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 14 *Data Scape Limited*

15 **UNITED STATES DISTRICT COURT**  
 16 **CENTRAL DISTRICT OF CALIFORNIA**  
 17 **WESTERN DIVISION**

18 DATA SCAPE LIMITED,  
 19  
 20 Plaintiff,  
 21 vs.  
 22 SPOTIFY USA INC., and SPOTIFY  
 23 TECHNOLOGY S.A.,  
 24 Defendants.

Case No. 2:18-cv-10653-CBM-SK

**FIRST AMENDED COMPLAINT  
 FOR PATENT INFRINGEMENT**

**JURY TRIAL DEMANDED**

Original Complaint Filed:  
 December 26, 2019

25 This is an action for patent infringement arising under the Patent Laws of the  
 26 United States of America, 35 U.S.C. § 1 *et seq.* in which plaintiff Data Scape Limited  
 27 (“Plaintiff,” “Data Scape”) makes the following allegations against defendants Spotify  
 28 USA Inc. and Spotify Technology S.A. (“Defendants” or “Spotify”):

1 **PARTIES**

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

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

11 **JURISDICTION AND VENUE**

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

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

22 5. Venue is proper in this district under 28 U.S.C. § 1400(b). Spotify is  
23 registered to do business in California, and upon information and belief, Spotify has  
24 transacted business in the Central District of California and has committed acts of direct  
25 and indirect infringement in the Central District of California. Spotify has a regular and  
26 established place of business in this District. For example, Spotify has a regional  
27 headquarters at 9200 Sunset Blvd., West Hollywood, CA 90069, where it employs  
28 product marketing personnel.

**COUNT I**

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

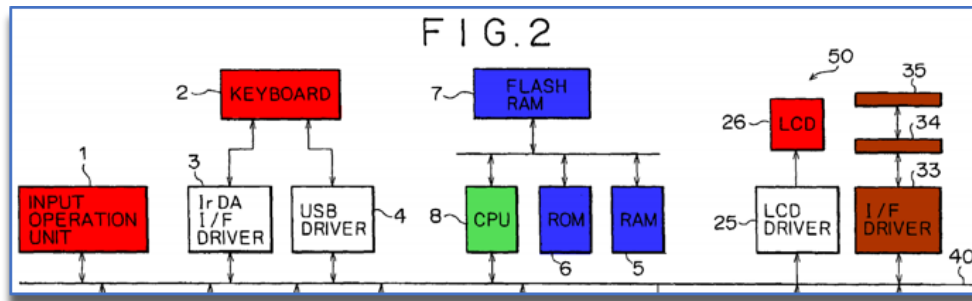
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3       6. Plaintiff realleges and incorporates by reference the foregoing paragraphs,  
4 as if fully set forth herein.

5       7. Data Scape is the owner by assignment of United States Patent No.  
6 7,720,929 (“the ’929 Patent”), entitled “Communication System And Its Method and  
7 Communication Apparatus And Its Method.” The ’929 Patent was duly and legally  
8 issued by the United States Patent and Trademark Office on May 18, 2010. A true and  
9 correct copy of the ’929 Patent is included as Exhibit A.

10       8. In their most basic form, and ignoring many claim limitations, the claims  
11 of the ’929 Patent are directed to a data synchronization system with a controller  
12 configured to selectively transmit certain digital data between first and second storage  
13 media based on a comparison of edited data management information stored in the  
14 storage medium. The claims are not directed to abstract ideas. The claims provide  
15 technical solutions to technical problems, and, thus, are patent-eligible.

16       9. As the ’929 Patent states, the inventor, the inventor, Akihiro Morohashi,  
17 working at Sony Corporation, aimed to solve the problems skilled artisans in 1999 faced  
18 trying to selectively transfer digital data between two electronic apparatuses. *E.g.*, ’929  
19 Patent, Col 2:1-39. For example, many used optical disks to accomplish this process,  
20 but that was “cumbersome” and did not enable easy or random selection of files to  
21 transfer. *Id.* at 10-29. And when others burned digital files into hard disk drives or  
22 semiconductor memory, those systems still required a large amount of time to  
23 selectively transfer certain digital data between electronic apparatuses. *Id.* And in any  
24 case, there was no reasonable way to selectively synchronize select digital content data  
25 between the apparatuses. *Id.* These problems were specific to the technological process  
26 of selective digital-data transfer between electronic apparatuses. *Id.* at 1:27-2:22. And  
27 with 28 columns of text and 13 figures, including Figure 2 below, the inventors taught  
28

1 various technical solutions involving an unconventional server with a controller  
2 configured with circuitry to compare certain digital management information:



8 10. Enabled by these teachings, the '929 patent recites in its claims various  
9 technical solutions to the existing technological problems and shortcomings. For  
10 example, various claims require the then-unconventional system of electronic  
11 components configured to use certain digital "management information" to compare,  
12 edit, delete and selectively transfer separate digital content data between two identified  
13 apparatuses. *See, e.g.*, '929 Patent, Claim 1 ("[a]storage [] configured to store  
14 management information ... [b] a communicator ... [c] a detector ...[d] an editor  
15 configured to select certain data [] and to edit said management information based on  
16 said selection, without regard to the connection... and [e] a controller configured to [i]  
17 transfer the selected data [] via said communicator based on said management  
18 information [ii] compare said management information...with management  
19 information [] in said first storage medium and [iii] to transmit data [] based on [the]  
20 comparison.").

21 11. The '929 patent and its file history make clear that each included  
22 independent-claim limitations were not in the prior art, let alone well-understood,  
23 routine, and conventional. This includes the claimed [a] storage configured to store  
24 management information, [b] communicator, [c] detector, [d] editor configured to  
25 select certain data and to edit said management information based on said selection,  
26 without regard to the connection, and [e] controller configured to [i] transfer the selected  
27 data via said communicator based on said management information, [ii] compare said  
28 management information with management information in said first storage

1 medium, and [iii] to transmit data based on the comparison. And the dependent claims  
2 also include limitations that were not in the prior art, let alone well-understood, routine,  
3 and conventional. *See, e.g.*, limitations of claims 2-9 of the '929 patent.

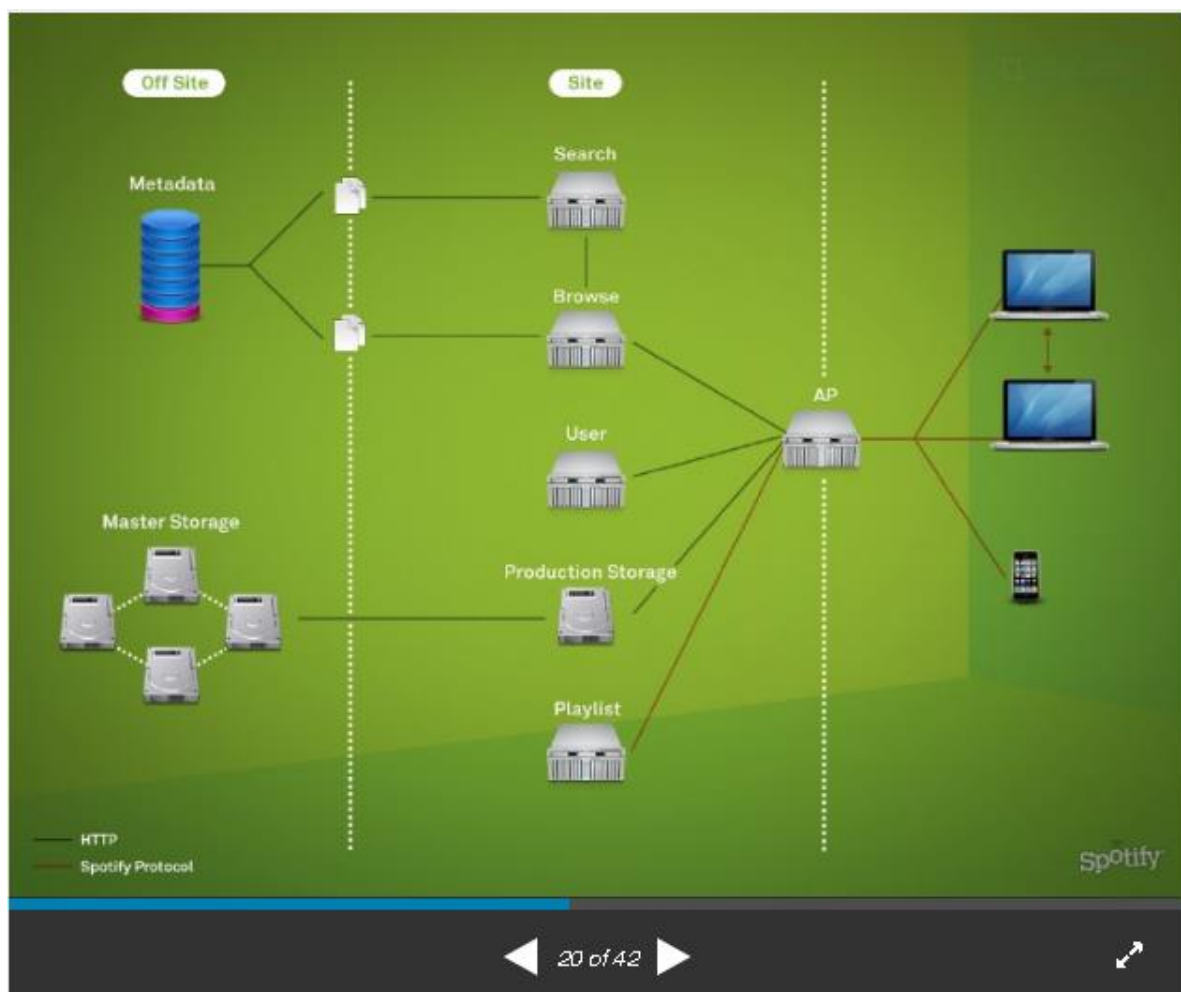
4 12. Defendants have offered for sale, sold and/or imported into the United  
5 States products and services that infringe the '929 patent, and continues to do so. By  
6 way of illustrative example, these infringing products and services include, without  
7 limitation, Defendants' products and services, *e.g.*, the Spotify music streaming  
8 platform, and all versions and variations thereof since the issuance of the '929 Patent  
9 ("Accused Instrumentalities").

10 13. Defendants have directly infringed and continues to infringe the '929  
11 Patent, for example, by making, selling, offering for sale, and/or importing the Accused  
12 Instrumentalities, and through their own use and testing of the Accused  
13 Instrumentalities. Defendants use the Accused Instrumentalities for their own internal  
14 non-testing business purposes, while testing the Accused Instrumentalities, and while  
15 providing technical support and repair services for the Accused Instrumentalities to  
16 Defendants' customers.

17 14. For example, the Accused Instrumentalities, including Spotify Premium,  
18 infringe Claim 1 of the '929 Patent. One non-limiting example of the Accused  
19 Instrumentalities' infringement is presented below.

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

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

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

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

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

17           19. The Accused Instrumentalities further include a second apparatus  
18 comprising “an editor configured to select certain data to be transferred and to edit said  
19 management information based on said selection without regard to the connection of  
20 said first apparatus.” For example, the desktop computer with the Spotify app installed  
21 (as well as Access Point, Production Storage, User and Playlist) allows a user to select  
22 the uploaded files and add the files to a playlist without regard to whether the mobile  
23 device or tablet is connected to the web server. *See, e.g.*, “Local Files” (“2. Add the files  
24 to a playlist. 3. Log in on your mobile or tablet using the same WiFi network as your  
25 desktop app.”).

26           20. The Accused Instrumentalities further include a second apparatus  
27 comprising “a controller configured to control transfer of the selected data stored in said  
28 second apparatus to said first apparatus via said communicator based on said



1 management information edited by said editor when said detector detects that said first  
2 apparatus and said second apparatus are connected.” For example, the desktop computer  
3 with the Spotify app installed (as well as Access Point, Production Storage, User and  
4 Playlist) will allow the local files to be transferred to the mobile device or tablet if the  
5 mobile device or tablet is connected to the same WiFi network as the desktop. *See, e.g.*,  
6 “Local Files” (“2. Add the files to a playlist. 3. Log in on your mobile or tablet using  
7 the same WiFi network as your desktop app. 4. Select the playlist containing the local  
8 files. 5. Switch on download.”).

9         21. The Accused Instrumentalities further include a second apparatus  
10 “wherein said controller is configured to compare said management information edited  
11 by said editor with management information of data stored in said first storage medium  
12 and to transmit data in said second apparatus based on result of the comparison.” For  
13 example, before providing the mobile device or tablet the option to select the playlist  
14 containing the local files, the desktop computer with the Spotify app installed (as well  
15 as Access Point, Production Storage, User and Playlist) compares the playlist with the  
16 added local files with the corresponding playlist on the mobile device or tablet, and  
17 determines which songs on the playlist stored on the desktop computer are local files  
18 not yet stored on the mobile device or tablet. The desktop computer with the Spotify  
19 app installed then makes the local files available for download onto the mobile device  
20 or tablet. *See, e.g.*, “Local Files” (“2. Add the files to a playlist. 3. Log in on your mobile  
21 or tablet using the same WiFi network as your desktop app. 4. Select the playlist  
22 containing the local files. 5. Switch on download.”).

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

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1           23. Defendants' affirmative acts of making, using, selling, offering for sale,  
2 and/or importing the Accused Instrumentalities have induced and continue to induce  
3 users of the Accused Instrumentalities to use the Accused Instrumentalities in their  
4 normal and customary way to infringe the claims of the '929 Patent. Use of the Accused  
5 Instrumentalities in their ordinary and customary fashion results in infringement of the  
6 claims of the '929 Patent.

7           24. For example, Defendants explain to customers the benefits of using the  
8 Accused Instrumentalities, such as by touting their advantages of allowing users to use  
9 the Spotify app to play music files stored on the users' desktop computer. Defendants  
10 also induce their customers to use the Accused Instrumentalities to infringe other claims  
11 of the '929 Patent. Defendants specifically intended and was aware that the normal and  
12 customary use of the Accused Instrumentalities on compatible systems would infringe  
13 the '929 Patent. Defendants performed the acts that constitute induced infringement,  
14 and would induce actual infringement, with the knowledge of the '929 Patent and with  
15 the knowledge, or willful blindness to the probability, that the induced acts would  
16 constitute infringement. On information and belief, Defendants engaged in such  
17 inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through their  
18 user manuals, product support, marketing materials, demonstrations, installation  
19 support, and training materials to actively induce the users of the accused products to  
20 infringe the '929 Patent. Accordingly, Defendants have induced and continue to induce  
21 end users of the accused products to use the accused products in their ordinary and  
22 customary way with compatible systems to make and/or use systems infringing the '929  
23 Patent, knowing that such use of the Accused Instrumentalities with compatible systems  
24 will result in infringement of the '929 Patent. Accordingly, Defendants have been (since  
25 at least as of filing of the original complaint), and currently are, inducing infringement  
26 of the '929 Patent, in violation of 35 U.S.C. § 271(b).

27           25. Defendants have also infringed, and continues to infringe, claims of  
28 the '929 Patent by offering to commercially distribute, commercially distributing,

1 making, and/or importing the Accused Instrumentalities, which are used in practicing  
2 the process, or using the systems, of the '929 Patent, and constitute a material part of  
3 the invention. Defendants know the components in the Accused Instrumentalities to be  
4 especially made or especially adapted for use in infringement of the '929 Patent, not a  
5 staple article, and not a commodity of commerce suitable for substantial noninfringing  
6 use. For example, the ordinary way of using the Accused Instrumentalities infringes the  
7 patent claims, and as such, is especially adapted for use in infringement. Accordingly,  
8 Defendants have been, and currently are, contributorily infringing the '929 Patent, in  
9 violation of 35 U.S.C. § 271(c).

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

21         27. Defendants also indirectly infringe the '929 Patent by supplying or causing  
22 to be supplied in or from the United States components of the Accused Instrumentalities  
23 that are especially made or especially adapted for use in infringing the '929 Patent and  
24 are not a staple article or commodity of commerce suitable for substantial non-  
25 infringing use, and where such components are uncombined in whole or in part,  
26 knowing that such components are so made or adapted and intending that such  
27 components are combined outside of the United States in a manner that would infringe  
28 the '929 Patent if such combination occurred within the United States. Because the

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

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

19 **COUNT II**

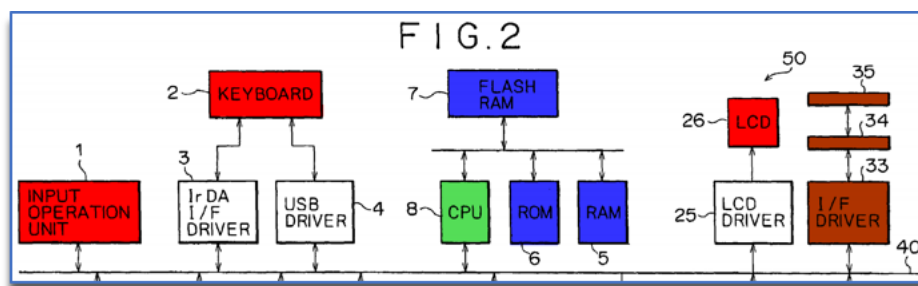
20 **INFRINGEMENT OF U.S. PATENT NO. 7,617,537**

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

23 30. Data Scape is the owner by assignment of United States Patent No.  
24 7,617,537 ("the '537 Patent"), entitled "Communication System And Its Method and  
25 Communication Apparatus And Its Method." The '537 Patent was duly and legally  
26 issued by the United States Patent and Trademark Office on May 18, 2010. A true and  
27 correct copy of the ' 537 Patent is included as Exhibit B.

1           31. In their most basic form, and ignoring many claim limitations, the claims  
2 of the '537 Patent are directed to a data synchronization system configured to compare  
3 identifiers in first and second apparatuses and thereby selectively delete and transfer  
4 certain digital content data across the two apparatuses. The claims are not directed to  
5 abstract ideas. The claims provide technical solutions to technical problems, and, thus,  
6 are patent-eligible.

7           32. As the '537 Patent states, the inventor, Akihiro Morohashi, working at  
8 Sony Corporation, aimed to solve the problems skilled artisans in 1999 faced trying to  
9 selectively transfer data between two electronic apparatuses. *E.g.*, '537 Patent, Col 2:1-  
10 39. For example, many used optical disks to accomplish this process, but that was  
11 "cumbersome" and did not enable easy or random selection of files to transfer. *Id.* at  
12 2:10-29. And when others burned digital files into hard disk drives or semiconductor  
13 memory, those systems still required a large amount of time to selectively transfer  
14 certain digital data between electronic apparatuses. *Id.* And in any case, there was no  
15 reasonable way to selectively synchronize select digital content data between the  
16 apparatuses. *Id.* These problems were specific to the technological process of selective  
17 digital-data transfer between electronic apparatuses. *Id.* at 1:27-2:22. And with 28  
18 columns of text and 13 figures, including Figure 2 below, the inventor taught various  
19 technical solutions involving an unconventional server with a controller configured with  
20 circuitry to compare certain digital management information:



26           33. Enabled by these teachings, the patents recite in their claims various  
27 technical solutions to the existing technological problems and shortcomings. For  
28 example, various claims require the then-unconventional system of electronic

1 components configured to use digital “identifiers” to compare, edit, delete and  
2 selectively transfer separate digital content data between two apparatuses. *See*,  
3 *e.g.*, ’537 Patent, Claim 15 (“[a] communication apparatus configured to transfer  
4 content data to a portable apparatus comprising ... [b] a storing unit ... [c] a processor  
5 configured to ...[i] judge whether said portable apparatus and said communication  
6 apparatus are connected; [ii] compare . . . an identifier of said portable apparatus with  
7 an identifier stored in said communication apparatus; [iii] compare . . . a first list of  
8 content data of said portable apparatus and a second list of content data in said  
9 communication apparatus; [iv] transfer content data, from the communication apparatus  
10 to the portable apparatus, which is registered in said second list and not registered in  
11 said first list; and [v] delete second content data, from the portable apparatus, which is  
12 registered in said first list and is not registered in said second list.”).

13         34. The ’537 patent and its file history make clear that each included  
14 independent-claim limitations were not in the prior art, let alone well-understood,  
15 routine, and conventional. This includes the claimed communication apparatus  
16 configured to (1) compare an identifier of a portable apparatus with an identifier stored  
17 therein; (2) compare a first list of content data stored in the portable apparatus with a  
18 second list of content data in the communication apparatus; (3) transfer content data  
19 which is registered in the second list and not the first list; and (4) delete second content  
20 data which is registered in the first list and not in the second list. And the dependent  
21 claims also include limitations that were not in the prior art, let alone well-understood,  
22 routine, and conventional. *See, e.g.*, limitations of claims 16, 17, 18, and 19 of the ’537  
23 patent.

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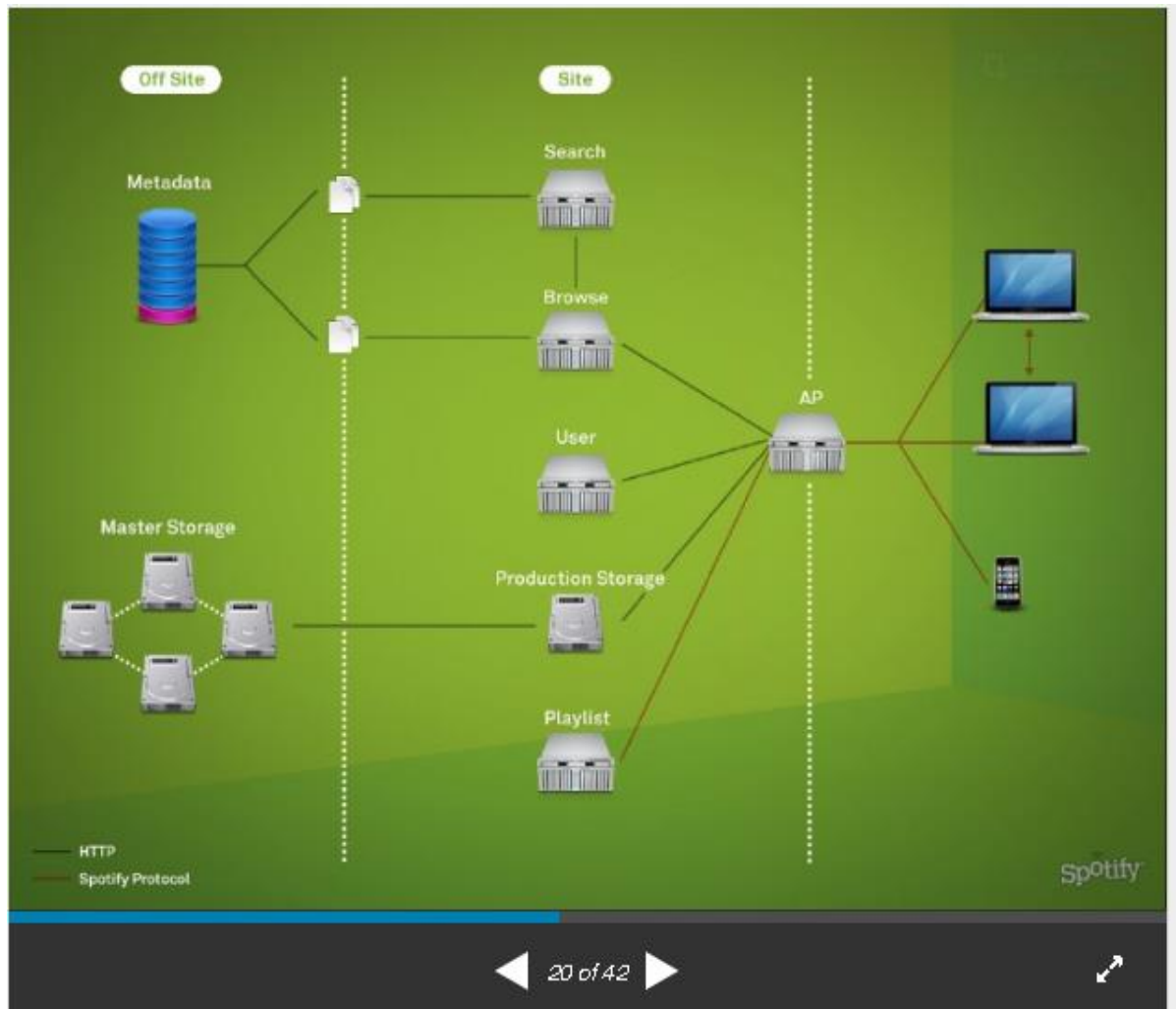
1 platform, and all versions and variations thereof since the issuance of the '537 Patent  
2 (“Accused Instrumentalities”).

3 36. Defendants have directly infringed and continue to infringe the '537  
4 Patent, for example, by making, selling, offering for sale, and/or importing the Accused  
5 Instrumentalities, and through their own use and testing of the Accused  
6 Instrumentalities. Defendants use the Accused Instrumentalities for their own internal  
7 non-testing business purposes, while testing the Accused Instrumentalities, and while  
8 providing technical support and repair services for the Accused Instrumentalities to  
9 Defendants' customers.

10 37. For example, the Accused Instrumentalities, including Spotify Premium,  
11 infringe Claim 1 of the '537 Patent. One non-limiting example of the Accused  
12 Instrumentalities' infringement is presented below.

13 38. The Accused Instrumentalities perform a communication method to  
14 transfer content data to a first apparatus from a second apparatus. For example, a mobile  
15 device with the Spotify app (e.g. a first apparatus) can connect to a desktop computer  
16 with the Spotify app (or to Access Point, Production Storage, User and Playlist), to  
17 transfer files, e.g. music files, stored in the desktop computer to the mobile device (e.g.  
18 a second apparatus). *See, e.g.,* “Local Files”, *available at*  
19 [https://support.spotify.com/us/using\\_spotify/features/listen-to-local-files/](https://support.spotify.com/us/using_spotify/features/listen-to-local-files/) (“[Y]ou can  
20 also use your Spotify app to play music files stored on your computer (which we call  
21 “local files).”).

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

18 39. The Accused Instrumentalities perform a communication method to  
 19 transfer content data from a first apparatus to a second apparatus further comprising  
 20 judging whether said first apparatus and said second apparatus are connected. For  
 21 example, the Spotify app on the desktop computer can only transfer music files between  
 22 the desktop computer and the mobile device if it determines that the devices are  
 23 connected on the same WiFi network. *See, e.g.*, “Local Files” (“Log in on your mobile  
 24 or tablet using the same WiFi network as your desktop app.”) (“Didn’t work?...check  
 25 the following:...your devices are connected to the same WiFi network.”).

26 40. The Accused Instrumentalities perform a communication method to  
 27 transfer content data from a first apparatus to a second apparatus further comprising  
 28 comparing, upon judging that said first apparatus and said second apparatus are



1 connected, an identifier of said first apparatus with an identifier stored in said second  
2 apparatus. For example, when the mobile device is connected to the desktop computer,  
3 the Spotify app on the desktop computer will display an identifier associated with the  
4 mobile device. *See, e.g.*, “Spotify Connect” (“Click connect to a device in the bottom-  
5 right. Select the device you’d like to play on.”).  
6 [https://support.spotify.com/us/listen\\_everywhere/in\\_the\\_car/spotify-connect/](https://support.spotify.com/us/listen_everywhere/in_the_car/spotify-connect/)

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

18 42. The Accused Instrumentalities perform a communication method to  
19 transfer content data from a first apparatus to a second apparatus further comprising  
20 transferring, from the second apparatus to the first apparatus, first content data, which  
21 is registered in said second list and is not registered in said first list. For example, the  
22 Spotify app will transfer only songs found in the playlist of the desktop (or Access Point,  
23 Production Storage, User and Playlist) that are not found in the playlist of the mobile  
24 device. *See, e.g.*, “Local Files” (“2. Add the [local] files to a playlist. 3. Log in on your  
25 mobile or tablet using the same WiFi network as your desktop app. 4. Select [on the  
26 mobile device] the playlist containing the local files. 5. Switch on Download”).

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

1 deleting, from the first apparatus, second content data, which registered in said first list  
2 and is not registered in the second list. For example, if a “local file” on the desktop is  
3 deleted from the desktop (or Access Point, Production Storage, User and Playlist), that  
4 local file is also deleted from any playlist on the desktop Spotify app that included the  
5 deleted local file. Upon the next sync between the Spotify app on the desktop and the  
6 Spotify app on mobile device, the local file is then deleted from the mobile device.

7 44. Defendants have had knowledge of the '537 Patent and their infringement  
8 since at least the filing of the original Complaint in this action, or shortly thereafter,  
9 including by way of this lawsuit. By the time of trial, Defendants will have known and  
10 intended (since receiving such notice) that their continued actions would actively induce  
11 and contribute to the infringement of the claims of the '537 Patent.

12 45. Defendants' affirmative acts of making, using, selling, offering for sale,  
13 and/or importing the Accused Instrumentalities have induced and continue to induce  
14 users of the Accused Instrumentalities to use the Accused Instrumentalities in their  
15 normal and customary way to infringe the claims of the '537 Patent. Use of the Accused  
16 Instrumentalities in their ordinary and customary fashion results in infringement of the  
17 claims of the '537 Patent.

18 46. For example, Defendants explain to customers the benefits of using the  
19 Accused Instrumentalities, such as by touting their advantages of allowing users to use  
20 the Spotify app to play music files stored on the users' desktop computer. Defendants  
21 also induce their customers to use the Accused Instrumentalities to infringe other claims  
22 of the '537 Patent. Defendants specifically intended and were aware that the normal and  
23 customary use of the Accused Instrumentalities on compatible systems would infringe  
24 the '537 Patent. Defendants performed the acts that constitute induced infringement,  
25 and would induce actual infringement, with the knowledge of the '537 Patent and with  
26 the knowledge, or willful blindness to the probability, that the induced acts would  
27 constitute infringement. On information and belief, Defendants engaged in such  
28 inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through its user

1 manuals, product support, marketing materials, demonstrations, installation support,  
2 and training materials to actively induce the users of the accused products to infringe  
3 the '537 Patent. Accordingly, Defendants have induced and continue to induce end  
4 users of the accused products to use the accused products in their ordinary and  
5 customary way with compatible systems to make and/or use systems infringing the '537  
6 Patent, knowing that such use of the Accused Instrumentalities with compatible systems  
7 will result in infringement of the '537 Patent. Accordingly, Defendants have been (since  
8 at least as of filing of the original complaint), and currently are, inducing infringement  
9 of the '537 Patent, in violation of 35 U.S.C. § 271(b).

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

21 48. For similar reasons, Defendants also infringe the '537 Patent by supplying  
22 or causing to be supplied in or from the United States all or a substantial portion of the  
23 components of the Accused Instrumentalities, where such components are uncombined  
24 in whole or in part, in such manner as to actively induce the combination of such  
25 components outside of the United States in a manner that would infringe the '537 Patent  
26 if such combination occurred within the United States. For example, Defendants supply  
27 or cause to be supplied in or from the United States all or a substantial portion of the  
28 software (e.g., the Spotify app) components of the Accused Instrumentalities in such a

1 manner as to actively induce the combination of such components (e.g., by instructing  
2 users to use multiple devices, each with the Spotify app installed, to share files stored  
3 on distinct devices) outside of the United States.

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

25 50. As a result of Defendants' infringement of the '537 Patent, Plaintiff Data  
26 Scape is entitled to monetary damages in an amount adequate to compensate for  
27 Defendants' infringement, but in no event less than a reasonable royalty for the use  
28

1 made of the invention by Defendants, together with interest and costs as fixed by the  
2 Court.

3 **COUNT III**

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

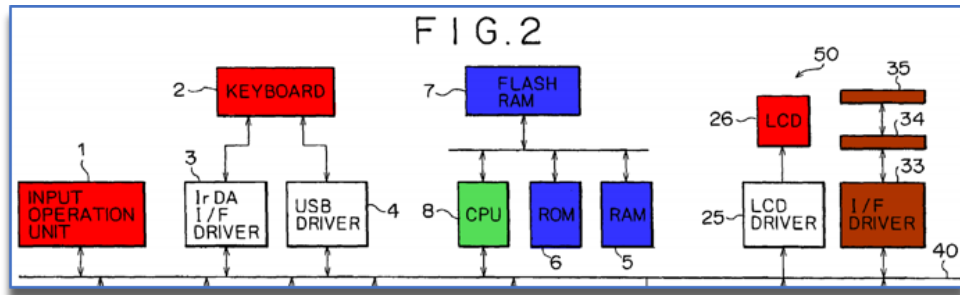
5 51. Plaintiff realleges and incorporates by reference the foregoing paragraphs,  
6 as if fully set forth herein.

7 52. Data Scape is the owner by assignment of United States Patent No.  
8 9,380,112 (“the ’112 Patent”) entitled “Communication System And Its Method and  
9 Communication Apparatus And Its Method.” The ’112 Patent was duly and legally  
10 issued by the United States Patent and Trademark Office on June 28, 2016. A true and  
11 correct copy of the ’112 Patent is included as Exhibit C.

12 53. In their most basic form, and ignoring many claim limitations, the claims  
13 of the ’112 Patent are directed to a data synchronization apparatus configured to  
14 recognize an identifier of a portable device and a list of digital musical content stored  
15 therein, and selectively transfer only edited portions of the musical content to the  
16 portable device and assure the content is played back as a collection. The claims are not  
17 directed to abstract ideas. The claims provide technical solutions to technical problems,  
18 and, thus, are patent-eligible.

19 54. As the ’112 Patent states, the inventor, Akihiro Morohashi, working at  
20 Sony Corporation, aimed to solve the problems skilled artisans in 1999 faced trying to  
21 selectively transfer data between two electronic apparatuses. *E.g.*, ’112 Patent, Col  
22 2:16-54. For example, many used optical disks to accomplish this process, but that was  
23 “cumbersome” and did not enable easy or random selection of files to transfer. *Id.* at  
24 25-37. And when others burned digital files into hard disk drives or semiconductor  
25 memory, those systems still required a large amount of time to selectively transfer  
26 certain digital data between electronic apparatuses. *Id.* And in any case, there was no  
27 reasonable way to selectively synchronize select digital content data between the  
28 apparatuses. *Id.* These problems were specific to the technological process of selective

1 digital-data transfer between electronic apparatuses. *Id.* at 1:42-2:37. And with over 28  
 2 columns of text and 13 figures, including Figure 2 below, the inventor taught various  
 3 technical solutions involving an unconventional server with a controller configured with  
 4 circuitry to compare certain digital management information:



10 55. Enabled by these teachings, the patent recites in its claims various  
 11 technical solutions to the existing technological problems and shortcomings. For  
 12 example, various claims require the then-unconventional system of electronic  
 13 components configured to use a digital “identifier” to compare, edit and selectively  
 14 transfer separate lists of digital musical content data between two apparatuses. See,  
 15 e.g., ’112 Patent, Claim 1 (“[a] communication apparatus configured to transfer data to  
 16 a portable apparatus . . . comprising . . . [b] a memory configured to store a first list of  
 17 musical content data; . . . [c] circuitry configured to . . . [i] edit the first list of musical  
 18 content data . . . [ii] compare the edited first list of musical content data a list of musical  
 19 content data stored in the portable apparatus; [iii] control transfer of selected musical  
 20 content data stored in the communication apparatus to the portable apparatus . . . based  
 21 on the result of the comparison . . . ; and [iv] control playback of musical content data  
 22 based on the edited first list of musical content data so that . . . [the] musical content  
 23 data is played back as a collection, the edited first list of musical content data being  
 24 associated with an identifier stored in the communication apparatus that uniquely  
 25 identifies the portable apparatus.”).

26 56. The ‘112 patent and its file history make clear that each included  
 27 independent-claim limitations were not in the prior art, let alone well-understood,  
 28 routine, and conventional. This includes the claimed communication apparatus

1 configured to transfer data to a portable apparatus comprising (1) a memory configured  
2 to store a first list of musical content data and (2) circuitry configured to (a) edit the  
3 first list of musical content data, (b) compare the edited first list of musical content data  
4 a list of musical content data stored in the portable apparatus, (c) control transfer of  
5 selected musical content data stored in the communication apparatus to the portable  
6 apparatus based on the result of the comparison, and (d) control playback of musical  
7 content data based on the edited first list of musical content data so that the musical  
8 content data is played back as a collection, the edited first list of musical content data  
9 being associated with an identifier stored in the communication apparatus that uniquely  
10 identifies the portable apparatus. And the dependent claims also include limitations that  
11 were not in the prior art, let alone well-understood, routine, and conventional. *See, e.g.*,  
12 limitations of 2, 3, 4, 5, 6, 7, and 8 of the '112 patent.

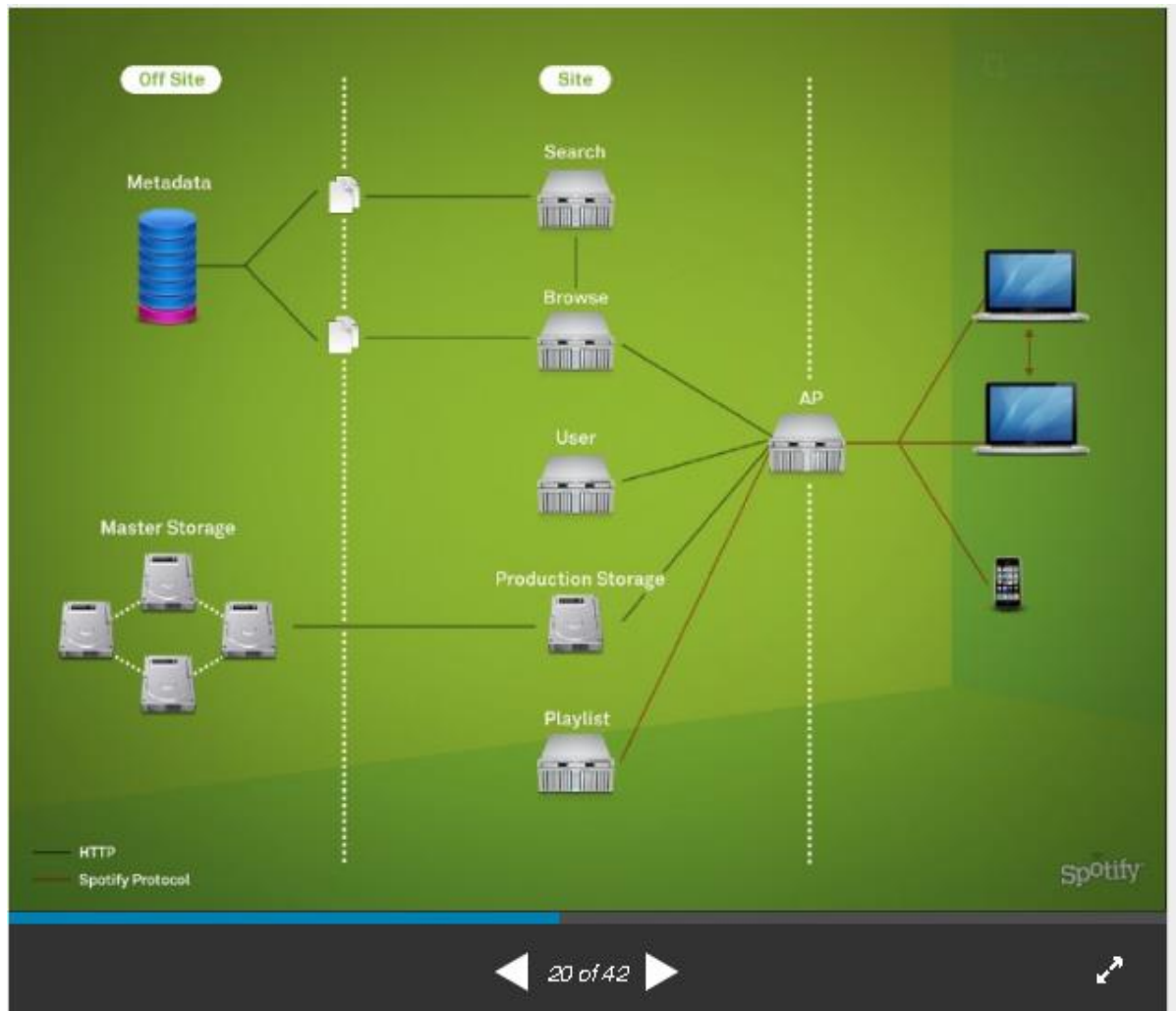
13         57. Defendants have offered for sale, sold and/or imported into the United  
14 States products and services that infringe the '112 patent, and continues to do so. By  
15 way of illustrative example, these infringing products and services include, without  
16 limitation, Defendants' products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

19         58. The Accused Instrumentalities includes "[a] communication apparatus  
20 configured to transfer data to a portable apparatus." For example, a mobile device with  
21 the Spotify app installed (*e.g.* a portable apparatus) can be connected to a desktop  
22 computer with the Spotify app installed (or Access Point, Production Storage, User and  
23 Playlist), to transfer files, *e.g.* local files, stored on the desktop computer (*e.g.* a  
24 communication apparatus) to the mobile device. *See, e.g.*, "Local Files", *available at*  
25 [https://support.spotify.com/us/using\\_spotify/features/listen-to-local-files/](https://support.spotify.com/us/using_spotify/features/listen-to-local-files/) ("In addition  
26 to over 35 million tracks we offer, you can also use your Spotify app to play music files  
27 stored on your computer (which we call "local files").").

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

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

25 60. The Accused Instrumentalities include a communication apparatus  
 26 comprising “a data interface configured to detect a connection between the  
 27 communication apparatus and the portable apparatus.” For example, when the mobile  
 28 device is connected to the desktop computer (or Access Point, Production Storage, User

1 and Playlist), the Spotify app on the desktop computer will display an identifier  
2 associated with the mobile device. *See, e.g.*, “Spotify Connect” available at  
3 [https://support.spotify.com/us/listen\\_everywhere/in\\_the\\_car/spotify-connect/](https://support.spotify.com/us/listen_everywhere/in_the_car/spotify-connect/), (“Click  
4 connect to a device in the bottom-right. Select the device you’d like to play on.”).

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

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

21 63. The Accused Instrumentalities further include circuitry configured to  
22 “control transfer of selected musical content data stored in the communication apparatus  
23 to the portable apparatus via the data interface based on a result of the comparison after  
24 the connection of the communication apparatus and the portable apparatus in  
25 connected.” For example, when the mobile device is connected to the desktop, the  
26 Spotify app will compare playlists of music present on the mobile device to playlists  
27 present on the desktop to determine which files to transfer to the mobile device. *See,*  
28 *e.g.*, “Local Files” (“2. Add the files to a playlist. 3. Log in on your mobile or tablet

1 using the same WiFi network as your desktop app. 4. Select [on the mobile device] the  
2 playlist containing the local files.”).

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

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

23 66. Defendants’ affirmative acts of making, using, selling, offering for sale,  
24 and/or importing the Accused Instrumentalities have induced and continue to induce  
25 users of the Accused Instrumentalities to use the Accused Instrumentalities in their  
26 normal and customary way to infringe the claims of the ’112 Patent. Use of the Accused  
27 Instrumentalities in their ordinary and customary fashion results in infringement of the  
28 claims of the ’112 Patent.

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

21           68. Defendants have also infringed, and continue to infringe, claims of  
22 the '112 Patent by offering to commercially distribute, commercially distributing,  
23 making, and/or importing the Accused Instrumentalities, which are used in practicing  
24 the process, or using the systems, of the '112 Patent, and constitute a material part of  
25 the invention. Defendants know the components in the Accused Instrumentalities to be  
26 especially made or especially adapted for use in infringement of the '112 Patent, not a  
27 staple article, and not a commodity of commerce suitable for substantial noninfringing  
28 use. For example, the ordinary way of using the Accused Instrumentalities infringes the

1 patent claims, and as such, is especially adapted for use in infringement. Accordingly,  
2 Defendants have been, and currently are, contributorily infringing the '112 Patent, in  
3 violation of 35 U.S.C. § 271(c).

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

15 70. Defendants also indirectly infringe the '112 Patent by supplying or causing  
16 to be supplied in or from the United States components of the Accused Instrumentalities  
17 that are especially made or especially adapted for use in infringing the '112 Patent and  
18 are not a staple article or commodity of commerce suitable for substantial non-  
19 infringing use, and where such components are uncombined in whole or in part,  
20 knowing that such components are so made or adapted and intending that such  
21 components are combined outside of the United States in a manner that would infringe  
22 the '112 Patent if such combination occurred within the United States. Because the  
23 Accused Instrumentalities are designed to operate as the claimed system and apparatus,  
24 the Accused Instrumentalities have no substantial non-infringing uses, and any other  
25 uses would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or  
26 experimental. For example, Defendants supply or cause to be supplied in or from the  
27 United States all or a substantial portion of the software (e.g., the Spotify Premium app)  
28 components that are especially made or especially adapted for use in the Accused

1 Instrumentalities, where such hardware and software components are not staple articles  
2 or commodities of commerce suitable for substantial noninfringing use, knowing that  
3 such components are so made or adapted and intending that such components are  
4 combined outside of the United States, as evidenced by Defendants’ own actions or  
5 instructions to users in, e.g., combining multiple devices with the Spotify app installed,  
6 into infringing systems, and enabling and configuring the infringing functionalities of  
7 the Accused Instrumentalities.

8 71. As a result of Defendants’ infringement of the ’112 Patent, Plaintiff Data  
9 Scape is entitled to monetary damages in an amount adequate to compensate for  
10 Defendants’ infringement, but in no event less than a reasonable royalty for the use  
11 made of the invention by Defendants, together with interest and costs as fixed by the  
12 Court.

13 **COUNT IV**

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

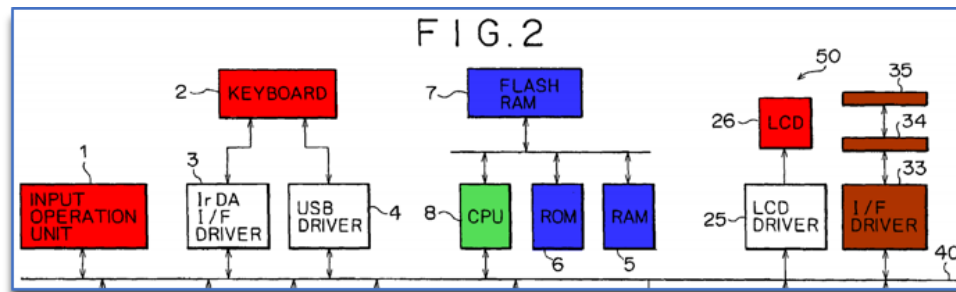
15 72. Plaintiff realleges and incorporates by reference the foregoing paragraphs,  
16 as if fully set forth herein.

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

22 74. In their most basic form, and ignoring many claim limitations, the claims  
23 of the ’614 Patent are directed to a data synchronization apparatus configured to  
24 recognize an identifier of a portable device and a list of digital musical content stored  
25 therein, and selectively transfer to the portable device only musical content found in the  
26 communication apparatus and not in the portable device and assure the content is played  
27 back as a collection. The claims are not directed to abstract ideas. The claims provide  
28 technical solutions to technical problems, and, thus, are patent-eligible.



1           75. As the '614 Patent states, the inventor, Akihiro Morohashi, working at  
 2 Sony Corporation, aimed to solve the problems skilled artisans in 1999 faced trying to  
 3 selectively transfer data between two electronic apparatuses. *E.g.*, '614 Patent, Col  
 4 2:16-54. For example, many used optical disks to accomplish this process, but that was  
 5 “cumbersome” and did not enable easy or random selection of files to transfer. *Id.* at  
 6 25-37. And when others burned digital files into hard disk drives or semiconductor  
 7 memory, those systems still required a large amount of time to selectively transfer  
 8 certain digital data between electronic apparatuses. *Id.* And in any case, there was no  
 9 reasonable way to selectively synchronize select digital content data between the  
 10 apparatuses. *Id.* These problems were specific to the technological process of selective  
 11 digital-data transfer between electronic apparatuses. *Id.* at 1:42-2:37. And with over 28  
 12 columns of text and 13 figures, including Figure 2 below, the inventor taught various  
 13 technical solutions involving an unconventional server with a controller configured with  
 14 circuitry to compare certain digital management information:



20           76. Enabled by these teachings, the patent recites in its claims various  
 21 technical solutions to the existing technological problems and shortcomings. For  
 22 example, various claims require the then-unconventional system of electronic  
 23 components configured to use a digital “identifier” to compare, edit and selectively  
 24 transfer separate lists of digital musical content data between two apparatuses. See,  
 25 *e.g.*, '614 Patent, Claim 1 (“[a] communication apparatus comprising ... [a] a memory  
 26 configured to store musical content data and a plurality of lists associated with the  
 27 musical content data; [b] a data interface configured to interface with an external  
 28 reproduction apparatus; [c] circuitry configured to [i] control playback of musical



1 content data based on a program list so that the musical content data referenced in the  
2 program list is played back as collection, the program list being associated with a  
3 predetermined identified; . . . [ii] accept edits to the program list; [iii] determine whether  
4 an identifier received by the circuitry via the data interface is the predetermined  
5 identifier; [iv] control transfer of the musical content data to the predetermined external  
6 reproduction apparatus . . . based on the program list; [v] compare the program list with  
7 a second list of musical content data stored in the predetermined external reproduction  
8 apparatus; [vi] identify a piece of musical content data common to the program list and  
9 the second list based on the result of the comparison; and [vi] control transfer to the  
10 predetermined external reproduction apparatus of the musical content data . . . such that  
11 transfer of the identified piece of musical content data common to the program list and  
12 the second list is omitted”).

13 77. The ‘614 patent and its file history make clear that each included  
14 independent-claim limitations were not in the prior art, let alone well-understood,  
15 routine, and conventional. This includes the communication apparatus comprising (1)  
16 a memory configured to store musical content data and a plurality of lists associated  
17 with the musical content data; (2) a data interface configured to interface with an  
18 external reproduction apparatus; (3) circuitry configured to [i] control playback of  
19 musical content data based on a program list so that the musical content data referenced  
20 in the program list is played back as collection, the program list being associated with  
21 a predetermined identified; [ii] accept edits to the program list; [iii] determine whether  
22 an identifier received by the circuitry via the data interface is the predetermined  
23 identifier; [iv] control transfer of the musical content data to the predetermined external  
24 reproduction apparatus based on the program list; [v] compare the program list with a  
25 second list of musical content data stored in the predetermined external reproduction  
26 apparatus; [vi] identify a piece of musical content data common to the program list and  
27 the second list based on the result of the comparison; and [vi] control transfer to the  
28 predetermined external reproduction apparatus of the musical content data such that

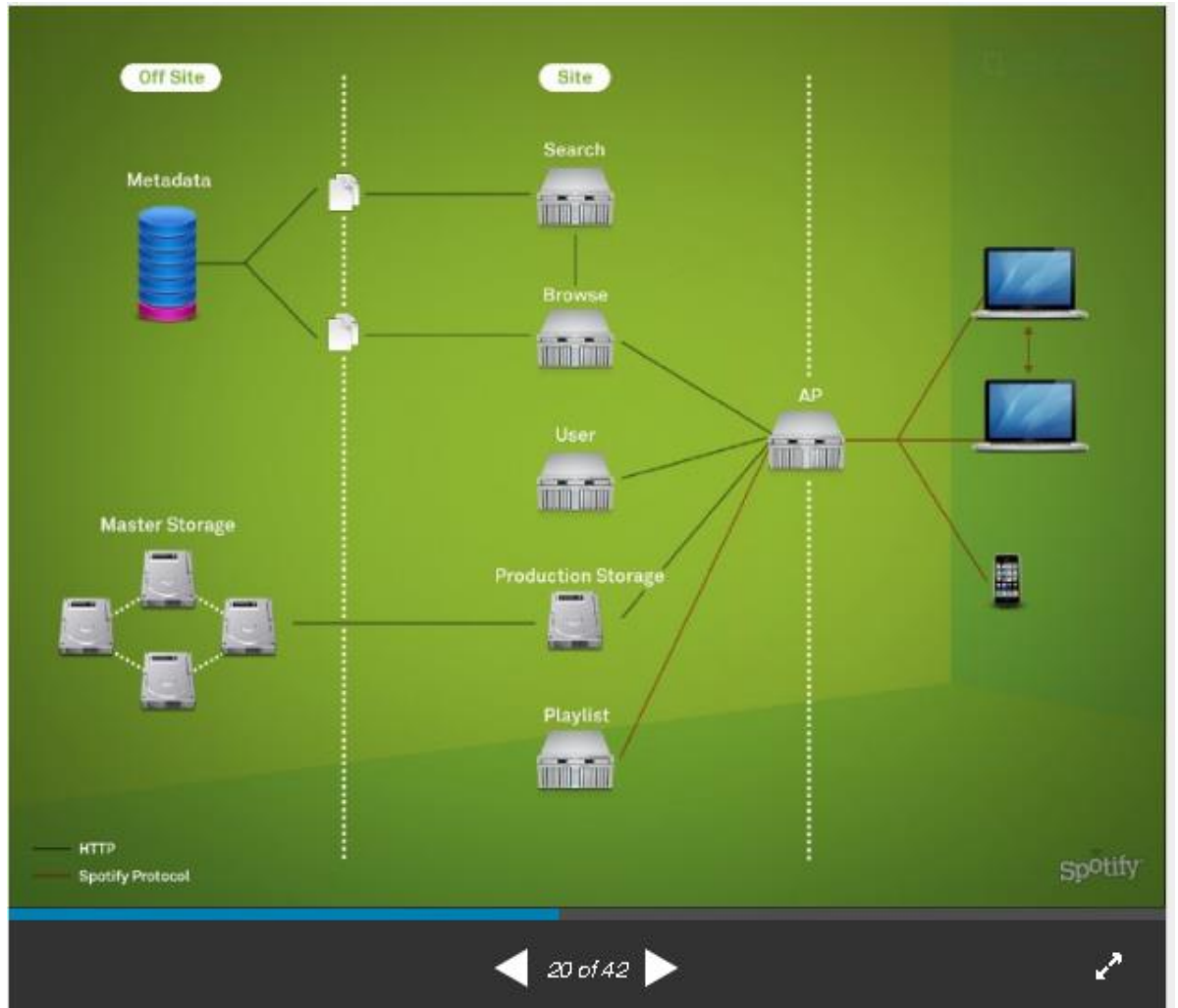
1 transfer of the identified piece of musical content data common to the program list and  
2 the second list is omitted. And the dependent claims also include limitations that were  
3 not in the prior art, let alone well-understood, routine, and conventional. *See, e.g.*,  
4 limitations of 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 of the '614 patent.

5 78. Defendants have offered for sale, sold and/or imported into the United  
6 States products and services that infringe the '614 patent, and continues to do so. By  
7 way of illustrative example, these infringing products and services include, without  
8 limitation, Defendants' products and services, *e.g.*, the Spotify music streaming  
9 platform, and all versions and variations thereof since the issuance of the '614 Patent  
10 ("Accused Instrumentalities").

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

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

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

26 81. The Accused Instrumentalities include a communication apparatus further  
 27 comprising “a data interface configured to interface with an external reproduction  
 28 apparatus.” For example, when a mobile device or tablet (e.g. external reproduction

1 apparatus) is connected to the desktop computer with the Spotify app installed (or  
2 Access Point, Production Storage, User and Playlist) (e.g. the communication  
3 apparatus), the desktop computer will display a graphic user interface through the  
4 Spotify app, allowing access to the data contained on the portable device. *See, e.g.*,  
5 “Spotify Connect” (“Click connect to a device in the bottom-right. Select the device  
6 you’d like to play on.”).

7 82. The Accused Instrumentalities further include a communication apparatus  
8 comprising circuitry configured to “control playback of musical content data based on  
9 a program lists so that the musical content data referenced in the program list is played  
10 back as a collection, the program list being associated with a predetermined identifier  
11 uniquely identifying a predetermined external reproduction apparatus among a plurality  
12 of reproduction apparatuses. For example, the Spotify app allows musical files to be  
13 played as a “Playlist” consisting of a collection of musical files. *See, e.g.*, “Playlists”  
14 available at [https://support.spotify.com/us/using\\_spotify/playlists/create-a-playlist/](https://support.spotify.com/us/using_spotify/playlists/create-a-playlist/),  
15 (“Put simply, a playlist is a collection of music. You can make them for yourself, you  
16 can share them, and you can enjoy the millions of other playlists created by Spotify,  
17 artists, and fans.” Further, when a mobile device with the Spotify app installed is  
18 connected to a desktop computer with the Spotify app installed, the desktop computer  
19 will display an identifier associated with the mobile device, while also displaying other  
20 identifiers associated with other playback devices (e.g., a plurality of external  
21 reproduction apparatuses).

22 83. The Accused Instrumentalities further include a communication apparatus  
23 comprising circuitry configured to “control presentation of the program list to a user via  
24 user interface.” For example, the Spotify app includes a graphic user interface that will  
25 show the Playlists that are available.

26 84. The Accused Instrumentalities further include a communication apparatus  
27 comprising circuitry configured to accept edits to the program list via the user interface.  
28 For example, using the Spotify app, a user can edit or modify Playlists. *See, e.g.*,

1 “Playlists” (“Create a playlist 1. Click New Playlist in the menu on the left. 2. Give your  
2 playlist a name and click CREATE.”).

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

9 86. The Accused Instrumentalities further include circuitry configured to  
10 “control transfer of the musical content data to the predetermine external reproduction  
11 apparatus via the data interface based on the program list when the received identifier  
12 is the predetermined identifier without receiving information on selection of the musical  
13 content data from the predetermined external reproduction apparatus.” For example, if  
14 a “local file” on the desktop is deleted from the desktop, that local file is also deleted  
15 from any playlist on the desktop Spotify app that included the deleted local file. Upon  
16 the next sync between the Spotify app on the desktop and the Spotify app on mobile  
17 device, the local file is then deleted from the mobile device.

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

26 88. The Accused Instrumentalities further include circuitry configured to  
27 “identify a piece of musical content data common to the program list and the second list  
28 based on the result of the comparison.” For example, the Spotify app will determine

1 what files in the playlist are “local files” that can be downloaded, and what files are  
2 already on both the desktop computer and the mobile device. *See, e.g.*, “Local Files”  
3 (“2. Add the files to a playlist. 3. Log in on your mobile or tablet using the same WiFi  
4 network as your desktop app. 4. Select [on the mobile device] the playlist containing  
5 the local files.”). Local files already present on both the mobile device and the desktop  
6 computer can be played and remain so when the “Download Songs” switch is in the  
7 “Off” position.

8 89. The Accused Instrumentalities further include circuitry configured to  
9 “control transfer to the predetermined external reproduction apparatus of the musical  
10 content data that is in the program list and is not in the second list of musical content  
11 data based on the result of the comparison such that transfer of the identified piece of  
12 musical content data common to the program list and the second list is omitted.” For  
13 example, after determining which Local Files have already been downloaded to the  
14 mobile device, the Spotify app will download only those Local Files from the desktop  
15 computer that are not present in the mobile device. *See, e.g.*, “Local Files” (“2. Add the  
16 files to a playlist. 3. Log in on your mobile or tablet using the same WiFi network as  
17 your desktop app. 4. Select the playlist containing the local files. 5. Switch on  
18 download.”).

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

24 91. Defendants’ affirmative acts of making, using, selling, offering for sale,  
25 and/or importing the Accused Instrumentalities have induced and continue to induce  
26 users of the Accused Instrumentalities to use the Accused Instrumentalities in their  
27 normal and customary way to infringe the claims of the ’614 Patent. Use of the Accused  
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1 Instrumentalities in their ordinary and customary fashion results in infringement of the  
2 claims of the '614 Patent.

3 92. For example, Defendants explain to customers the benefits of using the  
4 Accused Instrumentalities, such as by touting their advantages of allowing users to use  
5 the Spotify app to play music files stored on the users' desktop computer. Defendants  
6 also induce their customers to use the Accused Instrumentalities to infringe other claims  
7 of the '614 Patent. Defendants specifically intended and was aware that the normal and  
8 customary use of the Accused Instrumentalities on compatible systems would infringe  
9 the '614 Patent. Defendants performed the acts that constitute induced infringement,  
10 and would induce actual infringement, with the knowledge of the '614 Patent and with  
11 the knowledge, or willful blindness to the probability, that the induced acts would  
12 constitute infringement. On information and belief, Defendants engaged in such  
13 inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through their  
14 user manuals, product support, marketing materials, demonstrations, installation  
15 support, and training materials to actively induce the users of the accused products to  
16 infringe the '614 Patent. Accordingly, Defendants have induced and continue to induce  
17 end users of the accused products to use the accused products in their ordinary and  
18 customary way with compatible systems to make and/or use systems infringing the '614  
19 Patent, knowing that such use of the Accused Instrumentalities with compatible systems  
20 will result in infringement of the '614 Patent. Accordingly, Defendants have been (since  
21 at least as of filing of the original complaint), and currently are, inducing infringement  
22 of the '614 Patent, in violation of 35 U.S.C. § 271(b).

23 93. Defendants have also infringed, and continue to infringe, claims of  
24 the '614 Patent by offering to commercially distribute, commercially distributing,  
25 making, and/or importing the Accused Instrumentalities, which are used in practicing  
26 the process, or using the systems, of the '614 Patent, and constitute a material part of  
27 the invention. Defendants know the components in the Accused Instrumentalities to be  
28 especially made or especially adapted for use in infringement of the '614 Patent, not a



1 staple article, and not a commodity of commerce suitable for substantial noninfringing  
2 use. For example, the ordinary way of using the Accused Instrumentalities infringes the  
3 patent claims, and as such, is especially adapted for use in infringement. Accordingly,  
4 Defendants have been, and currently are, contributorily infringing the '614 Patent, in  
5 violation of 35 U.S.C. § 271(c).

6 94. For similar reasons, Defendants also infringe the '614 Patent by supplying  
7 or causing to be supplied in or from the United States all or a substantial portion of the  
8 components of the Accused Instrumentalities, where such components are uncombined  
9 in whole or in part, in such manner as to actively induce the combination of such  
10 components outside of the United States in a manner that would infringe the '614 Patent  
11 if such combination occurred within the United States. For example, Defendants supply  
12 or cause to be supplied in or from the United States all or a substantial portion of the  
13 software (e.g., the Spotify app) components of the Accused Instrumentalities in such a  
14 manner as to actively induce the combination of such components (e.g., by instructing  
15 users to use multiple devices, each with the Spotify app installed, to share files stored  
16 on distinct devices) outside of the United States.

17 95. Defendants also indirectly infringe the '614 Patent by supplying or causing  
18 to be supplied in or from the United States components of the Accused Instrumentalities  
19 that are especially made or especially adapted for use in infringing the '614 Patent and  
20 are not a staple article or commodity of commerce suitable for substantial non-  
21 infringing use, and where such components are uncombined in whole or in part,  
22 knowing that such components are so made or adapted and intending that such  
23 components are combined outside of the United States in a manner that would infringe  
24 the '614 Patent if such combination occurred within the United States. Because the  
25 Accused Instrumentalities are designed to operate as the claimed system and apparatus,  
26 the Accused Instrumentalities have no substantial non-infringing uses, and any other  
27 uses would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or  
28 experimental. For example, Defendants supply or cause to be supplied in or from the

1 United States all or a substantial portion of the software (e.g., the Spotify Premium app)  
2 components that are especially made or especially adapted for use in the Accused  
3 Instrumentalities, where such hardware and software components are not staple articles  
4 or commodities of commerce suitable for substantial noninfringing use, knowing that  
5 such components are so made or adapted and intending that such components are  
6 combined outside of the United States, as evidenced by Defendants' own actions or  
7 instructions to users in, e.g., combining multiple devices with the Spotify app installed,  
8 into infringing systems, and enabling and configuring the infringing functionalities of  
9 the Accused Instrumentalities.

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

15 **PRAYER FOR RELIEF**

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

17 a. A judgment in favor of Plaintiff that Defendants have infringed, either  
18 literally and/or under the doctrine of equivalents, the '929 Patent, the '537 Patent, the  
19 '614 Patent, and the '112 Patent (collectively, "asserted patents");

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

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

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

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

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

6 **DEMAND FOR JURY TRIAL**

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

9  
10 Respectfully Submitted,

11 Dated: March 25, 2019

12 /s/ Reza Mirzaie  
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