” For instance, if a Playlist stored in the Pandora server is edited to remove a song, the Playlist on the mobile device will have the same song deleted.

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- **To adjust the order of your playlist**, hold and drag the list icon on the right of the track title to the desired position.
- **To rename your playlist**, tap the current name then enter whatever you'd like to call it.
- Tap the **Add Similar Songs** button located at the bottom of your playlist if you need some assistance with building your playlist. Pandora will add songs that match the musical qualities of the tracks already in your playlist. You can re-order songs we've added or delete any unwanted songs.

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65. The Accused Instrumentalities further include circuitry configured to “identify a piece of musical content data common to the program list and the second list based on the result of the comparison.” For instance, if a Playlist stored in Pandora servers is edited to remove a song, the Playlist on the mobile device will have the same song deleted.

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-

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66. The Accused Instrumentalities further include circuitry configured to “control transfer to the predetermined external reproduction apparatus of the musical content data that is in the program list and is not in the second list of musical content data based on the result of the comparison such that transfer of the identified piece of musical content data common to the program list and the second list is omitted.” For instance, the if the Playlist stored in Pandora servers is edited to remove a song, the Playlist on the mobile device will have the same song deleted.

Edit your playlist on the web

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67. Defendant has had knowledge of the '614 Patent and its infringement since at least the filing of the original Complaint in this action, or shortly thereafter, including by way of this lawsuit. By the time of trial, Defendant will have known and intended (since receiving such notice) that its continued actions would actively induce and contribute to the infringement of the claims of the '614 Patent.

68. Defendant's affirmative acts of making, using, selling, offering for sale, and/or importing the Accused Instrumentalities have induced and continue to induce users of the Accused Instrumentalities to use the Accused Instrumentalities in their normal and customary way to infringe the claims of the '614 Patent. Use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the claims of the '614 Patent.

69. For example, Defendant explains to customers the benefits of using the Accused Instrumentalities, such as by touting their advantages of allowing users to use the Pandora app to play music files as well as storing music files on the users' devices.

1 Defendant also induces its customers to use the Accused Instrumentalities to infringe
2 other claims of the '614 Patent. Defendant specifically intended and was aware that the
3 normal and customary use of the Accused Instrumentalities on compatible systems
4 would infringe the '614 Patent. Defendant performed the acts that constitute induced
5 infringement, and would induce actual infringement, with the knowledge of the '614
6 Patent and with the knowledge, or willful blindness to the probability, that the induced
7 acts would constitute infringement. On information and belief, Defendant engaged in
8 such inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through its
9 user manuals, product support, marketing materials, demonstrations, installation
10 support, and training materials to actively induce the users of the accused products to
11 infringe the '614 Patent. Accordingly, Defendant has induced and continues to induce
12 end users of the accused products to use the accused products in their ordinary and
13 customary way with compatible systems to make and/or use systems infringing the '614
14 Patent, knowing that such use of the Accused Instrumentalities with compatible systems
15 will result in infringement of the '614 Patent. Accordingly, Defendant has been (since
16 at least as of filing of the original complaint), and currently is, inducing infringement
17 of the '614 Patent, in violation of 35 U.S.C. § 271(b).

18 70. Defendant has also infringed, and continues to infringe, claims of the '614
19 Patent by offering to commercially distribute, commercially distributing, making,
20 and/or importing the Accused Instrumentalities, which are used in practicing the
21 process, or using the systems, of the '614 Patent, and constitute a material part of the
22 invention. Defendant knows the components in the Accused Instrumentalities to be
23 especially made or especially adapted for use in infringement of the '614 Patent, not a
24 staple article, and not a commodity of commerce suitable for substantial noninfringing
25 use. For example, the ordinary way of using the Accused Instrumentalities infringes the
26 patent claims, and as such, is especially adapted for use in infringement. Accordingly,
27 Defendant has been, and currently is, contributorily infringing the '614 Patent, in
28 violation of 35 U.S.C. § 271(c).

PRAYER FOR RELIEF

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

a. A judgment in favor of Plaintiff that Defendant has 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 Defendant from further acts of infringement of the asserted patents;

c. A judgment and order requiring Defendant 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 Defendant 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 Defendant; 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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