

**UNITED STATES DISTRICT COURT
IN THE DISTRICT OF COLORADO**

DATA SCAPE LIMITED,

Plaintiff,

v.

AMAZON.COM, INC.; and AMAZON
DIGITAL SERVICES, LLC,

Defendants.

Case No. 1:19-cv-00056

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 (“Plaintiff,” “Data Scape”) makes the following allegations against Defendants Amazon.com, Inc., and Amazon Digital Services, LLC (collectively, “Defendant” or “Amazon”):

PARTIES

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

2. On information and belief, Defendant Amazon Digital Services, LLC is a Delaware limited liability company with a principal place of business at 410 Terry Avenue North, Seattle, Washington 98109. Amazon Digital Services, LLC can be served with process through its registered agent, the Corporation Services Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

3. On information and belief, Defendant Amazon.com, Inc. is a Delaware corporation with its principal office at 410 Terry Avenue North, Seattle, WA 98109.

Amazon.com can be served through its registered agent, Corporation Service Company, 2711 Centerville Rd., Wilmington, DE 19808. Amazon.com, Inc. is the parent company of Amazon Digital Services, LLC. Amazon.com, Inc., and Amazon Digital Services, LLC are collectively referred herein as “Amazon.”

4. Amazon has a regular and established place of business in this District, including, e.g., distribution facilities, employees, and other business. For example, Amazon has at least two facilities in Aurora, Colorado, and employs approximately 1,300 people in Aurora. *See, e.g.,* <https://www.denverpost.com/2018/07/17/amazon-hiring-thornton-distribution-center/> As another example, Amazon has a new facility in Thornton, Colorado that is estimated to employ another 1,500 additional Amazon workers. *Id.* As another example, Amazon maintains data center(s) in Colorado, including in Denver. *See, e.g.,* <https://aws.amazon.com/about-aws/global-infrastructure/> (“AWS Edge Network Locations: ... Denver, CO ...”). Amazon offers its products and services, including those accused herein of infringement, to customers located in Colorado. Amazon derives financial benefits through its business in Colorado.

JURISDICTION AND VENUE

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

6. This Court has personal jurisdiction over Amazon in this action because Amazon has committed acts within the District of Colorado giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over Amazon would not offend traditional notions of fair play and substantial justice.

Amazon, directly and through subsidiaries or intermediaries, has committed and continues to commit acts of infringement in this District by, among other things, offering to sell and selling products and/or services that infringe the asserted patents.

7. Venue is proper in this district under 28 U.S.C. § 1400(b). Amazon is registered to do business in Colorado, and upon information and belief, Amazon has transacted business in the District of Colorado and has committed acts of direct and indirect infringement in the District of Colorado. Amazon has regular and established place(s) of business in the District, as set forth above.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 7,720,929

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

9. Data Scape is the owner by assignment of United States Patent No. 7,720,929 (“the ’929 Patent”) entitled “Communication System And Its Method and Communication Apparatus And Its Method.” The ’929 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 ’929 Patent is included as Exhibit A.

10. On information and belief, Amazon has offered for sale, sold and/or imported into the United States Amazon products and services that infringe the ’929 patent, and continues to do so. By way of illustrative example, these infringing products and services include, without limitation, Amazon’s products and services, *e.g.*, Amazon Kindle, Amazon Photo, Amazon Drive, Amazon Prime Music, Amazon Music Unlimited, Amazon devices on which they operate (*e.g.*, Fire, Echo, Kindle, Amazon servers, etc.), and all

versions and variations thereof since the issuance of the '929 Patent (“Accused Instrumentalities”).

11. On information and belief, Amazon has directly infringed and continues to infringe the '929 Patent, for example, by making, selling, offering for sale, and/or importing the Accused Instrumentalities, and through its own use and testing of the Accused Instrumentalities, which constitute communication system of Claim 1 of the '929 Patent comprising: a first apparatus having a first storage medium, and a second apparatus, said second apparatus comprising: a second storage medium configured to store management information of data to be transferred to said first storage medium, a communicator configured to communicate data with said first apparatus, a detector configured to detect whether said first apparatus and said second apparatus are connected, an editor configured to select certain data to be transferred and to edit said management information based on said selection without regard to the connection of said first apparatus, and a controller configured to control transfer of the selected data stored in said second 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, 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 the results of the comparison. Upon information and belief, Amazon uses the Accused Instrumentalities, which are infringing systems, for its own internal non-testing business purposes, while testing the Accused Instrumentalities, and while providing technical support and repair services for the Accused Instrumentalities to Amazon’s customers.

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

13. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the claims of the '929 Patent.

14. Amazon'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, knowing that when the Accused Instrumentalities are used in their ordinary and customary manner, such systems constitute infringing communication systems comprising: a first apparatus having a first storage medium, and a second apparatus, said second apparatus comprising: a second storage medium configured to store management information of data to be transferred to said first storage medium, a communicator configured to communicate data with said first apparatus, a detector configured to detect whether said first apparatus and said second apparatus are connected, an editor configured to select certain data to be transferred and to edit said management information based on said selection without regard to the connection of said first apparatus, and a controller configured to control transfer of the selected data stored in said second 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, 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 the results of the comparison. For example, Amazon explains to customers the benefits of using the Accused Instrumentalities, such as by touting their advantages communicating and sharing data among multiple devices:

Preserve your family memories

Safely back up your digitized family portraits, or your latest pics from your DSLR, with the desktop app.

Set it and forget it

Set a scheduled backup at a time that works best for you, and the app will automatically back up and secure your latest photos and videos.

Avoid duplicates

Save time and storage space when the app automatically checks for duplicate photos and videos.

One-time uploads

Drag, drop, and you're done!

Back up and restore your files

Upload your files as a backup, and download to any computer to restore them.

https://www.amazon.com/b/?_encoding=UTF8&node=16409408011&ref_=s9_acss_bw_cg_USADSFY_md1_w.

Amazon also induces its customers to use the Accused Instrumentalities to infringe other claims of the '929 Patent. Amazon specifically intended and was aware that the normal and customary use of the Accused Instrumentalities on compatible systems would infringe the '929 Patent. Amazon 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, Amazon engaged in such inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through Amazon's 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. Accordingly, Amazon as induced and continues to induce end users of the accused products to use the accused products in their ordinary and customary way with compatible systems to make and/or use systems infringing the '929 Patent, knowing that such use of the Accused Instrumentalities with compatible systems will result in infringement of the '929 Patent. Accordingly, Amazon has been (since at least as of filing of the original complaint), and currently is, inducing infringement of the '929 Patent, in violation of 35 U.S.C. § 271(b).

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

16. 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 and transfer a document stored on one device (e.g. desktop computer, laptop computer, tablet, mobile smart phone, server

with Amazon software) to another device (e.g. desktop computer, laptop computer, tablet, mobile smart phone, server with Amazon software):

Sync Files Using Amazon Photos for Desktop

The Amazon Drive folder on your computer can be synchronized with the files in your Amazon Photos account online.

With synchronization, you can make changes to your files on Amazon Photos from the Amazon Drive folder on your computer. This includes actions like adding, moving, copying, and deleting. The synchronization feature is on by default.

To select or deselect folders to synchronize using the Amazon Photos Desktop application:

1. Open Amazon Photos for Desktop in your computer's taskbar (PC) or menu bar (Mac).
2. Click the **Settings** icon, then click **Preferences**.
3. In the **Sync** tab, click **Choose folders**.
4. Select the files or folders from your Amazon Drive that you want to sync.
5. Click **Sync**.

Note: Amazon Photos for Desktop allows you to upload large files, including files larger than 2 GB in size. You can upload individual files up to 48.82 GB in size. In certain cases, the maximum file upload size may be lower than 48.82 GB due to limitations outside of our service. This includes limitations with your computer's web browser settings or specifications.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=202098270>

17. The Accused Instrumentalities include a second apparatus comprising: a second storage medium configured to store management information of data to be transferred to said first storage medium. For example, Amazon Drive client (e.g., on a desktop, laptop, smart phone, tablet, etc.) and Amazon Drive server both include storage and are each an example of a first storage medium and are also each an example of a second storage medium. The second storage medium is configured to store management information, including, e.g., one or more of the information depicted below.

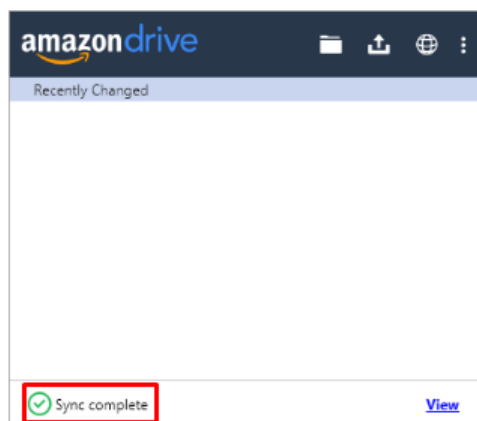
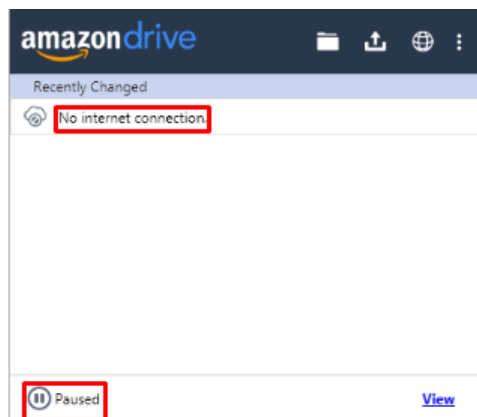
I did what any engineer would do, and whipped out `dtrace`. A little probing found the problem. The sync client was doing a staggering number of tiny, scattered I/O operations. This probably has something to do with their heavy use of SQLite. Check this out:

```
~/Library/Application Support/Amazon Cloud Drive$ ls -l
-rw-r--r--  1 mim  eng  758280192 Jul 31 00:58 amzn1.account.MSSM74Z-cloud.db
-rw-r--r--  1 mim  eng    32768 Jul 31 12:00 amzn1.account.MSSM74Z-cloud.db-shm
-rw-r--r--  1 mim  eng  212966952 Jul 31 14:55 amzn1.account.MSSM74Z-cloud.db-wal
-rw-r--r--  1 mim  eng    4096 May 28 14:24 amzn1.account.MSSM74Z-download.db
-rw-r--r--  1 mim  eng    32768 Jul 31 12:00 amzn1.account.MSSM74Z-download.db-shm
-rw-r--r--  1 mim  eng   2171272 Jul 31 14:00 amzn1.account.MSSM74Z-download.db-wal
-rw-r--r--  1 mim  eng     129 May 28 14:25 amzn1.account.MSSM74Z-settings.json
-rw-r--r--  1 mim  eng   81358848 Jul 31 14:56 amzn1.account.MSSM74Z-sync.db
-rw-r--r--  1 mim  eng    65536 Jul 31 14:31 amzn1.account.MSSM74Z-sync.db-shm
-rw-r--r--  1 mim  eng   44982192 Jul 31 14:56 amzn1.account.MSSM74Z-sync.db-wal
-rw-r--r--  1 mim  eng    4096 May 28 14:24 amzn1.account.MSSM74Z-uploads.db
-rw-r--r--  1 mim  eng    32768 Jul 31 12:00 amzn1.account.MSSM74Z-uploads.db-shm
-rw-r--r--  1 mim  eng   2171272 Jul 31 14:00 amzn1.account.MSSM74Z-uploads.db-wal
-rw-r--r--  1 mim  eng     352 Jul 31 13:01 app-settings.json
-rw-r--r--  1 mim  eng     368 May 28 14:24 refresh-token
-rw-r--r--  1 mim  eng      32 May 28 14:23 serial-number
~/Library/Application Support/Amazon Cloud Drive$ sqlite3 amzn1.account.MSSM74Z-cloud.db 's
elect count(*) from nodes;'
1077668
~/Library/Application Support/Amazon Cloud Drive$
```

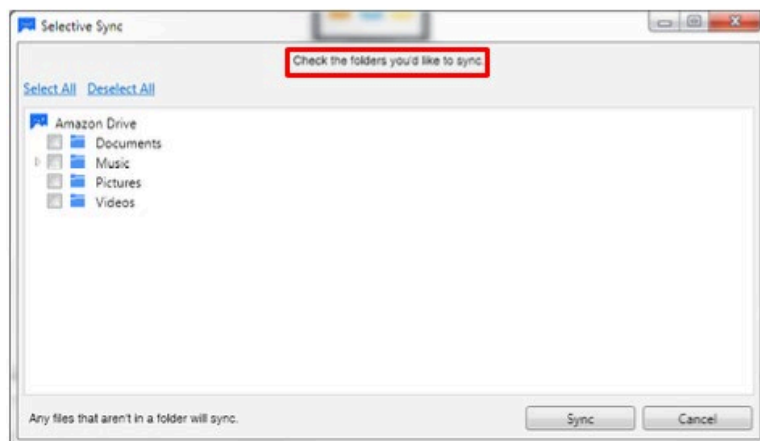
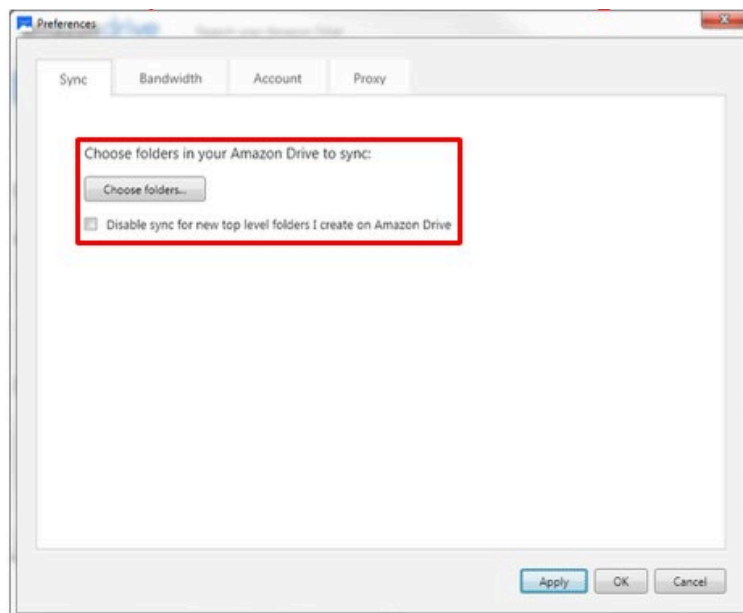
<https://little418.com/2017/07/moving-out-of-amazon-drive.html>

18. The Accused Instrumentalities further includes a second apparatus comprising “a communicator configured to communicate with said first apparatus.” For example, the Amazon Drive client (e.g., on a desktop, laptop, smart phone, tablet, etc.) and Amazon Drive server each includes a communicator configured to communicate with each other.

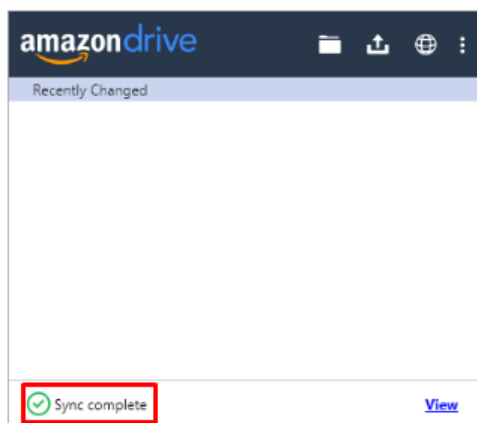
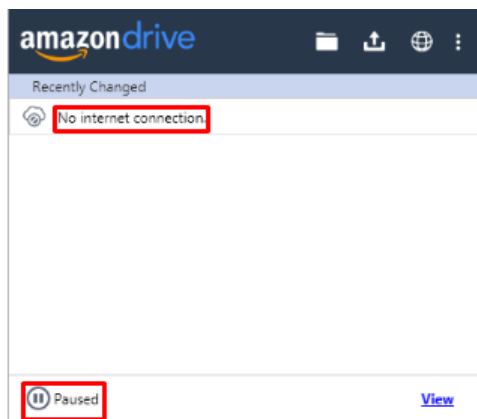
19. The Accused Instrumentalities further includes a second apparatus comprising “a detector configured to detect whether said first apparatus and a second apparatus are connected.” For example, Amazon Drive client (e.g., on a desktop, laptop, smart phone, tablet, etc.) and Amazon Drive server each includes a detector that detects whether they are connected. For example, below screen capture from an Amazon Drive client indicates whether there is any “internet connection.”



20. The Accused Instrumentalities further includes a second apparatus comprising “an editor configured to select certain data to be transferred and to edit said management information based on said selection without regard to the connection of said first apparatus.” For example, Amazon Drive client (e.g., on a desktop, laptop, smart phone, tablet, etc.) and Amazon Drive server each includes an editor configured to select certain data to be transferred and to edit the management information based on the selection without regard to the connection to each other. For example, Amazon Drive client allows such a selection, as illustrated below.



21. The Accused Instrumentalities further includes 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, Amazon Drive client (e.g., on a desktop, laptop, smart phone, tablet, etc.) and Amazon Drive server each includes a controller configured to control transfer of the selected data based on the management information edited by the editor when the detector detects that the two are connected.



22. The Accused Instrumentalities further includes 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, management information, including, e.g., one or more of the information depicted below, are compared to transmit data based on result of the comparison.

I did what any engineer would do, and whipped out `dtrace`. A little probing found the problem. The sync client was doing a staggering number of tiny, scattered I/O operations. This probably has something to do with their heavy use of SQLite. Check this out:

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-rw-r--r--  1 mim  eng    129 May 28 14:25 amzn1.account.MSSM74Z-settings.json
-rw-r--r--  1 mim  eng  81358848 Jul 31 14:56 amzn1.account.MSSM74Z-sync.db
-rw-r--r--  1 mim  eng   65536 Jul 31 14:31 amzn1.account.MSSM74Z-sync.db-shm
-rw-r--r--  1 mim  eng  44982192 Jul 31 14:56 amzn1.account.MSSM74Z-sync.db-wal
-rw-r--r--  1 mim  eng   4096 May 28 14:24 amzn1.account.MSSM74Z-uploads.db
-rw-r--r--  1 mim  eng   32768 Jul 31 12:00 amzn1.account.MSSM74Z-uploads.db-shm
-rw-r--r--  1 mim  eng  2171272 Jul 31 14:00 amzn1.account.MSSM74Z-uploads.db-wal
-rw-r--r--  1 mim  eng    352 Jul 31 13:01 app-settings.json
-rw-r--r--  1 mim  eng    368 May 28 14:24 refresh-token
-rw-r--r--  1 mim  eng     32 May 28 14:23 serial-number
~/Library/Application Support/Amazon Cloud Drive$ sqlite3 amzn1.account.MSSM74Z-cloud.db 'select count(*) from nodes;'
1077668
~/Library/Application Support/Amazon Cloud Drive$
```

<https://little418.com/2017/07/moving-out-of-amazon-drive.html>

23. Amazon also infringes other claims of the '929 Patent, directly and through inducing infringement and contributory infringement.

24. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' accused features, Amazon has injured Data Scape and is liable to Data Scape for infringement of the '929 Patent pursuant to 35 U.S.C. § 271.

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

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

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

27. 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 Nov. 10, 2009. A true and correct copy of the ‘537 Patent is included as Exhibit B.

28. On information and belief, Amazon has offered for sale, sold and/or imported into the United States Amazon 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, Amazon’s products and services, *e.g.*, Amazon Kindle, Amazon Photo, Amazon Drive, Amazon Prime Music, Amazon Music Unlimited, Amazon devices on which they operate (*e.g.*, Fire, Echo, Kindle, Amazon servers, etc.), and all versions and variations thereof since the issuance of the ‘537 Patent (“Accused Instrumentalities”).

29. On information and belief, Amazon has directly infringed and continues to infringe the ‘537 Patent, for example, by making, selling, offering for sale, and/or importing the Accused Instrumentalities, and through its own use and testing of the Accused Instrumentalities, which constitute communication method of Claim 1 of the ‘537 Patent, to transfer content data to a first apparatus from a second apparatus, comprising: judging whether said first apparatus and said second apparatus are connected; comparing, upon judging that said first apparatus and said second apparatus are connected, an identifier

of said first apparatus with an identifier stored in said second apparatus; comparing, when said identifier of said first apparatus corresponds to said identifier stored in said second apparatus, a first list of content data of said first apparatus and a second list of content data of said second apparatus; transferring, from the second apparatus to the first apparatus, first content data, which is registered in said second list and is not registered in said first list; and deleting, from the first apparatus, second content data, which is registered in said first list and is not registered in said second list. Upon information and belief, Amazon uses the Accused Instrumentalities, which are infringing systems, for its own internal non-testing business purposes, while testing the Accused Instrumentalities, and while providing technical support and repair services for the Accused Instrumentalities to Amazon's customers.

30. On information and belief, Amazon has had knowledge of the '537 Patent since at least the filing of the original Complaint in this action, or shortly thereafter, and on information and belief, Amazon knew of the '537 Patent and knew of its infringement, including by way of this lawsuit. By the time of trial, Amazon will have known and intended (since receiving such notice) that their continued actions would actively induce and contribute to the infringement of the claims of the '537 Patent.

31. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the claims of the '537 Patent.

32. Amazon'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 '537 Patent, knowing that when the Accused

Instrumentalities are used in their ordinary and customary manner, such method constitute infringing communication method comprising: judging whether said first apparatus and said second apparatus are connected; comparing, upon judging that said first apparatus and said second apparatus are connected, an identifier of said first apparatus with an identifier stored in said second apparatus; comparing, when said identifier of said first apparatus corresponds to said identifier stored in said second apparatus, a first list of content data of said first apparatus and a second list of content data of said second apparatus; transferring, from the second apparatus to the first apparatus, first content data, which is registered in said second list and is not registered in said first list; and deleting, from the first apparatus, second content data, which is registered in said first list and is not registered in said second list. For example, Amazon explains to customers the benefits of using the Accused Instrumentalities, such as by touting their advantages communicating and sharing data among multiple devices:

Preserve your family memories

Safely back up your digitized family portraits, or your latest pics from your DSLR, with the desktop app.

Set it and forget it

Set a scheduled backup at a time that works best for you, and the app will automatically back up and secure your latest photos and videos.

Avoid duplicates

Save time and storage space when the app automatically checks for duplicate photos and videos.

One-time uploads

Drag, drop, and you're done!

Back up and restore your files

Upload your files as a backup, and download to any computer to restore them.

https://www.amazon.com/b/?_encoding=UTF8&node=16409408011&ref=s9_acss_bw_cg_USADSFY_md1_w. Amazon also induces its customers to use the Accused

Instrumentalities to infringe other claims of the '537 Patent. Amazon specifically intended

and was aware that the normal and customary use of the Accused Instrumentalities on compatible systems would infringe the '537 Patent. Amazon performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '537 Patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Amazon engaged in such inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through Amazon's user manuals, product support, marketing materials, demonstrations, installation support, and training materials to actively induce the users of the accused products to infringe the '537 Patent. Accordingly, Amazon as induced and continues to induce end users of the accused products to use the accused products in their ordinary and customary way with compatible systems to make and/or use systems infringing the '537 Patent, knowing that such use of the Accused Instrumentalities with compatible systems will result in infringement of the '537 Patent. Accordingly, Amazon has been (since at least as of filing of the original complaint), and currently is, inducing infringement of the '537 Patent, in violation of 35 U.S.C. § 271(b).

33. Amazon has also infringed, and continues to infringe, claims of the '537 patent by offering to commercially distribute, commercially distributing, making, and/or importing the Accused Instrumentalities, which are used in practicing the process, or using the systems, of the '537 patent, and constitute a material part of the invention. Amazon knows the components in the Accused Instrumentalities to be especially made or especially adapted for use in infringement of the '537 patent, not a staple article, and not a commodity of commerce suitable for substantial noninfringing use. For example, the ordinary way of using the Accused Instrumentalities infringes the patent claims, and as such, is especially

adapted for use in infringement. Accordingly, Amazon has been, and currently is, contributorily infringing the ‘537 patent, in violation of 35 U.S.C. § 271(c).

34. The Accused Instrumentalities perform “[a] communication method to transfer content data to a first apparatus from a second apparatus.” For example, the Accused Instrumentalities communicate and transfer a document stored on one device (e.g. desktop computer, laptop computer, tablet, mobile smart phone, server with Amazon software) to another device (e.g. desktop computer, laptop computer, tablet, mobile smart phone, server with Amazon software):

Sync Files Using Amazon Photos for Desktop

The Amazon Drive folder on your computer can be synchronized with the files in your Amazon Photos account online.

With synchronization, you can make changes to your files on Amazon Photos from the Amazon Drive folder on your computer. This includes actions like adding, moving, copying, and deleting. The synchronization feature is on by default.

To select or deselect folders to synchronize using the Amazon Photos Desktop application:

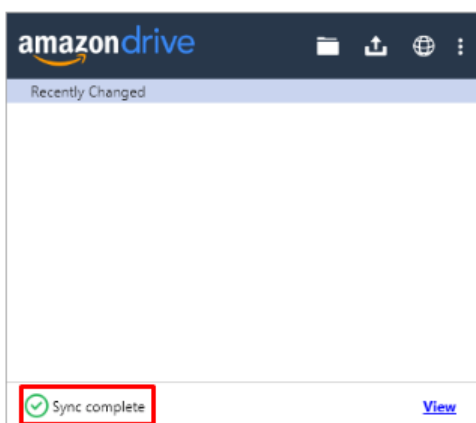
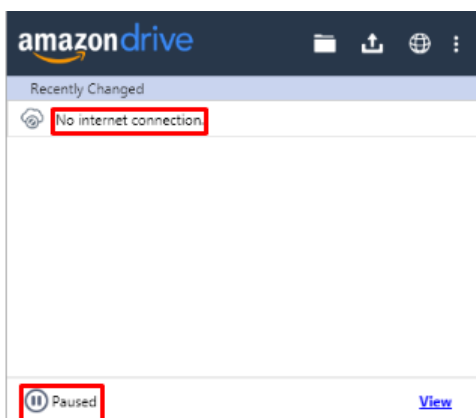
1. Open Amazon Photos for Desktop in your computer’s taskbar (PC) or menu bar (Mac).
2. Click the **Settings** icon, then click **Preferences**.
3. In the **Sync** tab, click **Choose folders**.
4. Select the files or folders from your Amazon Drive that you want to sync.
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Note: Amazon Photos for Desktop allows you to upload large files, including files larger than 2 GB in size. You can upload individual files up to 48.82 GB in size. In certain cases, the maximum file upload size may be lower than 48.82 GB due to limitations outside of our service. This includes limitations with your computer’s web browser settings or specifications.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=202098270>

35. The Accused Instrumentalities performs a method comprising “judging whether said first apparatus and said second apparatus are connected.” For example, Amazon Drive client (e.g., on a desktop, laptop, smart phone, tablet, etc.) and Amazon Drive server each includes a detector that detects whether they are connected. For example,

below screen capture from an Amazon Drive client indicates whether there is any “internet connection.”



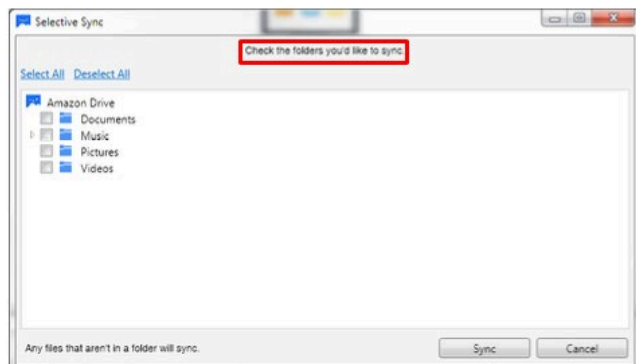
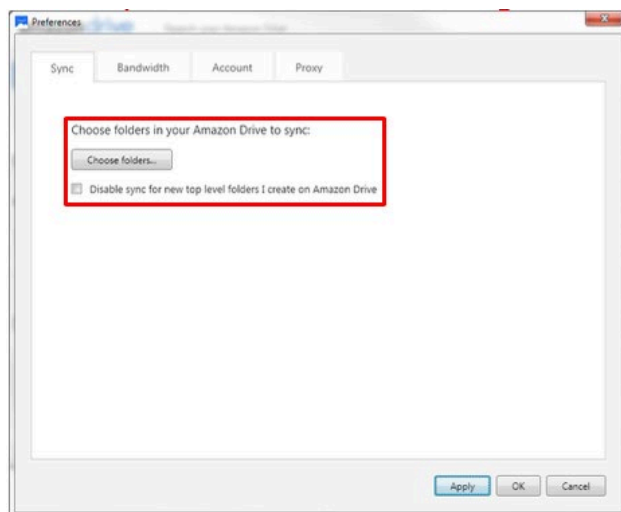
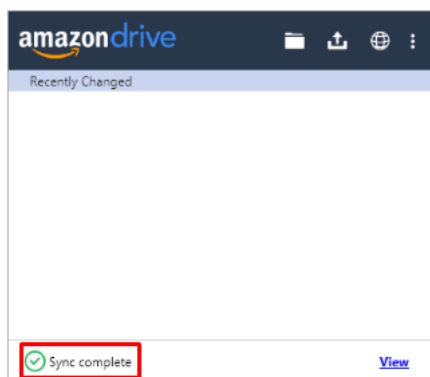
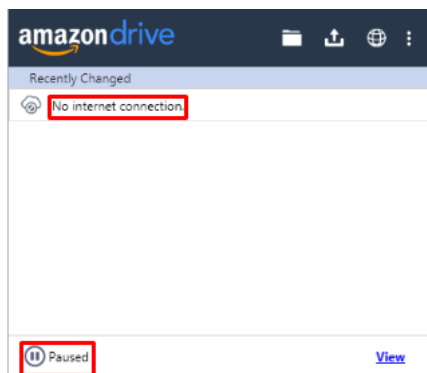
36. The Accused Instrumentalities perform “comparing, upon judging that said first apparatus and said second apparatus are connected, an identifier of said first apparatus with an identifier stored in said second apparatus” and “comparing, when said identifier of said first apparatus corresponds to said identifier stored in said second apparatus, a first list of content data of said first apparatus and a second list of content data of said second apparatus.” For example, identifiers and lists (e.g., those associated with one or more of the information depicted below) in Amazon Drive client (e.g., on a desktop, laptop, smart phone, tablet, etc.) and Amazon Drive server are compared.

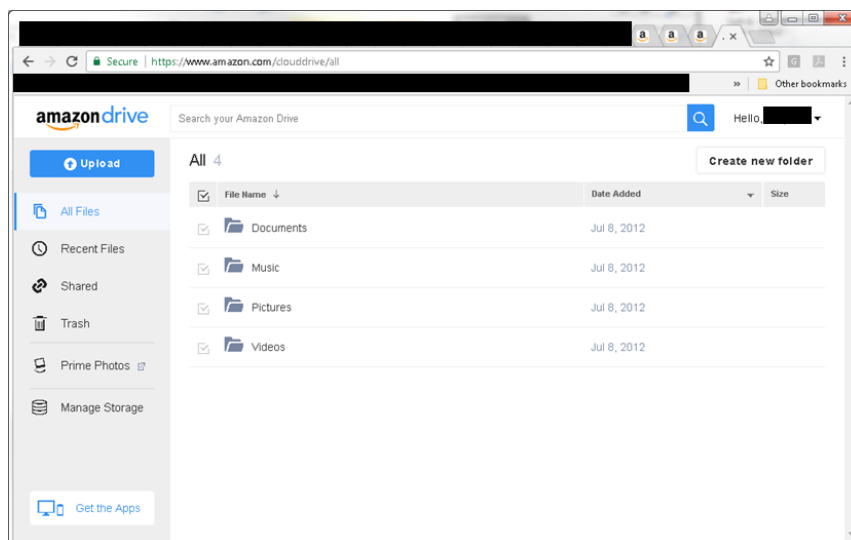
I did what any engineer would do, and whipped out `dtrace`. A little probing found the problem. The sync client was doing a staggering number of tiny, scattered I/O operations. This probably has something to do with their heavy use of SQLite. Check this out:

```
~/Library/Application Support/Amazon Cloud Drive$ ls -l
-rw-r--r--  1 mim  eng   758280192 Jul 31 00:58 amzn1.account.MSSM74Z-cloud.db
-rw-r--r--  1 mim  eng    32768 Jul 31 12:00 amzn1.account.MSSM74Z-cloud.db-shm
-rw-r--r--  1 mim  eng  212966952 Jul 31 14:55 amzn1.account.MSSM74Z-cloud.db-wal
-rw-r--r--  1 mim  eng    4096 May 28 14:24 amzn1.account.MSSM74Z-download.db
-rw-r--r--  1 mim  eng    32768 Jul 31 12:00 amzn1.account.MSSM74Z-download.db-shm
-rw-r--r--  1 mim  eng  2171272 Jul 31 14:00 amzn1.account.MSSM74Z-download.db-wal
-rw-r--r--  1 mim  eng     129 May 28 14:25 amzn1.account.MSSM74Z-settings.json
-rw-r--r--  1 mim  eng   81358848 Jul 31 14:56 amzn1.account.MSSM74Z-sync.db
-rw-r--r--  1 mim  eng    65536 Jul 31 14:31 amzn1.account.MSSM74Z-sync.db-shm
-rw-r--r--  1 mim  eng  44982192 Jul 31 14:56 amzn1.account.MSSM74Z-sync.db-wal
-rw-r--r--  1 mim  eng    4096 May 28 14:24 amzn1.account.MSSM74Z-uploads.db
-rw-r--r--  1 mim  eng    32768 Jul 31 12:00 amzn1.account.MSSM74Z-uploads.db-shm
-rw-r--r--  1 mim  eng  2171272 Jul 31 14:00 amzn1.account.MSSM74Z-uploads.db-wal
-rw-r--r--  1 mim  eng    352 Jul 31 13:01 app-settings.json
-rw-r--r--  1 mim  eng     368 May 28 14:24 refresh-token
-rw-r--r--  1 mim  eng      32 May 28 14:23 serial-number
~/Library/Application Support/Amazon Cloud Drive$ sqlite3 amzn1.account.MSSM74Z-cloud.db 'select count(*) from nodes;'
1077668
~/Library/Application Support/Amazon Cloud Drive$
```

<https://little418.com/2017/07/moving-out-of-amazon-drive.html>

37. The Accused Instrumentalities further performs “transferring, from the second apparatus to the first apparatus, first content data, which is registered in said second list and is not registered in said first list; and deleting, from the first apparatus, second content data, which is registered in said first list and is not registered in said second list.” For example, Amazon Drive client (e.g., on a desktop, laptop, smart phone, tablet, etc.) and Amazon Drive server each includes a controller configured to control transfer of content data based whether the data is registered in the lists of the client and/or the server.





38. Amazon also infringes other claims of the ‘537 Patent, directly and through inducing infringement and contributory infringement.

39. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities’ accused features, Amazon has injured Data Scope and is liable to Data Scope for infringement of the ‘537 Patent pursuant to 35 U.S.C. § 271.

40. As a result of Amazon’s infringement of the ‘537 Patent, Plaintiff Data Scope is entitled to monetary damages in an amount adequate to compensate for Amazon’s infringement, but in no event less than a reasonable royalty for the use made of the invention by Amazon, together with interest and costs as fixed by the Court.

COUNT III
INFRINGEMENT OF U.S. PATENT NO. 8,386,581

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

42. Data Scope is the owner by assignment of United States Patent No. 8,386,581 (“the ‘581 Patent”) entitled “Communication System And Its Method and

Communication Apparatus And Its Method.” The ‘581 Patent was duly and legally issued by the United States Patent and Trademark Office on Feb. 26, 2013. A true and correct copy of the ‘581 Patent is included as Exhibit C.

43. On information and belief, Amazon has offered for sale, sold and/or imported into the United States Amazon products and services that infringe the ‘581 patent, and continues to do so. By way of illustrative example, these infringing products and services include, without limitation, Amazon’s products and services, *e.g.*, Amazon Kindle, Amazon Photo, Amazon Drive, Amazon Prime Music, Amazon Music Unlimited, Amazon devices on which they operate (*e.g.*, Fire, Echo, Kindle, Amazon servers, etc.), and all versions and variations thereof since the issuance of the ‘581 Patent (“Accused Instrumentalities”).

44. On information and belief, Amazon has directly infringed and continues to infringe the ‘581 Patent, for example, by making, selling, offering for sale, and/or importing the Accused Instrumentalities, and through its own use and testing of the Accused Instrumentalities, which constitute communication apparatus of Claim 1 of the ‘581 Patent comprising: a storage unit configured to store content data to a storage medium; a communication unit configured to communicate with an external apparatus; a controller configured to edit a list so that content data is registered in the list, to uniquely associate the list with the external apparatus using a unique identification of the external apparatus, to extract the list associated with the external apparatus from a plurality of lists in the communication apparatus when the external apparatus is connected to the communication apparatus, and to control transferring of content data registered in the extracted list to the external apparatus. Upon information and belief, Amazon uses the Accused

Instrumentalities, which are infringing systems, for its own internal non-testing business purposes, while testing the Accused Instrumentalities, and while providing technical support and repair services for the Accused Instrumentalities to Amazon's customers.

45. On information and belief, Amazon has had knowledge of the '581 Patent since at least the filing of the original Complaint in this action, or shortly thereafter, and on information and belief, Amazon knew of the '581 Patent and knew of its infringement, including by way of this lawsuit. By the time of trial, Amazon will have known and intended (since receiving such notice) that their continued actions would actively induce and contribute to the infringement of the claims of the '581 Patent.

46. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the claims of the '581 Patent.

47. Amazon'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 '581 Patent, knowing that when the Accused Instrumentalities are used in their ordinary and customary manner, such systems constitute infringing communication systems comprising: a storage unit configured to store content data to a storage medium; a communication unit configured to communicate with an external apparatus; a controller configured to edit a list so that content data is registered in the list, to uniquely associate the list with the external apparatus using a unique identification of the external apparatus, to extract the list associated with the external apparatus from a plurality of lists in the communication apparatus when the external apparatus is connected to the communication apparatus, and to control transferring of

content data registered in the extracted list to the external apparatus. For example, Amazon explains to customers the benefits of using the Accused Instrumentalities, such as by touting their advantages communicating and sharing data among multiple devices:

Preserve your family memories

Safely back up your digitized family portraits, or your latest pics from your DSLR, with the desktop app.

Set it and forget it

Set a scheduled backup at a time that works best for you, and the app will automatically back up and secure your latest photos and videos.

Avoid duplicates

Save time and storage space when the app automatically checks for duplicate photos and videos.

One-time uploads

Drag, drop, and you're done!

Back up and restore your files

Upload your files as a backup, and download to any computer to restore them.

https://www.amazon.com/b/?_encoding=UTF8&node=16409408011&ref=s9_acss_bw_cg_USADSFY_md1_w. Amazon also induces its customers to use the Accused

Instrumentalities to infringe other claims of the '581 Patent. Amazon specifically intended and was aware that the normal and customary use of the Accused Instrumentalities on compatible systems would infringe the '581 Patent. Amazon performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '581 Patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Amazon engaged in such inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through Amazon's user manuals, product support, marketing materials, demonstrations, installation support, and training materials to actively induce the users of the accused products to infringe the '581 Patent. Accordingly, Amazon as induced and continues to induce end users of the accused products to use the accused products in their

ordinary and customary way with compatible systems to make and/or use systems infringing the '581 Patent, knowing that such use of the Accused Instrumentalities with compatible systems will result in infringement of the '581 Patent. Accordingly, Amazon has been (since at least as of filing of the original complaint), and currently is, inducing infringement of the '581 Patent, in violation of 35 U.S.C. § 271(b).

48. Amazon has also infringed, and continues to infringe, claims of the '581 patent by offering to commercially distribute, commercially distributing, making, and/or importing the Accused Instrumentalities, which are used in practicing the process, or using the systems, of the '581 patent, and constitute a material part of the invention. Amazon knows the components in the Accused Instrumentalities to be especially made or especially adapted for use in infringement of the '581 patent, not a staple article, and not a commodity of commerce suitable for substantial noninfringing use. For example, the ordinary way of using the Accused Instrumentalities infringes the patent claims, and as such, is especially adapted for use in infringement. Accordingly, Amazon has been, and currently is, contributorily infringing the '581 patent, in violation of 35 U.S.C. § 271(c).

49. The Accused Instrumentalities include “[a] communication apparatus comprising: a storage unit configured to store content data to a storage medium.” For example, the Accused Instrumentalities communicate and transfer a document stored on one device (e.g. desktop computer, laptop computer, tablet, mobile smart phone, server with Amazon software) to another device (e.g. desktop computer, laptop computer, tablet, mobile smart phone, server with Amazon software), and they include storage unit that store content data:

Sync Files Using Amazon Photos for Desktop

The Amazon Drive folder on your computer can be synchronized with the files in your Amazon Photos account online.

With synchronization, you can make changes to your files on Amazon Photos from the Amazon Drive folder on your computer. This includes actions like adding, moving, copying, and deleting. The synchronization feature is on by default.

To select or deselect folders to synchronize using the Amazon Photos Desktop application:

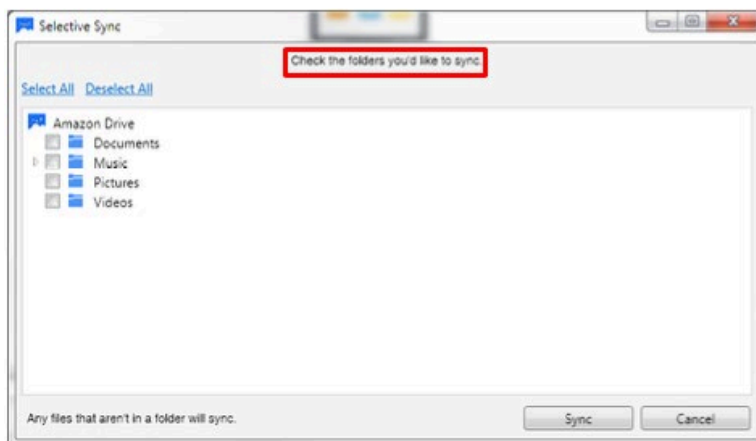
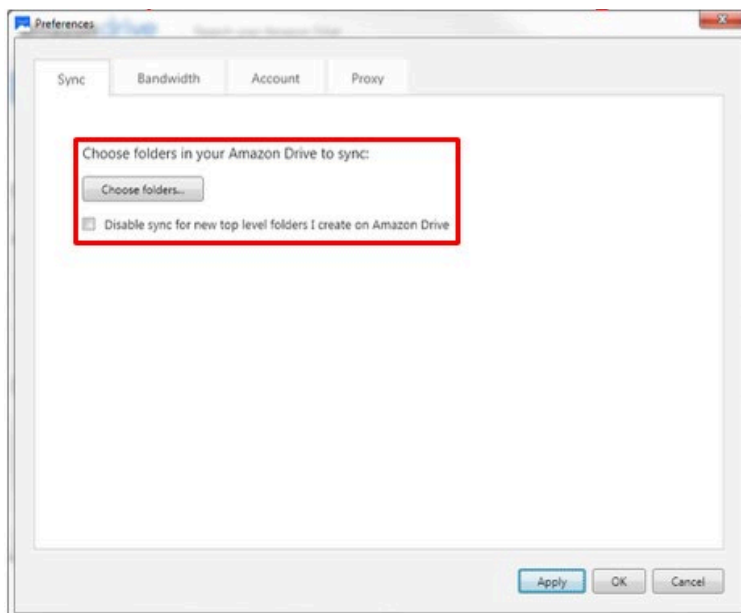
1. Open Amazon Photos for Desktop in your computer's taskbar (PC) or menu bar (Mac).
2. Click the **Settings** icon, then click **Preferences**.
3. In the **Sync** tab, click **Choose folders**.
4. Select the files or folders from your Amazon Drive that you want to sync.
5. Click **Sync**.

Note: Amazon Photos for Desktop allows you to upload large files, including files larger than 2 GB in size. You can upload individual files up to 48.82 GB in size. In certain cases, the maximum file upload size may be lower than 48.82 GB due to limitations outside of our service. This includes limitations with your computer's web browser settings or specifications.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=202098270>

50. The Accused Instrumentalities include a communication unit configured to communicate with an external apparatus. For example, Amazon Drive server communicates with Amazon Drive client (e.g., on a desktop, laptop, smart phone, tablet, etc.).

51. The Accused Instrumentalities further includes a controller configured to edit a list so that content data is registered in the list. For example, the Amazon Drive client (e.g., on a desktop, laptop, smart phone, tablet, etc.) and Amazon Drive server each includes a controller that edits a list so that content data is registered in the list.



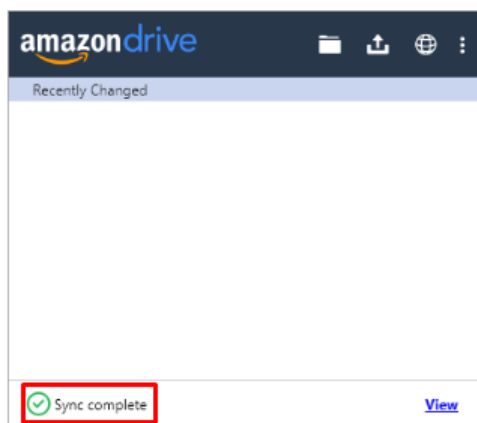
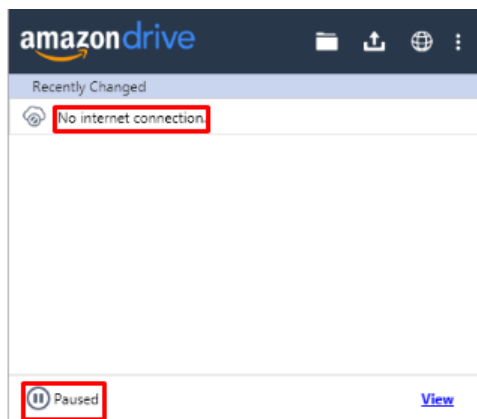
52. The Accused Instrumentalities further includes a controller configured to uniquely associate the list with the external apparatus using a unique identification of the external apparatus. For example, Amazon Drive client (e.g., on a desktop, laptop, smart phone, tablet, etc.) and Amazon Drive server uniquely associate the list with the external apparatus (e.g., Amazon client, etc.), using one or more of the information depicted below.

I did what any engineer would do, and whipped out `dtrace`. A little probing found the problem. The sync client was doing a staggering number of tiny, scattered I/O operations. This probably has something to do with their heavy use of SQLite. Check this out:

```
~/Library/Application Support/Amazon Cloud Drive$ ls -l
-rw-r--r--  1 mim  eng   758280192 Jul 31 00:58 amzn1.account.MSSM74Z-cloud.db
-rw-r--r--  1 mim  eng     32768 Jul 31 12:00 amzn1.account.MSSM74Z-cloud.db-shm
-rw-r--r--  1 mim  eng   212966952 Jul 31 14:55 amzn1.account.MSSM74Z-cloud.db-wal
-rw-r--r--  1 mim  eng     4096 May 28 14:24 amzn1.account.MSSM74Z-download.db
-rw-r--r--  1 mim  eng     32768 Jul 31 12:00 amzn1.account.MSSM74Z-download.db-shm
-rw-r--r--  1 mim  eng    2171272 Jul 31 14:00 amzn1.account.MSSM74Z-download.db-wal
-rw-r--r--  1 mim  eng        129 May 28 14:25 amzn1.account.MSSM74Z-settings.json
-rw-r--r--  1 mim  eng   81358848 Jul 31 14:56 amzn1.account.MSSM74Z-sync.db
-rw-r--r--  1 mim  eng     65536 Jul 31 14:31 amzn1.account.MSSM74Z-sync.db-shm
-rw-r--r--  1 mim  eng   44982192 Jul 31 14:56 amzn1.account.MSSM74Z-sync.db-wal
-rw-r--r--  1 mim  eng     4096 May 28 14:24 amzn1.account.MSSM74Z-uploads.db
-rw-r--r--  1 mim  eng     32768 Jul 31 12:00 amzn1.account.MSSM74Z-uploads.db-shm
-rw-r--r--  1 mim  eng    2171272 Jul 31 14:00 amzn1.account.MSSM74Z-uploads.db-wal
-rw-r--r--  1 mim  eng        352 Jul 31 13:01 app-settings.json
-rw-r--r--  1 mim  eng        368 May 28 14:24 refresh-token
-rw-r--r--  1 mim  eng         32 May 28 14:23 serial-number
~/Library/Application Support/Amazon Cloud Drive$ sqlite3 amzn1.account.MSSM74Z-cloud.db 's
select count(*) from nodes;'
1077668
~/Library/Application Support/Amazon Cloud Drive$
```

<https://little418.com/2017/07/moving-out-of-amazon-drive.html>

53. The Accused Instrumentalities further includes a controller configured to extract the list associated with the external apparatus from a plurality of lists in the communication apparatus when the external apparatus is connected to the communication apparatus. For example, Amazon Drive server extracts the list associated with an Amazon Drive client (e.g., on a desktop, laptop, smart phone, tablet, etc.) when they are connected together.



54. The Accused Instrumentalities further includes a controller configured to control transferring of content data registered in the extracted list to the external apparatus. For example, Amazon Drive client (e.g., on a desktop, laptop, smart phone, tablet, etc.) and Amazon Drive server each includes a controller configured to control transfer of the selected data based on the extracted list and registration of the content data, including by way of information included in one or more of the below data.

I did what any engineer would do, and whipped out `dtrace`. A little probing found the problem. The sync client was doing a staggering number of tiny, scattered I/O operations. This probably has something to do with their heavy use of SQLite. Check this out:

```
~/Library/Application Support/Amazon Cloud Drive$ ls -l
-rw-r--r--  1 mim  eng   758280192 Jul 31 00:58 amzn1.account.MSSM74Z-cloud.db
-rw-r--r--  1 mim  eng    32768 Jul 31 12:00 amzn1.account.MSSM74Z-cloud.db-shm
-rw-r--r--  1 mim  eng  212966952 Jul 31 14:55 amzn1.account.MSSM74Z-cloud.db-wal
-rw-r--r--  1 mim  eng    4096 May 28 14:24 amzn1.account.MSSM74Z-download.db
-rw-r--r--  1 mim  eng    32768 Jul 31 12:00 amzn1.account.MSSM74Z-download.db-shm
-rw-r--r--  1 mim  eng  2171272 Jul 31 14:00 amzn1.account.MSSM74Z-download.db-wal
-rw-r--r--  1 mim  eng     129 May 28 14:25 amzn1.account.MSSM74Z-settings.json
-rw-r--r--  1 mim  eng  81358848 Jul 31 14:56 amzn1.account.MSSM74Z-sync.db
-rw-r--r--  1 mim  eng    65536 Jul 31 14:31 amzn1.account.MSSM74Z-sync.db-shm
-rw-r--r--  1 mim  eng  44982192 Jul 31 14:56 amzn1.account.MSSM74Z-sync.db-wal
-rw-r--r--  1 mim  eng    4096 May 28 14:24 amzn1.account.MSSM74Z-uploads.db
-rw-r--r--  1 mim  eng    32768 Jul 31 12:00 amzn1.account.MSSM74Z-uploads.db-shm
-rw-r--r--  1 mim  eng  2171272 Jul 31 14:00 amzn1.account.MSSM74Z-uploads.db-wal
-rw-r--r--  1 mim  eng     352 Jul 31 13:01 app-settings.json
-rw-r--r--  1 mim  eng     368 May 28 14:24 refresh-token
-rw-r--r--  1 mim  eng      32 May 28 14:23 serial-number
~/Library/Application Support/Amazon Cloud Drive$ sqlite3 amzn1.account.MSSM74Z-cloud.db 'select count(*) from nodes;'
1077668
~/Library/Application Support/Amazon Cloud Drive$
```

<https://little418.com/2017/07/moving-out-of-amazon-drive.html>

55. Amazon also infringes other claims of the ‘581 Patent, directly and through inducing infringement and contributory infringement.

56. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities’ accused features, Amazon has injured Data Scape and is liable to Data Scape for infringement of the ‘581 Patent pursuant to 35 U.S.C. § 271.

57. As a result of Amazon’s infringement of the ‘581 Patent, Plaintiff Data Scape is entitled to monetary damages in an amount adequate to compensate for Amazon’s infringement, but in no event less than a reasonable royalty for the use made of the invention by Amazon, together with interest and costs as fixed by the Court.

COUNT IV
INFRINGEMENT OF U.S. PATENT NO. 9,712,614

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

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

60. On information and belief, Amazon has offered for sale, sold and/or imported into the United States Amazon products and services that infringe the ‘614 patent, and continues to do so. By way of illustrative example, these infringing products and services include, without limitation, Amazon’s products and services, *e.g.*, Amazon Prime Music, Amazon Music Unlimited, Amazon devices on which they operate (*e.g.*, Fire, Echo, Kindle, Amazon servers, etc.), and all versions and variations thereof since the issuance of the ‘614 Patent (“Accused Instrumentalities”).

61. On information and belief, Amazon has directly infringed and continues to infringe the ‘614 Patent, for example, by making, selling, offering for sale, and/or importing the Accused Instrumentalities, and through its own use and testing of the Accused Instrumentalities, which constitute communication apparatus of Claim 1 of the ‘614 Patent comprising: a memory configured to store musical content data and a plurality of program lists associated with the musical content data; a data interface configured to interface with an external reproduction apparatus; and circuitry configured to control playback of musical content data based on a program list 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 external reproduction apparatuses, control presentation of the program list to a user via a user interface, accept edits to the program list via the user interface, determine whether an identifier received by the circuitry via the data interface is the predetermined identifier, 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, compare the program list with a second list of musical content data stored in the predetermined external reproduction apparatus, identify a piece of musical content data common to the program list and the second list based on the result of the comparison, and 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. Upon information and belief, Amazon uses the Accused Instrumentalities, which are infringing systems, for its own internal non-testing business purposes, while testing the Accused Instrumentalities, and while providing technical support and repair services for the Accused Instrumentalities to Amazon's customers.

62. On information and belief, Amazon has had knowledge of the '614 Patent since at least the filing of the original Complaint in this action, or shortly thereafter, and on information and belief, Amazon knew of the '614 Patent and knew of its infringement,

including by way of this lawsuit. By the time of trial, Amazon will have known and intended (since receiving such notice) that their continued actions would actively induce and contribute to the infringement of the claims of the '614 Patent.

63. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the claims of the '614 Patent.

64. Amazon'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, knowing that when the Accused Instrumentalities are used in their ordinary and customary manner, such systems constitute infringing communication systems comprising: a memory configured to store musical content data and a plurality of program lists associated with the musical content data; a data interface configured to interface with an external reproduction apparatus; and circuitry configured to control playback of musical content data based on a program list 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 external reproduction apparatuses, control presentation of the program list to a user via a user interface, accept edits to the program list via the user interface, determine whether an identifier received by the circuitry via the data interface is the predetermined identifier, 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, compare the program list with a second list of musical content data stored in the predetermined external reproduction apparatus, identify a piece of musical content data common to the program list and the second list based on the result of the comparison, and 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 example, Amazon explains to customers the benefits of using the Accused Instrumentalities, such as by touting their advantages communicating and sharing data among multiple devices:

Offline Playback Availability

You can download as many songs as you'd like from Prime Music, to any compatible mobile device registered to your Amazon account.

You can have up to four different devices authorized to use Amazon Music on your account. For more information about device authorization, go to [Authorize or Deauthorize Your Device](#).

Important: Prime Music titles can only be accessed and played within the Amazon Music app—they cannot be exported for use on other apps and devices, or copied onto CDs and other external storage.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=201535240> Amazon

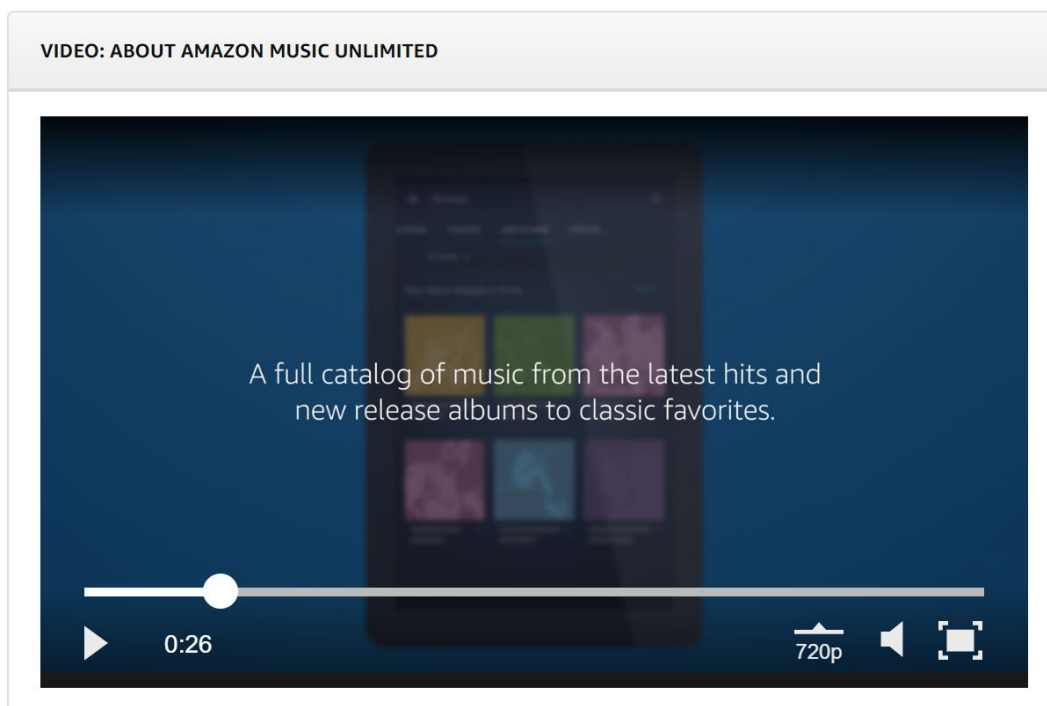
also induces its customers to use the Accused Instrumentalities to infringe other claims of the '614 Patent. Amazon specifically intended and was aware that the normal and customary use of the Accused Instrumentalities on compatible systems would infringe the '614 Patent. Amazon performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '614 Patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement.

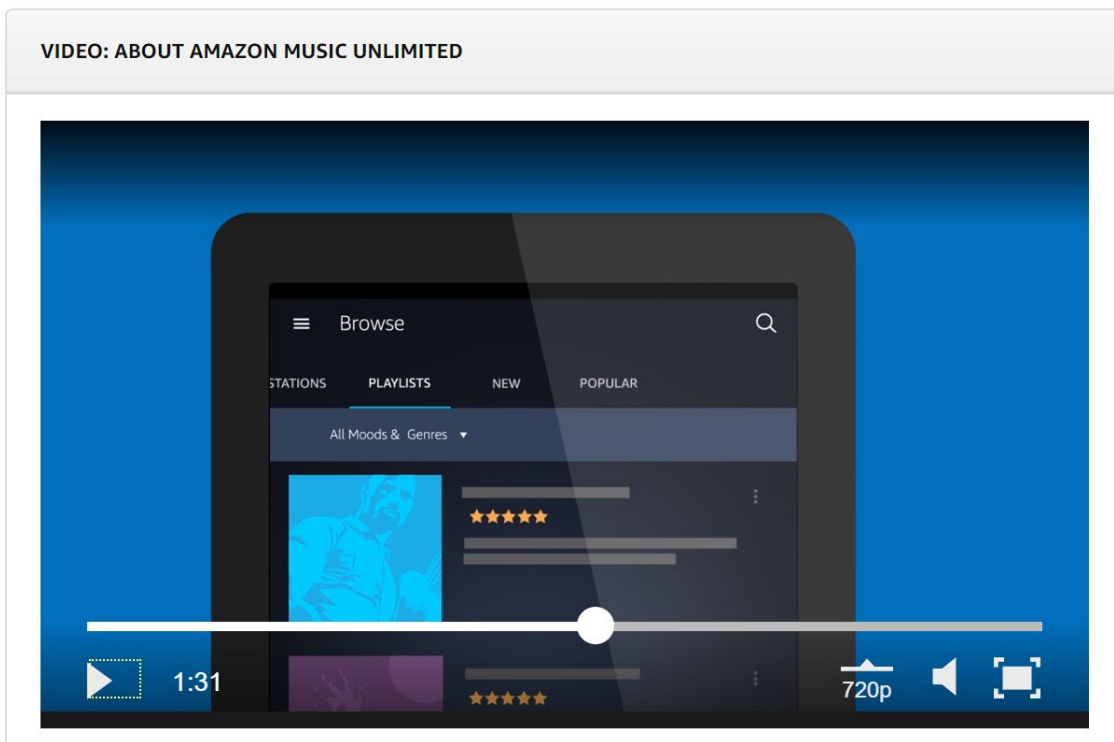
On information and belief, Amazon engaged in such inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through Amazon's user manuals, product support, marketing materials, demonstrations, installation support, and training materials to actively induce the users of the accused products to infringe the '614 Patent. Accordingly, Amazon as induced and continues to induce end users of the accused products to use the accused products in their ordinary and customary way with compatible systems to make and/or use systems infringing the '614 Patent, knowing that such use of the Accused Instrumentalities with compatible systems will result in infringement of the '614 Patent. Accordingly, Amazon has been (since at least as of filing of the original complaint), and currently is, inducing infringement of the '614 Patent, in violation of 35 U.S.C. § 271(b).

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

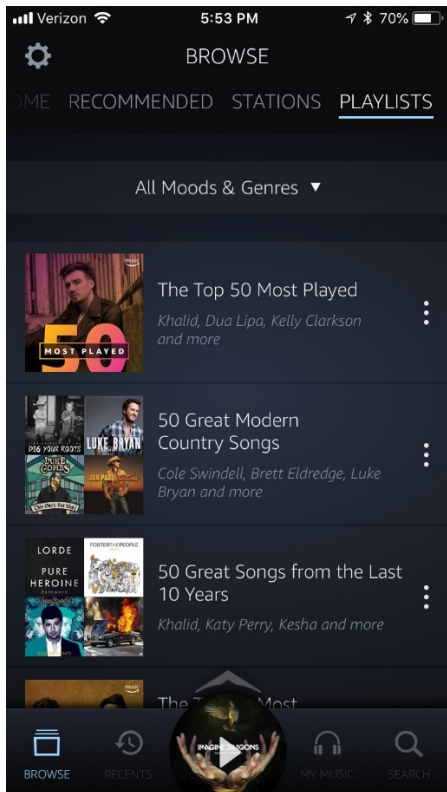
66. The Accused Instrumentalities include “[a] communication apparatus comprising: a memory configured to store musical content data and a plurality of program lists associated with the musical content data.” For example, the Accused Instrumentalities

communicate and transfer a musical content data stored on one device (e.g. desktop computer, laptop computer, tablet, mobile smart phone, server with Amazon software) to another device (e.g. desktop computer, laptop computer, tablet, mobile smart phone, server with Amazon software), and they include memory that store musical content data:





<https://www.amazon.com/gp/help/customer/display.html?nodeId=202059460>



67. The Accused Instrumentalities include a data interface configured to interface with an external reproduction apparatus. For example, Amazon Music server interfaces with Amazon Music client (e.g., on a desktop, laptop, smart phone, tablet, etc.).

Amazon Music Unlimited Family Plan

The Amazon Music Unlimited Family plan is a monthly subscription with all the benefits of the individual plan, for up to six family members. For more information, go to [What is the Amazon Music Unlimited Family Plan?](#)

Supported devices

Listen on any of your compatible Amazon Music devices:

- Android devices
- iOS devices
- Amazon Alexa devices
- Amazon Fire TV devices
- Fire TV Stick
- Fire tablets
- Roku Devices
- Computers (via Amazon Music for Web and the Amazon Music app for PC and Mac)
- Third-party speakers and sound systems that support Amazon Music where available (Sonos, Bose SoundTouch, HEOS devices, Bluesound devices, Play-Fi)

Streaming

Stream on up to six devices at a time, per subscription.

Downloading

Download music for offline playback on the following compatible mobile devices:

- Android
- iOS
- Fire tablets

For more information, go to [Download Amazon Music Unlimited Titles for Offline Playback](#).

[Back to Top](#)

Amazon Music Unlimited Single Device Plan

Amazon Music Unlimited Single Device is a monthly subscription designed for use on a single device.

Echo Devices

Sign up directly through your device - just say, "Sign me up to Amazon Music Unlimited."

Fire TV

Sign up for Amazon Music Unlimited from **Settings** in your Amazon Music Fire TV app.

Note: You can only access Amazon Music Unlimited Single Device on the device you used to start your subscription. If you try to browse or play music from Amazon Music Unlimited on another device, you'll be prompted to get the Amazon Music Unlimited Individual or Family plan.

Streaming Only

Stream from your designated device.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=202059460>

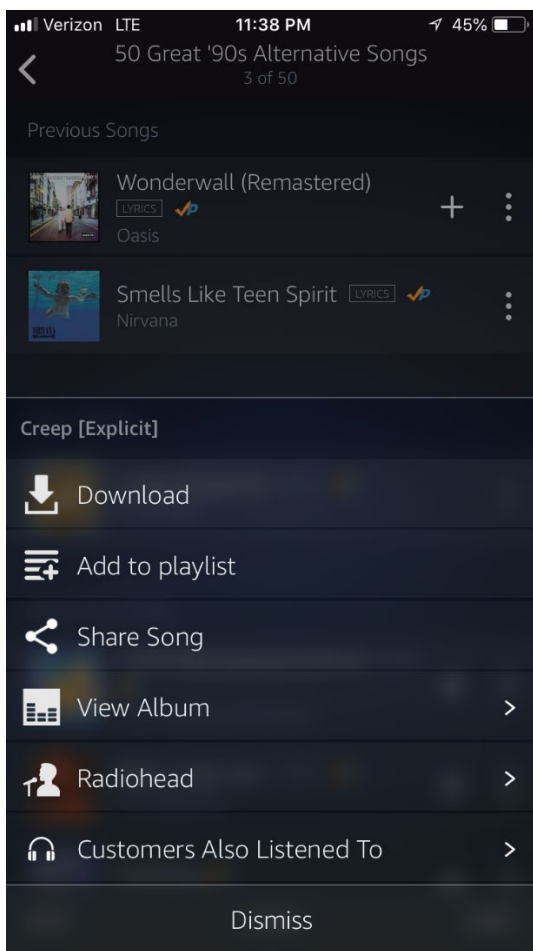
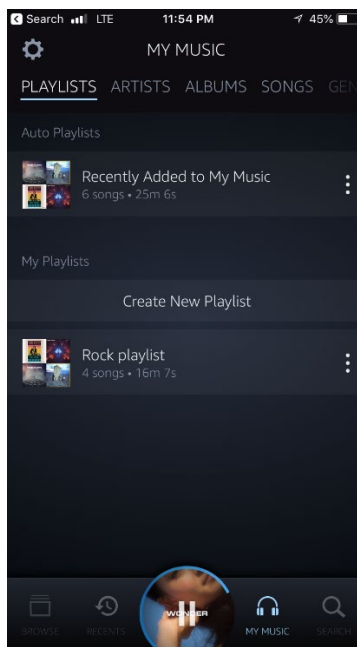
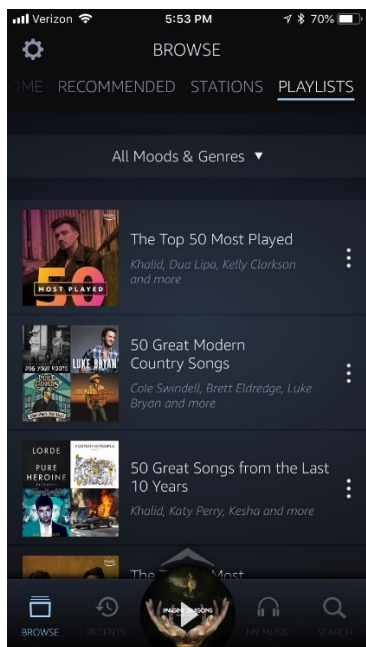
68. The Accused Instrumentalities further includes a circuitry configured to control playback of musical content data based on a program list so that the musical content data referenced in the program list is played back as a collection, the program list being associated with a predetermined identifier uniquely identifying a predetermined external

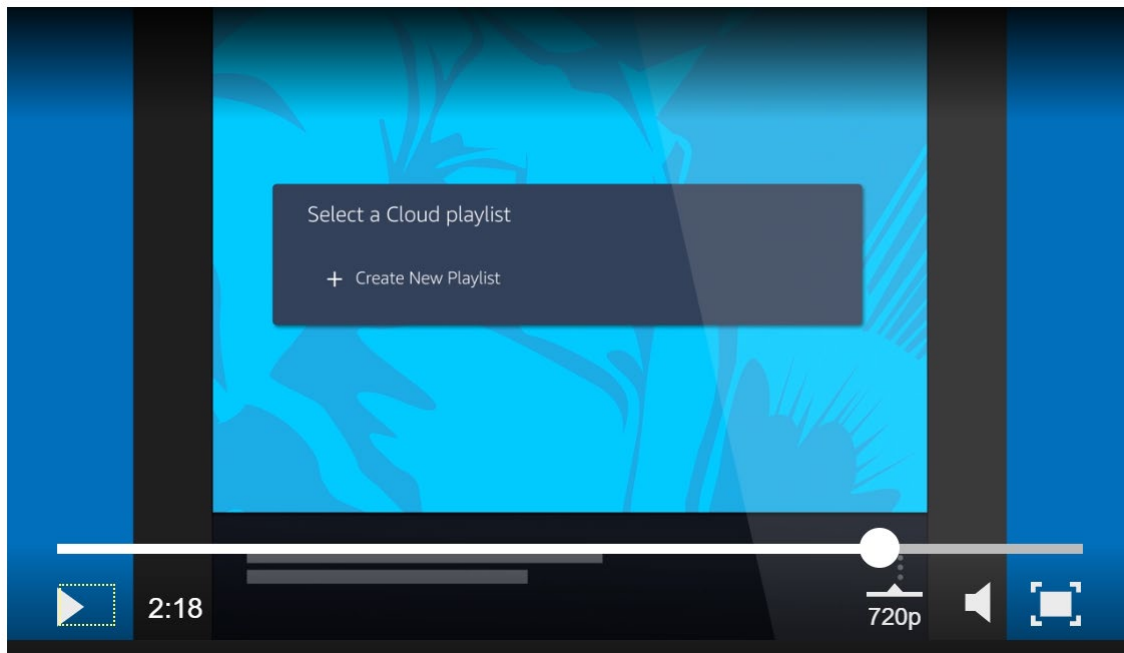
reproduction apparatus among a plurality of external reproduction apparatuses, control presentation of the program list to a user via a user interface, and accept edits to the program list via the user interface. For example, the Amazon Music client (e.g., on a desktop, laptop, smart phone, tablet, etc.) and Amazon Music server each includes a circuitry configured to control playback of musical content data based on a program list, which is associated with a predetermined identifier uniquely identifying a predetermined external reproduction apparatus (e.g., Amazon Music client or server). Amazon Music client and server each have circuitry configured to control presentation of the program list via user interface (e.g., Web interface, interface via screen, etc.), and accepts edits to the program list.

1.2 Amazon Music Unlimited. Amazon Music Unlimited ("Unlimited") allows you to access certain Music Content from our catalog ("Unlimited Content") if you subscribe to Unlimited.

1.3 Amazon Prime Music. Amazon Prime Music ("Prime Music") allows you to access certain Music Content from our catalog ("Prime Music Content," and collectively with Unlimited Content, "Subscription Content") if you (a) are eligible for the Prime Music benefit under the Amazon Prime Terms applicable to you (noted [here](#)), and (b) opt-in to Prime Music by playing Prime Music Content. In some Locations, your usage of Prime Music may be subject to a listening cap.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=201380010>





<https://www.amazon.com/gp/help/customer/display.html?nodeId=202059460>

69. The Accused Instrumentalities further includes a circuitry configured to determine whether an identifier received by the circuitry via the data interface is the predetermined identifier. For example, Amazon Music client (e.g., on a desktop, laptop, smart phone, tablet, etc.) and Amazon Music server each determines whether an identifier received is the predetermined identifier identifying a predetermined external reproduction apparatus (e.g., an authorized device).

Authorize or Deauthorize Your Device

The devices you use to play Amazon Music must be authorized to your Amazon account, based on our license agreements with content providers. Deauthorize your device if you no longer want to use it, or if you want to authorize the device to another Amazon account.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=201379910>

Offline Playback Availability

You can download as many songs as you'd like from Prime Music, to any compatible mobile device registered to your Amazon account.

You can have up to four different devices authorized to use Amazon Music on your account. For more information about device authorization, go to [Authorize or Deauthorize Your Device](#).

Important: Prime Music titles can only be accessed and played within the Amazon Music app—they cannot be exported for use on other apps and devices, or copied onto CDs and other external storage.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=201535240>

4.3 Unique Identifiers. Some record companies require us to insert identifiers in the metadata that accompanies Music Content from these companies that uniquely identify it as Music Content you have received from us ("Unique Identifiers"). This includes Purchased Music and Matched Music. These Unique Identifiers may contain information that can be used to identify you as the owner of the Purchased Music or Matched Music. For example, these Unique Identifiers may include a random number we assign to your order or copy, purchase date and time, an indicator that the Music Content was downloaded from Amazon, codes that identify the album and song (the UPC and ISRC), Amazon's digital signature, an identifier that can be used to determine whether the audio has been modified, and an indicator whether the Music Content was purchased from the Store or imported to the Music Library Service. Music Content sold in the Store that includes these Unique Identifiers is marked on its product detail page. These Unique Identifiers do not affect the playback experience in any way.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=201380010>

Authorize Your Device

All devices used to transfer music through Amazon Music must be authorized to your Amazon account, based on our license agreements with content providers.

To authorize your device:

1. Go to [My Music](#) or launch the Amazon Music app on your device.
2. Sign in using information for your preferred Amazon account.
3. Start playing or downloading a song or album.
4. Select **Authorize** in the pop-up window that opens.

To manage the devices authorized to your Amazon account, go to [Your Amazon Music Settings](#) and look for the **Manage Your Devices** section.

Note: You can have up to 10 devices authorized to your account, and each device can only be authorized to one account at a time. If there are 10 devices authorized to your account, you can't authorize an additional device until you deauthorize one. For more information about deauthorizing devices, go to [Deauthorize Your Device](#).

<https://music.amazon.com/help?nodeId=G202196610>

70. The Accused Instrumentalities further includes a 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, compare the program list with a second list of musical content data stored in the predetermined external reproduction apparatus, identify a piece of musical content data common to the program list and the second list based on the result of the comparison, and 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 example, Amazon Music server and client each control transfer of musical content data to authorized devices, compares the program list (e.g., in Amazon Music server) with another list (e.g., in Amazon Music client), identifies a piece of musical content data that is common to both list, and transfer only the musical content data that is not common.

Find & Play Your Downloads

Open **My Music** to find music you've downloaded to your device through the Amazon Music app:

- **For Android devices** - Select **My Music** from the menu. Select **Online Music** to toggle to **Offline Music** to find all of your downloaded music.
- **For iOS devices** - Tap **My Music** from the menu. You can also turn on **Offline Music Mode** under **Settings** ("gear" icon), to show just the music that has been downloaded to your device, and is available for offline playback.

Tip: To quickly access your recent downloads, select **Recents** from the Amazon Music menu, and open the **Downloaded** tab.

If you can't find music you've downloaded, you may need to refresh the Amazon Music app and try again. Open **Settings**, and select **Refresh My Music**. Then try your download again, using the steps above.

Note:

- To automatically download all of your Amazon Digital Music purchases to your device, go to **Settings** and select the **Automatic downloads** option (for Android devices) or the **Auto-download Amazon Music purchases** (for iOS devices).
- For Android devices, you can change your download location between your device and external SD card from the Amazon Music app. Go to **Settings**, and then select **Storage Location**. This option is available on most devices running Android KitKat or higher.
- Some record companies require us to insert identifiers in the metadata that accompanies music when you download it from the Digital Music Store or My Music. For more information, go to [About Record Company Required Metadata](#).

<https://www.amazon.com/gp/help/customer/display.html?nodeId=201379890>

[Digital Services & Content](#) › [Amazon Music](#) › [Prime Music](#) ›

About Offline Recommendations

Offline Recommendations are a collection of personalized Playlists downloaded to your device so you can listen to music when a wireless connection is not available or when you don't want to use streaming data.

Eligible Prime and Amazon Music Unlimited members can enable Offline Recommendations as part of their service.

You can enable Offline Recommendations for:

- Amazon Music for iOS (version 5.5 or later)

When you turn on Offline Recommendations, the Amazon Music app creates a collection of songs based on music you have purchased and listened to in the past. This collection of music is pre-downloaded to your device and can be played without using streaming data. Offline Recommendations are available in addition to music you have downloaded to your Offline Library for playback without a wireless connection.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=202016420>

71. Amazon also infringes other claims of the '614 Patent, directly and through inducing infringement and contributory infringement.

72. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' accused features, Amazon has injured Data Scape and is liable to Data Scape for infringement of the '614 Patent pursuant to 35 U.S.C. § 271.

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

COUNT V
INFRINGEMENT OF U.S. PATENT NO. 9,380,112

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

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

76. On information and belief, Amazon has offered for sale, sold and/or imported into the United States Amazon products and services that infringe the '112 patent, and continues to do so. By way of illustrative example, these infringing products and services include, without limitation, Amazon's products and services, *e.g.*, Amazon Prime Music, Amazon Music Unlimited, Amazon devices on which they operate (*e.g.*, Fire, Echo, Kindle, Amazon servers, etc.), and all versions and variations thereof since the issuance of the '112 Patent ("Accused Instrumentalities").

77. On information and belief, Amazon has directly infringed and continues to infringe the '112 Patent, for example, by making, selling, offering for sale, and/or importing the Accused Instrumentalities, and through its own use and testing of the Accused Instrumentalities, which constitute communication apparatus of Claim 1 of the '112 Patent comprising: a memory configured to store a first list of musical content data; a data interface configured to detect a connection between the communication apparatus and the portable apparatus; and circuitry configured to edit the first list of musical content data based on input from a user without regard to the connection of the communication apparatus and the portable apparatus, compare the edited first list of musical content data with a list of musical content data stored in the portable apparatus, 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 is detected, and 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. Upon information and belief, Amazon uses the Accused Instrumentalities, which are infringing systems, for its own internal non-testing business purposes, while testing the Accused Instrumentalities, and while providing technical support and repair services for the Accused Instrumentalities to Amazon's customers.

78. On information and belief, Amazon has had knowledge of the '112 Patent since at least the filing of the original Complaint in this action, or shortly thereafter, and

on information and belief, Amazon knew of the '112 Patent and knew of its infringement, including by way of this lawsuit. By the time of trial, Amazon will have known and intended (since receiving such notice) that their continued actions would actively induce and contribute to the infringement of the claims of the '112 Patent.

79. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the claims of the '112 Patent.

80. Amazon'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, knowing that when the Accused Instrumentalities are used in their ordinary and customary manner, such systems constitute infringing communication systems comprising: a memory configured to store a first list of musical content data; a data interface configured to detect a connection between the communication apparatus and the portable apparatus; and circuitry configured to edit the first list of musical content data based on input from a user without regard to the connection of the communication apparatus and the portable apparatus, compare the edited first list of musical content data with a list of musical content data stored in the portable apparatus, 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 is detected, and 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, Amazon explains to customers the benefits of using the Accused Instrumentalities, such as by touting their advantages communicating and sharing data among multiple devices:

Offline Playback Availability

You can download as many songs as you'd like from Prime Music, to any compatible mobile device registered to your Amazon account.

You can have up to four different devices authorized to use Amazon Music on your account. For more information about device authorization, go to [Authorize or Deauthorize Your Device](#).

Important: Prime Music titles can only be accessed and played within the Amazon Music app—they cannot be exported for use on other apps and devices, or copied onto CDs and other external storage.

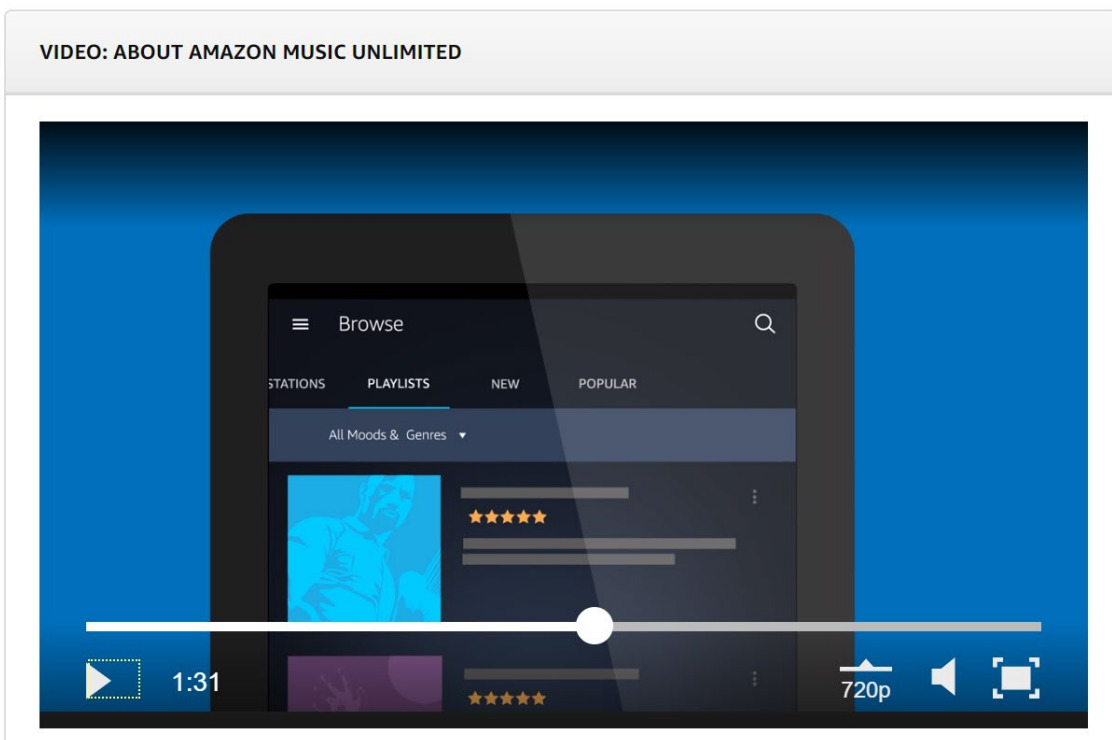
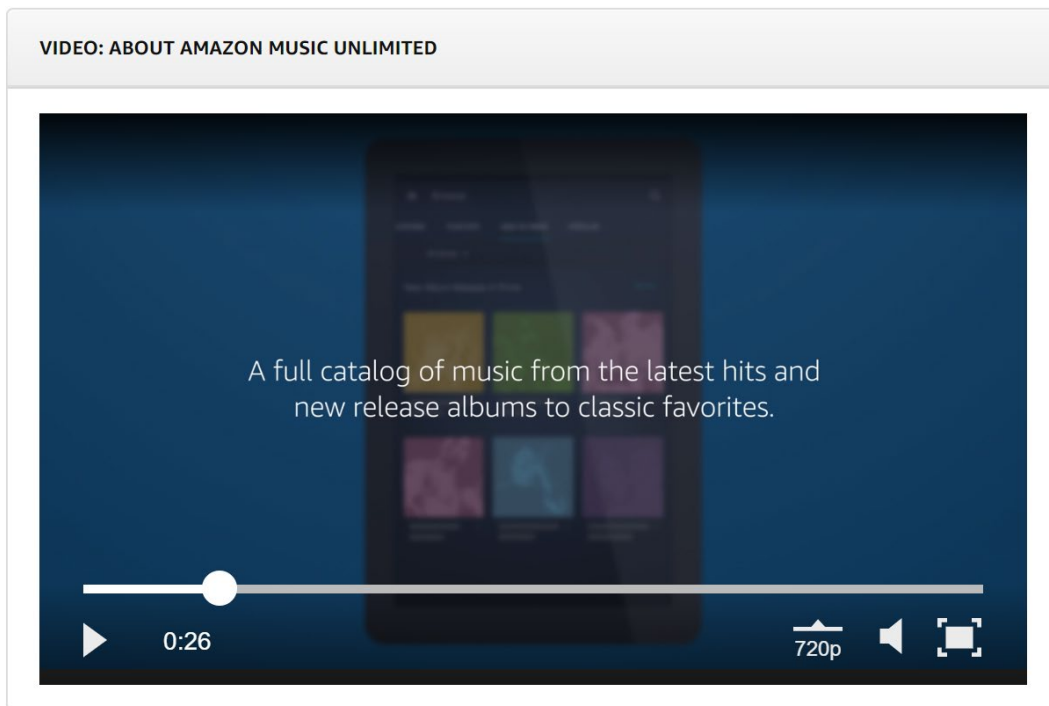
<https://www.amazon.com/gp/help/customer/display.html?nodeId=201535240> Amazon

also induces its customers to use the Accused Instrumentalities to infringe other claims of the '112 Patent. Amazon specifically intended and was aware that the normal and customary use of the Accused Instrumentalities on compatible systems would infringe the '112 Patent. Amazon performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '112 Patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Amazon engaged in such inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through Amazon's user manuals, product support, marketing materials, demonstrations, installation support, and training materials to actively induce the users of the accused products to infringe the '112 Patent. Accordingly, Amazon as induced and continues to induce end users of the accused products to use the accused products in their ordinary and customary way with compatible systems to make and/or use systems infringing the '112 Patent, knowing that such use of the Accused Instrumentalities

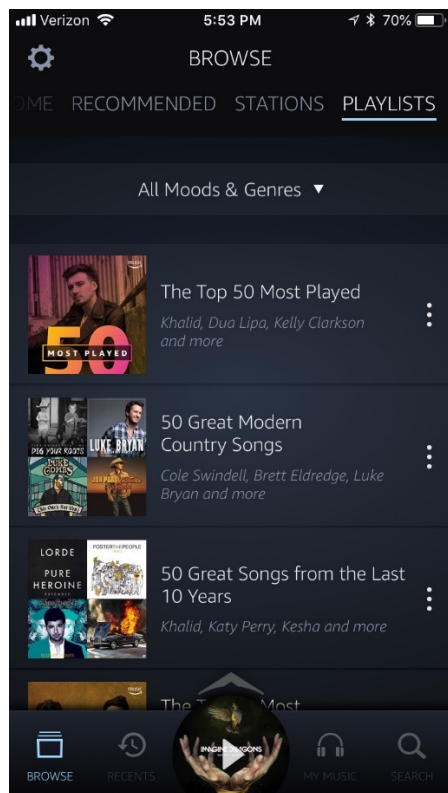
with compatible systems will result in infringement of the ‘112 Patent. Accordingly, Amazon has been (since at least as of filing of the original complaint), and currently is, inducing infringement of the ‘112 Patent, in violation of 35 U.S.C. § 271(b).

81. Amazon has also infringed, and continues to infringe, claims of the ‘112 patent by offering to commercially distribute, commercially distributing, making, and/or importing the Accused Instrumentalities, which are used in practicing the process, or using the systems, of the ‘112 patent, and constitute a material part of the invention. Amazon knows the components in the Accused Instrumentalities to be especially made or especially adapted for use in infringement of the ‘112 patent, not a staple article, and not a commodity of commerce suitable for substantial noninfringing use. For example, the ordinary way of using the Accused Instrumentalities infringes the patent claims, and as such, is especially adapted for use in infringement. Accordingly, Amazon has been, and currently is, contributorily infringing the ‘112 patent, in violation of 35 U.S.C. § 271(c).

82. The Accused Instrumentalities include “[a] communication apparatus configured to transfer data to a portable apparatus, the communication apparatus comprising: a memory configured to store a first list of musical content data.” For example, the Accused Instrumentalities communicate and transfer a musical content data stored on one device (e.g. desktop computer, laptop computer, tablet, mobile smart phone, server with Amazon software) to another device (e.g. desktop computer, laptop computer, tablet, mobile smart phone, server with Amazon software), and they include memory that store musical content data:



<https://www.amazon.com/gp/help/customer/display.html?nodeId=202059460>



83. The Accused Instrumentalities include a data interface configured to detect a connection between the communication apparatus and the portable apparatus. For example, Amazon Music server interfaces with Amazon Music client (e.g., on a laptop, smart phone, tablet, etc.).

Amazon Music Unlimited Family Plan

The Amazon Music Unlimited Family plan is a monthly subscription with all the benefits of the individual plan, for up to six family members. For more information, go to [What is the Amazon Music Unlimited Family Plan?](#)

Supported devices

Listen on any of your compatible Amazon Music devices:

- Android devices
- iOS devices
- Amazon Alexa devices
- Amazon Fire TV devices
- Fire TV Stick
- Fire tablets
- Roku Devices
- Computers (via Amazon Music for Web and the Amazon Music app for PC and Mac)
- Third-party speakers and sound systems that support Amazon Music where available (Sonos, Bose SoundTouch, HEOS devices, Bluesound devices, Play-Fi)

Streaming

Stream on up to six devices at a time, per subscription.

Downloading

Download music for offline playback on the following compatible mobile devices:

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Sign up directly through your device - just say, "Sign me up to Amazon Music Unlimited."

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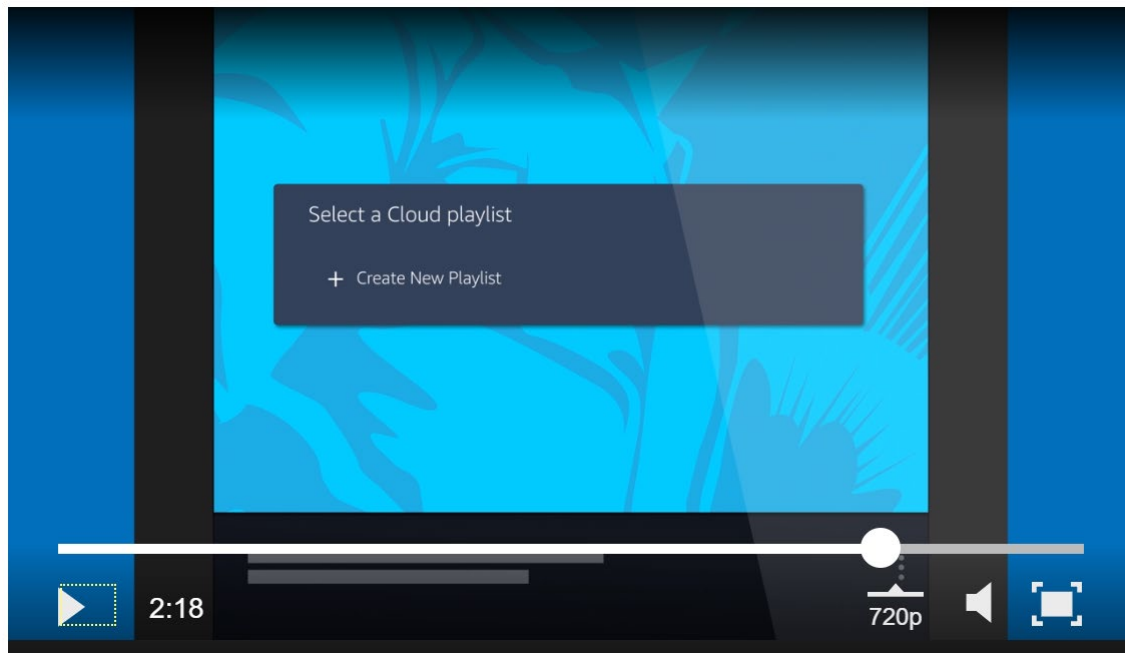
Note: You can only access Amazon Music Unlimited Single Device on the device you used to start your subscription. If you try to browse or play music from Amazon Music Unlimited on another device, you'll be prompted to get the Amazon Music Unlimited Individual or Family plan.

Streaming Only

Stream from your designated device.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=202059460>

84. The Accused Instrumentalities further includes a circuitry configured to edit the first list of musical content data based on input from a user without regard to the connection of the communication apparatus and the portable apparatus. For example, Amazon Music server allows edits to the list of musical content (e.g., via Web interface) based on input from a user without regard to the connection of the server and a portable apparatus (e.g., Amazon Music client on, e.g., smart phone, tablet, etc.).

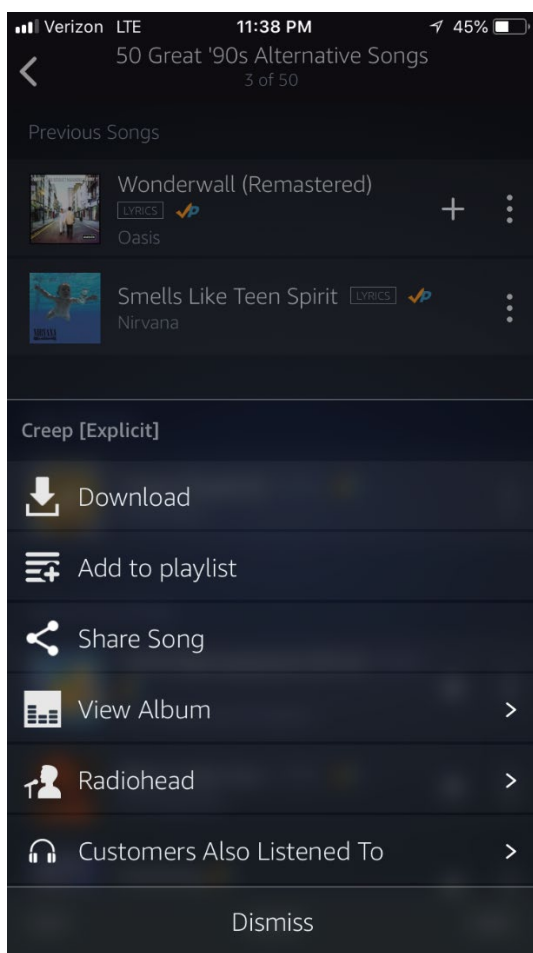
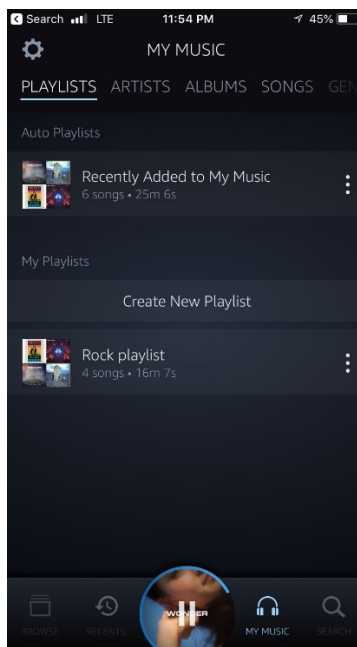
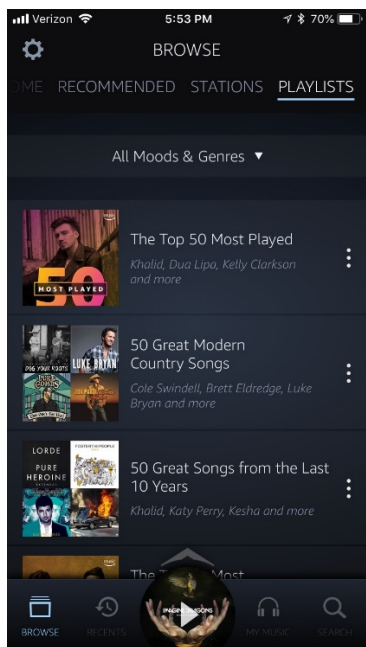


<https://www.amazon.com/gp/help/customer/display.html?nodeId=202059460>

1.2 Amazon Music Unlimited. Amazon Music Unlimited ("Unlimited") allows you to access certain Music Content from our catalog ("Unlimited Content") if you subscribe to Unlimited.

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<https://www.amazon.com/gp/help/customer/display.html?nodeId=201380010>



85. The Accused Instrumentalities further includes a circuitry configured to compare the edited first list of musical content data with a list of musical content data stored in the portable apparatus, 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 is detected, and 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, Amazon Music server and client each control transfer of musical content data to authorized devices, compares the edited list (e.g., in Amazon Music server) with another list (e.g., in Amazon Music client), identifies a piece of musical content data that is common to both list, transfer only the musical content data that is not common, and controls playback of musical content data based on the edited list.

Authorize or Deauthorize Your Device

The devices you use to play Amazon Music must be authorized to your Amazon account, based on our license agreements with content providers. Deauthorize your device if you no longer want to use it, or if you want to authorize the device to another Amazon account.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=201379910>

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<https://www.amazon.com/gp/help/customer/display.html?nodeId=201535240>

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<https://www.amazon.com/gp/help/customer/display.html?nodeId=201380010>

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<https://music.amazon.com/help?nodeId=G202196610>

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- **For iOS devices** - Tap **My Music** from the menu. You can also turn on **Offline Music Mode** under **Settings** ("gear" icon), to show just the music that has been downloaded to your device, and is available for offline playback.

Tip: To quickly access your recent downloads, select **Recents** from the Amazon Music menu, and open the **Downloaded** tab.

If you can't find music you've downloaded, you may need to refresh the Amazon Music app and try again. Open **Settings**, and select **Refresh My Music**. Then try your download again, using the steps above.

Note:

- To automatically download all of your Amazon Digital Music purchases to your device, go to **Settings** and select the **Automatic downloads** option (for Android devices) or the **Auto-download Amazon Music purchases** (for iOS devices).
- For Android devices, you can change your download location between your device and external SD card from the Amazon Music app. Go to **Settings**, and then select **Storage Location**. This option is available on most devices running Android KitKat or higher.
- Some record companies require us to insert identifiers in the metadata that accompanies music when you download it from the Digital Music Store or My Music. For more information, go to [About Record Company Required Metadata](#).

<https://www.amazon.com/gp/help/customer/display.html?nodeId=201379890>

[Digital Services & Content](#) > [Amazon Music](#) > [Prime Music](#) >

About Offline Recommendations

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- Amazon Music for iOS (version 5.5 or later)

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<https://www.amazon.com/gp/help/customer/display.html?nodeId=202016420>

86. Amazon also infringes other claims of the '112 Patent, directly and through inducing infringement and contributory infringement.

87. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' accused features, Amazon has injured Data Scape and is liable to Data Scape for infringement of the '112 Patent pursuant to 35 U.S.C. § 271.

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

COUNT VI
INFRINGEMENT OF U.S. PATENT NO. 7,239,469

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

90. Data Scape is the owner by assignment of United States Patent No. 7,239,469 ("the '469 Patent") entitled "Communication System And Its Method and Communication Apparatus And Its Method." The '469 Patent was duly and legally issued by the United States Patent and Trademark Office on July 3, 2007. A true and correct copy of the '469 Patent is included as Exhibit F.

91. On information and belief, Amazon has offered for sale, sold and/or imported into the United States Amazon products and services that infringe the '469 patent, and continues to do so. By way of illustrative example, these infringing products and services include, without limitation, Amazon's products and services, *e.g.*, Amazon Kindle, Amazon Photo, Amazon Drive, Amazon Prime Music, Amazon Music Unlimited, Amazon devices on which they operate (*e.g.*, Fire, Echo, Kindle, Amazon servers, etc.), and all

versions and variations thereof since the issuance of the '469 Patent ("Accused Instrumentalities").

92. On information and belief, Amazon has directly infringed and continues to infringe the '469 Patent, for example, by making, selling, offering for sale, and/or importing the Accused Instrumentalities, and through its own use and testing of the Accused Instrumentalities, which constitute a data recording apparatus of Claim 1 of the '469 Patent comprising: receiver configured to receive data from an external server having a first recording medium that stores data and first management data for managing the data; data recorder configured to record the data received by the receiver on a second recording medium; management data producer configured to produce second management data for managing data recorded on the second recording medium based on the first management data; data reader configured to read data from a third recording medium that stores data and third management data for managing the data; and controller configured to control the data recorder to record data read from the third recording medium when the third management data is not found within the second management data recorded on the second recording medium. Upon information and belief, Amazon uses the Accused Instrumentalities, which are infringing systems, for its own internal non-testing business purposes, while testing the Accused Instrumentalities, and while providing technical support and repair services for the Accused Instrumentalities to Amazon's customers.

93. On information and belief, Amazon has had knowledge of the '469 Patent since at least the filing of the original Complaint in this action, or shortly thereafter, and on information and belief, Amazon knew of the '469 Patent and knew of its infringement, including by way of this lawsuit. By the time of trial, Amazon will have known and

intended (since receiving such notice) that their continued actions would actively induce and contribute to the infringement of the claims of the '469 Patent.

94. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the claims of the '469 Patent.

95. Amazon'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 '469 Patent, knowing that when the Accused Instrumentalities are used in their ordinary and customary manner, such systems constitute infringing data recording apparatus comprising: receiver configured to receive data from an external server having a first recording medium that stores data and first management data for managing the data; data recorder configured to record the data received by the receiver on a second recording medium; management data producer configured to produce second management data for managing data recorded on the second recording medium based on the first management data; data reader configured to read data from a third recording medium that stores data and third management data for managing the data; and controller configured to control the data recorder to record data read from the third recording medium when the third management data is not found within the second management data recorded on the second recording medium. For example, Amazon explains to customers the benefits of using the Accused Instrumentalities, such as by touting their advantages communicating and sharing data among multiple devices:

Offline Playback Availability

You can download as many songs as you'd like from Prime Music, to any compatible mobile device registered to your Amazon account.

You can have up to four different devices authorized to use Amazon Music on your account. For more information about device authorization, go to [Authorize or Deauthorize Your Device](#).

Important: Prime Music titles can only be accessed and played within the Amazon Music app—they cannot be exported for use on other apps and devices, or copied onto CDs and other external storage.

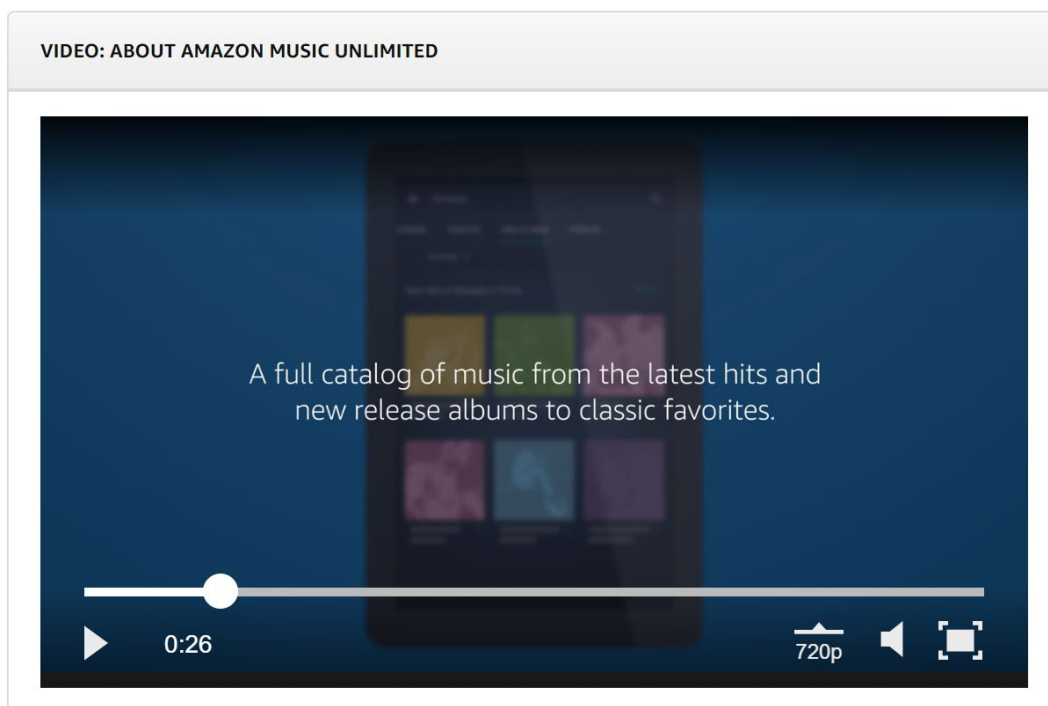
<https://www.amazon.com/gp/help/customer/display.html?nodeId=201535240> Amazon

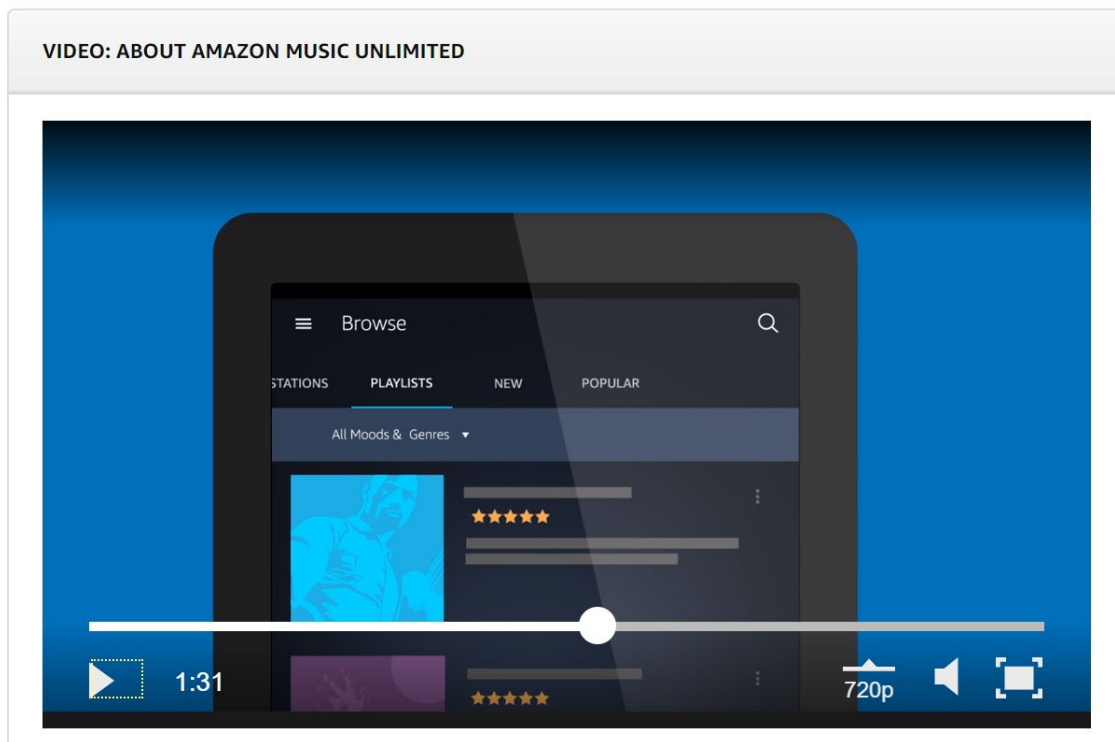
also induces its customers to use the Accused Instrumentalities to infringe other claims of the '469 Patent. Amazon specifically intended and was aware that the normal and customary use of the Accused Instrumentalities on compatible systems would infringe the '469 Patent. Amazon performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '469 Patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Amazon engaged in such inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through Amazon's user manuals, product support, marketing materials, demonstrations, installation support, and training materials to actively induce the users of the accused products to infringe the '469 Patent. Accordingly, Amazon as induced and continues to induce end users of the accused products to use the accused products in their ordinary and customary way with compatible systems to make and/or use systems infringing the '469 Patent, knowing that such use of the Accused Instrumentalities with compatible systems will result in infringement of the '469 Patent. Accordingly, Amazon has been (since at least as of filing of the original complaint), and currently is, inducing infringement of the '469 Patent, in violation of 35 U.S.C. § 271(b).

96. Amazon has also infringed, and continues to infringe, claims of the ‘469 patent by offering to commercially distribute, commercially distributing, making, and/or importing the Accused Instrumentalities, which are used in practicing the process, or using the systems, of the ‘469 patent, and constitute a material part of the invention. Amazon knows the components in the Accused Instrumentalities to be especially made or especially adapted for use in infringement of the ‘469 patent, not a staple article, and not a commodity of commerce suitable for substantial noninfringing use. For example, the ordinary way of using the Accused Instrumentalities infringes the patent claims, and as such, is especially adapted for use in infringement. Accordingly, Amazon has been, and currently is, contributorily infringing the ‘469 patent, in violation of 35 U.S.C. § 271(c).

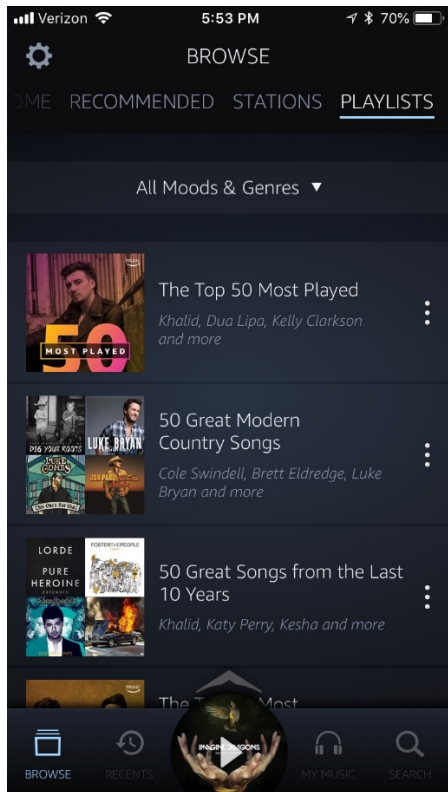
97. The Accused Instrumentalities include “[a] data recording apparatus comprising: receiver configured to receive data from an external server having a first recording medium that stores data and first management data for managing the data,” “data recorder configured to record the data received by the receiver on a second recording medium,” and “management data producer configured to produce second management data for managing data recorded on the second recording medium based on the first management data.” For example, the Accused Instrumentalities communicate and transfer a musical content data stored on one device (e.g. desktop computer, laptop computer, tablet, mobile smart phone, server with Amazon software) to multiple other devices (e.g. desktop computer, laptop computer, tablet, mobile smart phone, server with Amazon software). For example, a first Amazon Music client includes a receiver configured to receive data from an Amazon Music server having the first recording medium that store data and the first management data, and the first Amazon Music client is configured to record data received

onto a second recording medium. As another example, the first Amazon Music client includes a management data producer configured to produce second management data for managing data recorded on the client based on the management data on the Amazon Music server.

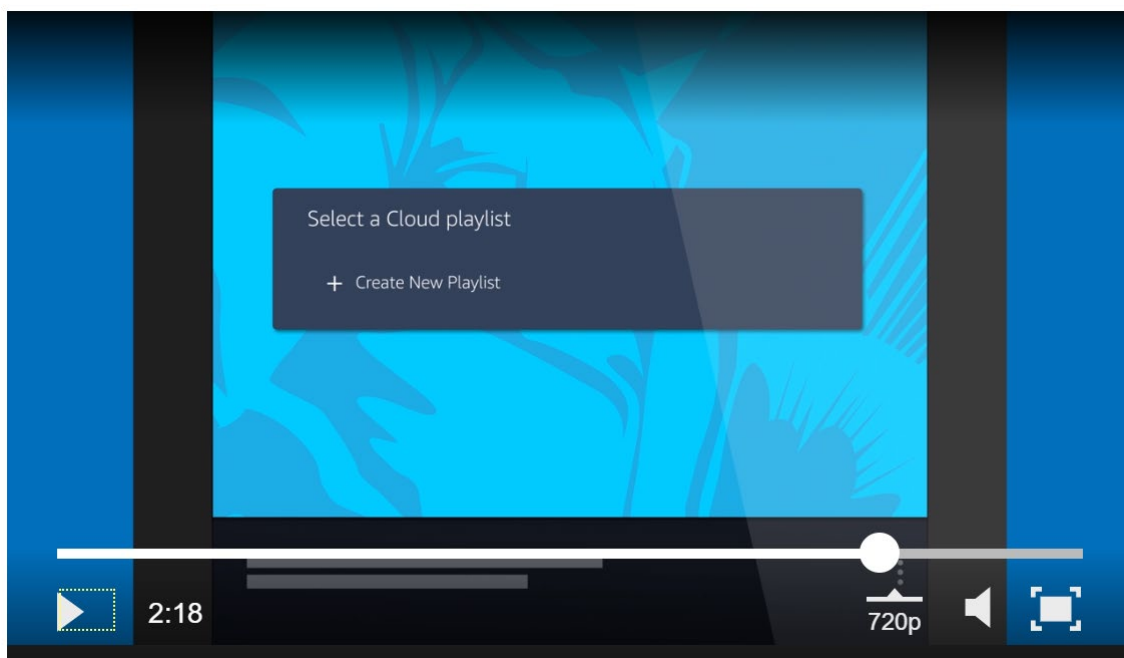




<https://www.amazon.com/gp/help/customer/display.html?nodeId=202059460>



98. The Accused Instrumentalities include a data reader configured to read data from a third recording medium that stores data and third management data for managing the data; and controller configured to control the data recorder to record data read from the third recording medium when the third management data is not found within the second management data recorded on the second recording medium. For example, Amazon Music server interfaces with multiple Amazon Music client (e.g., on a laptop, smart phone, tablet, etc.). As another example, the Amazon Music server includes the data reader configured to read data from a second Amazon Music client, which includes the third recording medium that stores data and third management data. The first Amazon Music client and the Amazon Music server each includes a controller configured to control the data recorder in the first client to record data read from the second client (which includes a third recording medium) when the third management data is not found within the second management data recorded on the second recording medium (of the first client).

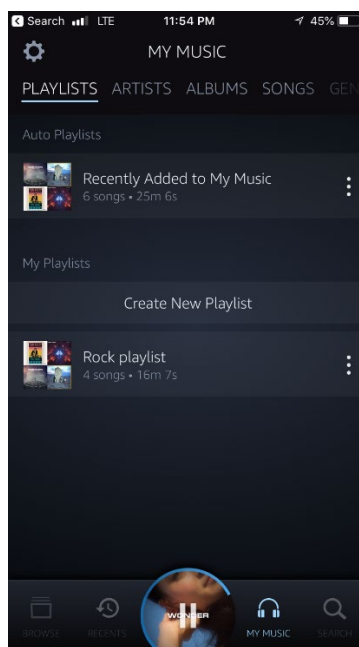
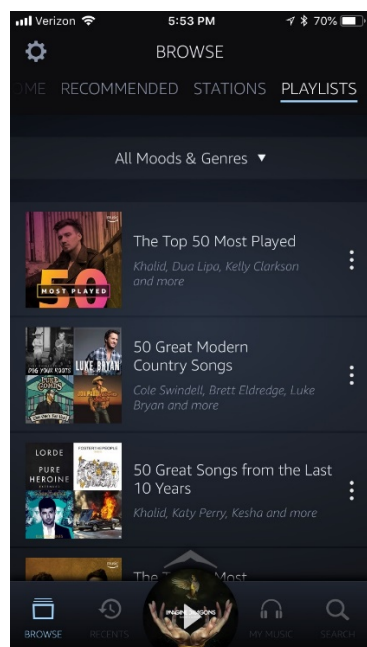


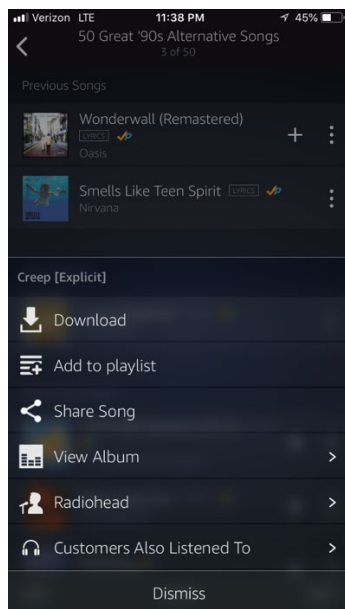
<https://www.amazon.com/gp/help/customer/display.html?nodeId=202059460>

1.2 Amazon Music Unlimited. Amazon Music Unlimited ("Unlimited") allows you to access certain Music Content from our catalog ("Unlimited Content") if you subscribe to Unlimited.

1.3 Amazon Prime Music. Amazon Prime Music ("Prime Music") allows you to access certain Music Content from our catalog ("Prime Music Content," and collectively with Unlimited Content, "Subscription Content") if you (a) are eligible for the Prime Music benefit under the Amazon Prime Terms applicable to you (noted [here](#)), and (b) opt-in to Prime Music by playing Prime Music Content. In some Locations, your usage of Prime Music may be subject to a listening cap.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=201380010>





Amazon Music Unlimited Family Plan

The Amazon Music Unlimited Family plan is a monthly subscription with all the benefits of the individual plan, for up to six family members. For more information, go to [What is the Amazon Music Unlimited Family Plan?](#)

Supported devices

Listen on any of your compatible Amazon Music devices:

- Android devices
- iOS devices
- Amazon Alexa devices
- Amazon Fire TV devices
- Fire TV Stick
- Fire tablets
- Roku Devices
- Computers (via Amazon Music for Web and the Amazon Music app for PC and Mac)
- Third-party speakers and sound systems that support Amazon Music where available (Sonos, Bose SoundTouch, HEOS devices, Bluesound devices, Play-Fi)

Streaming

Stream on up to six devices at a time, per subscription.

Downloading

Download music for offline playback on the following compatible mobile devices:

- Android
- iOS
- Fire tablets

For more information, go to [Download Amazon Music Unlimited Titles for Offline Playback](#).

[Back to Top](#)

Amazon Music Unlimited Single Device Plan

Amazon Music Unlimited Single Device is a monthly subscription designed for use on a single device.

Echo Devices

Sign up directly through your device - just say, "Sign me up to Amazon Music Unlimited."

Fire TV

Sign up for Amazon Music Unlimited from **Settings** in your Amazon Music Fire TV app.

Note: You can only access Amazon Music Unlimited Single Device on the device you used to start your subscription. If you try to browse or play music from Amazon Music Unlimited on another device, you'll be prompted to get the Amazon Music Unlimited Individual or Family plan.

Streaming Only

Stream from your designated device.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=202059460>

Authorize or Deauthorize Your Device

The devices you use to play Amazon Music must be authorized to your Amazon account, based on our license agreements with content providers. Deauthorize your device if you no longer want to use it, or if you want to authorize the device to another Amazon account.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=201379910>

Offline Playback Availability

You can download as many songs as you'd like from Prime Music, to any compatible mobile device registered to your Amazon account.

You can have up to four different devices authorized to use Amazon Music on your account. For more information about device authorization, go to [Authorize or Deauthorize Your Device](#).

Important: Prime Music titles can only be accessed and played within the Amazon Music app—they cannot be exported for use on other apps and devices, or copied onto CDs and other external storage.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=201535240>

4.3 Unique Identifiers. Some record companies require us to insert identifiers in the metadata that accompanies Music Content from these companies that uniquely identify it as Music Content you have received from us ("Unique Identifiers"). This includes Purchased Music and Matched Music. These Unique Identifiers may contain information that can be used to identify you as the owner of the Purchased Music or Matched Music. For example, these Unique Identifiers may include a random number we assign to your order or copy, purchase date and time, an indicator that the Music Content was downloaded from Amazon, codes that identify the album and song (the UPC and ISRC), Amazon's digital signature, an identifier that can be used to determine whether the audio has been modified, and an indicator whether the Music Content was purchased from the Store or imported to the Music Library Service. Music Content sold in the Store that includes these Unique Identifiers is marked on its product detail page. These Unique Identifiers do not affect the playback experience in any way.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=201380010>

Authorize Your Device

All devices used to transfer music through Amazon Music must be authorized to your Amazon account, based on our license agreements with content providers.

To authorize your device:

1. Go to [My Music](#) or launch the Amazon Music app on your device.
2. Sign in using information for your preferred Amazon account.
3. Start playing or downloading a song or album.
4. Select **Authorize** in the pop-up window that opens.

To manage the devices authorized to your Amazon account, go to [Your Amazon Music Settings](#) and look for the **Manage Your Devices** section.

Note: You can have up to 10 devices authorized to your account, and each device can only be authorized to one account at a time. If there are 10 devices authorized to your account, you can't authorize an additional device until you deauthorize one. For more information about deauthorizing devices, go to [Deauthorize Your Device](#).

<https://music.amazon.com/help?nodeId=G202196610>

Find & Play Your Downloads

Open **My Music** to find music you've downloaded to your device through the Amazon Music app:

- **For Android devices** - Select **My Music** from the menu. Select **Online Music** to toggle to **Offline Music** to find all of your downloaded music.
- **For iOS devices** - Tap **My Music** from the menu. You can also turn on **Offline Music Mode** under **Settings** ("gear" icon), to show just the music that has been downloaded to your device, and is available for offline playback.

Tip: To quickly access your recent downloads, select **Recents** from the Amazon Music menu, and open the **Downloaded** tab.

If you can't find music you've downloaded, you may need to refresh the Amazon Music app and try again. Open **Settings**, and select **Refresh My Music**. Then try your download again, using the steps above.

Note:

- To automatically download all of your Amazon Digital Music purchases to your device, go to **Settings** and select the **Automatic downloads** option (for Android devices) or the **Auto-download Amazon Music purchases** (for iOS devices).
- For Android devices, you can change your download location between your device and external SD card from the Amazon Music app. Go to **Settings**, and then select **Storage Location**. This option is available on most devices running Android KitKat or higher.
- Some record companies require us to insert identifiers in the metadata that accompanies music when you download it from the Digital Music Store or My Music. For more information, go to [About Record Company Required Metadata](#).

<https://www.amazon.com/gp/help/customer/display.html?nodeId=201379890>

[Digital Services & Content](#) › [Amazon Music](#) › [Prime Music](#) ›

About Offline Recommendations

Offline Recommendations are a collection of personalized Playlists downloaded to your device so you can listen to music when a wireless connection is not available or when you don't want to use streaming data.

Eligible Prime and Amazon Music Unlimited members can enable Offline Recommendations as part of their service.

You can enable Offline Recommendations for:

- Amazon Music for iOS (version 5.5 or later)

When you turn on Offline Recommendations, the Amazon Music app creates a collection of songs based on music you have purchased and listened to in the past. This collection of music is pre-downloaded to your device and can be played without using streaming data. Offline Recommendations are available in addition to music you have downloaded to your Offline Library for playback without a wireless connection.

<https://www.amazon.com/gp/help/customer/display.html?nodeId=202016420>

99. Amazon also infringes other claims of the '469 Patent, directly and through inducing infringement and contributory infringement.

100. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' accused features, Amazon has injured Data Scape and is liable to Data Scape for infringement of the '469 Patent pursuant to 35 U.S.C. § 271.

101. As a result of Amazon's infringement of the '469 Patent, Plaintiff Data Scape is entitled to monetary damages in an amount adequate to compensate for Amazon's infringement, but in no event less than a reasonable royalty for the use made of the invention by Amazon, together with interest and costs as fixed by the Court.

PRAYER FOR RELIEF

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

- a. A judgment in favor of Plaintiff that Amazon has infringed, either literally and/or under the doctrine of equivalents, the '929 Patent, the '537 Patent, the '581 Patent, the '614 Patent, the '112 Patent, and the '469 Patent (collectively, "asserted patents");
- b. A permanent injunction prohibiting Amazon from further acts of infringement of the asserted patents;
- c. A judgment and order requiring Amazon 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 Amazon 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 Amazon; 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.

Dated: January 9, 2019

Respectfully Submitted,

/s/ Eric B. Fenster

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