

1 RUSS, AUGUST & KABAT
 2 Marc A. Fenster, SBN 181067
 Email: mfenster@raklaw.com
 3 Reza Mirzaie (CA SBN 246953)
 4 Email: rmirzaie@raklaw.com
 Brian D. Ledahl (CA SBN 186579)
 5 Email: bledahl@raklaw.com
 6 Paul Kroeger (CA SBN 229074)
 Email: pkroeger@raklaw.com
 7 C. Jay Chung (CA SBN 252794)
 8 Email: jchung@raklaw.com
 Philip X. Wang (CA SBN 262239)
 9 Email: pwang@raklaw.com
 10 12424 Wilshire Boulevard, 12th Floor
 Los Angeles, California 90025
 11 Telephone: (310) 826-7474
 12 Facsimile: (310) 826-6991

13 *Attorneys for Plaintiff*
 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 PANDORA MEDIA, INC.,
 23
 24 Defendant.

Case No. 2:18-cv-10656-PSG-AS

**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 defendant Pandora
 28 Media, Inc. (“Defendant,” or “Pandora”):

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

JURISDICTION AND VENUE

3. 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).

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

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

1 3000 Ocean Park Blvd #3050, Santa Monica, CA 90405, where it employs sales and
2 client services personnel.

3 **COUNT I**

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

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

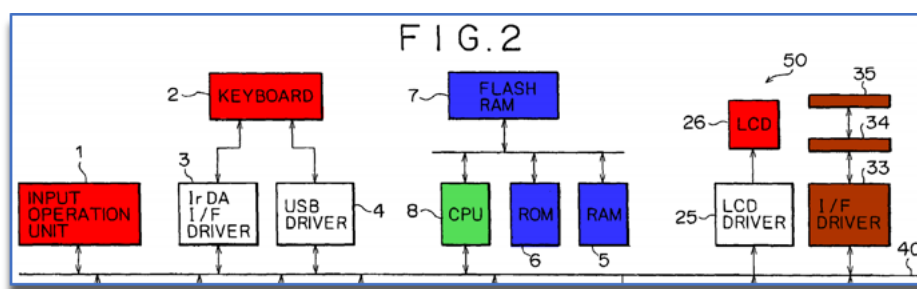
7 7. Data Scape is the owner by assignment of United States Patent No.
8 7,720,929 (“the ’929 Patent”), entitled “Communication System And Its Method and
9 Communication Apparatus And Its Method.” The ’929 Patent was duly and legally
10 issued by the United States Patent and Trademark Office on May 18,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

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

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

24 10. As the ’929 Patent states, the inventor, the inventor, Akihiro Morohashi,
25 working at Sony Corporation, aimed to solve the problems skilled artisans in 1999 faced
26 trying to selectively transfer digital data between two electronic apparatuses. *E.g.*, ’929
27 Patent, Col 2:1-39. For example, many used optical disks to accomplish this process,
28 but that was “cumbersome” and did not enable easy or random selection of files to

1 transfer. *Id.* at 10-29. And when others burned digital files into hard disk drives or
 2 semiconductor memory, those systems still required a large amount of time to
 3 selectively transfer certain digital data between electronic apparatuses. *Id.* And in any
 4 case, there was no reasonable way to selectively synchronize select digital content data
 5 between the apparatuses. *Id.* These problems were specific to the technological process
 6 of selective digital-data transfer between electronic apparatuses. *Id.* at 1:27-2:22. And
 7 with 28 columns of text and 13 figures, including Figure 2 below, the inventors taught
 8 various technical solutions involving an unconventional server with a controller
 9 configured with circuitry to compare certain digital management information:



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

28

1 12. The '929 patent and its file history make clear that each included
2 independent-claim limitations were not in the prior art, let alone well-understood,
3 routine, and conventional. This includes the claimed [a] storage configured to store
4 management information, [b] communicator, [c] detector, [d] editor configured to
5 select certain data and to edit said management information based on said selection,
6 without regard to the connection, and [e] controller configured to [i] transfer the selected
7 data via said communicator based on said management information, [ii] compare said
8 management information with management information in said first storage
9 medium, and [iii] to transmit data based on the comparison. And the dependent claims
10 also include limitations that were not in the prior art, let alone well-understood, routine,
11 and conventional. *See, e.g.*, limitations of claims 2-9 of the '929 patent.

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

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

21 15. The Accused Instrumentalities include “[a] communication system
22 including a first apparatus having a first storage medium, and a second apparatus.” For
23 example, the Accused Instrumentalities communicate music files and playlists stored
24 on one device (e.g., web servers in the Pandora System) to another device (e.g., a user's
25 mobile device or tablet with the Pandora app installed). *See, e.g.*, “Pandora Premium
26 Will Change The Way You Listen to Music”, *available at*
27 [http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/)
28 [music/](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/) (“With Pandora Plus we introduced our predictive offline feature that

1 automatically downloads your top stations and switches you to one of them when you
2 lose a signal. We're bringing that feature to Pandora Premium, and adding the ability to
3 download any album, song or playlist you want with no limits."); "Offline Mode and
4 Downloads" *available at* [https://help.pandora.com/s/article/Offline-Mode-and-](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US)
5 [Downloads?language=en_US:](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US)

6 **For Pandora Plus Subscribers:**

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

11 **For Pandora Premium Subscribers:**

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

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

23 **Edit your playlist on the web**

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Download Music for Offline Mode

Pandora Plus Subscribers:

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

Pandora Premium Subscribers:

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

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

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

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

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

For Pandora Premium Subscribers:

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

18. The Accused Instrumentalities further include a second apparatus comprising “a detector configured to detect whether said first apparatus and a second apparatus are connected.” For example, the Pandora System includes a detector that determines whether the mobile device is connected to the Internet. *See, e.g., “Offline Mode and Downloads”:*

Download Music for Offline Mode

Pandora Plus Subscribers:

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

Pandora Premium Subscribers:

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

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

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

Automatic Offline Mode

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

Also, the Pandora System can determine whether a specific device is connected:

Someone else is listening to your Pandora account

Home > Account

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

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

How do I continue listening to my music?

How do I prevent this message from appearing?

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

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

How do I remove devices from my account?

How do I continue listening to my music?

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

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

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

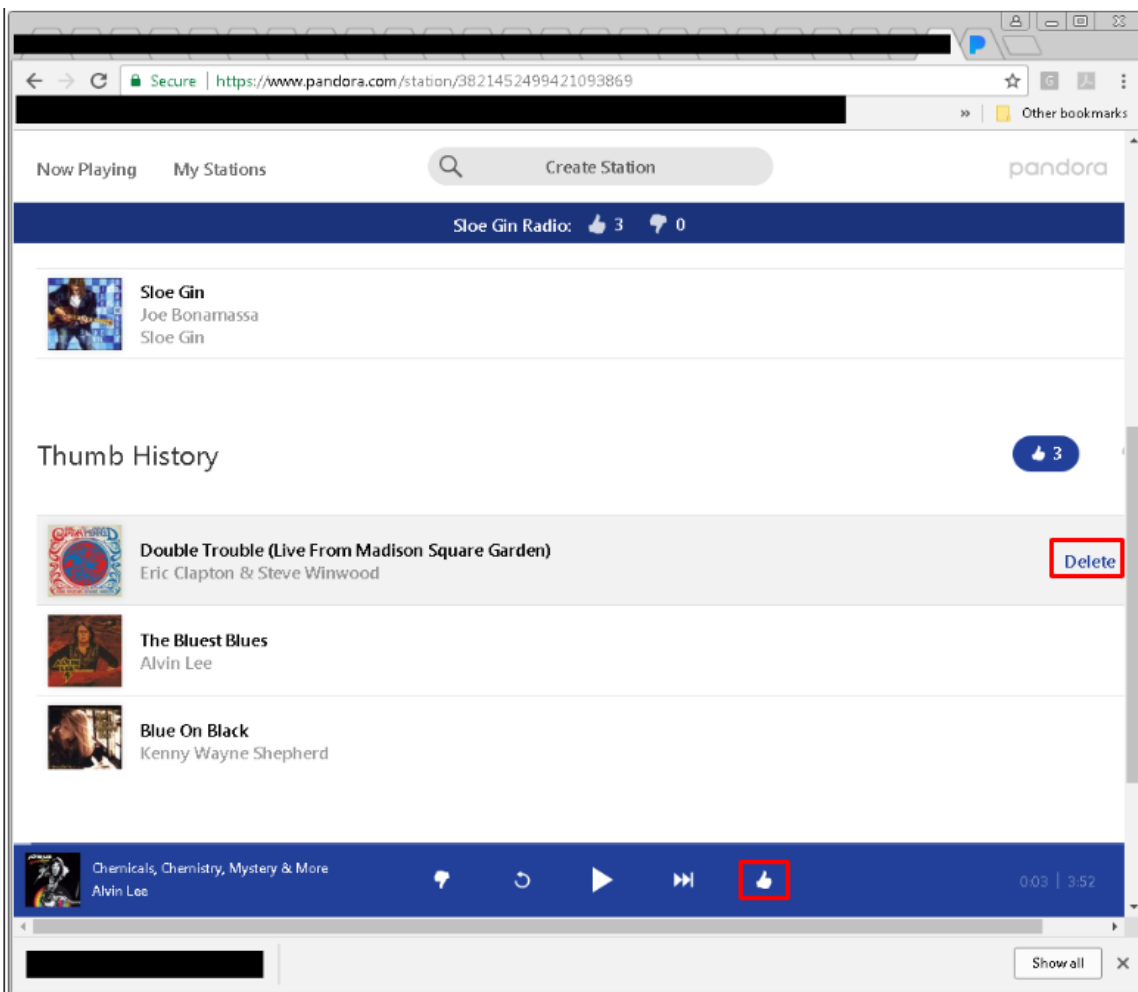
19. The Accused Instrumentalities further include a second apparatus comprising “an editor configured to select certain data to be transferred and to edit said management information based on said selection without regard to the connection of said first apparatus.” For example, the Pandora System allows items to be added to a

1 playlist by using the “Thumbs-up” icon on a song that is playing, and to delete songs
2 from a playlist, regardless of the mobile device or tablet is connected to the Pandora
3 Server. *See, e.g.*, “Playlists on Premium”:

4 Edit your playlist on the web

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

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



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

8 **Download Music for Offline Mode**

9 **Pandora Plus Subscribers:**

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

11 **Pandora Premium Subscribers:**

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

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

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

15
 16 **Automatic Offline Mode**

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

18
 19
 20 21. The Accused Instrumentalities further include a second apparatus
 21 “wherein said controller is configured to compare said management information edited
 22 by said editor with management information of data stored in said first storage medium
 23 and to transmit data in said second apparatus based on result of the comparison.” For
 24 example, the Pandora System will resume downloads that have already begun when a
 25 connection is lost, when the connection is later restored. *See, e.g.*, “Offline Mode and
 26 Downloads”:
 27
 28

Download Music for Offline Mode

Pandora Plus Subscribers:

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

Pandora Premium Subscribers:

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

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

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

Automatic Offline Mode

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

1
2
3
4
5
6
7
8
9
10
11
12
13 22. Defendant has had knowledge of the '929 Patent and its infringement since
14 at least the filing of the original Complaint in this action, or shortly thereafter, including
15 by way of this lawsuit. By the time of trial, Defendant will have known and intended
16 (since receiving such notice) that its continued actions would actively induce and
17 contribute to the infringement of the claims of the '929 Patent.

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

24 24. For example, Defendant explains to customers the benefits of using the
25 Accused Instrumentalities, such as by touting their advantages of allowing users to use
26 the Pandora app to download content from Pandora's library. Defendant also induces
27 its customers to use the Accused Instrumentalities to infringe other claims of the '929
28 Patent. Defendant specifically intended and was aware that the normal and customary

1 use of the Accused Instrumentalities on compatible systems would infringe the '929
2 Patent. Defendant performed the acts that constitute induced infringement, and would
3 induce actual infringement, with the knowledge of the '929 Patent and with the
4 knowledge, or willful blindness to the probability, that the induced acts would constitute
5 infringement. On information and belief, Defendant engaged in such inducement to
6 promote the sales of the Accused Instrumentalities, *e.g.*, through its user manuals,
7 product support, marketing materials, demonstrations, installation support, and training
8 materials to actively induce the users of the accused products to infringe the '929 Patent.
9 Accordingly, Defendant has induced and continues to induce end users of the accused
10 products to use the accused products in their ordinary and customary way with
11 compatible systems to make and/or use systems infringing the '929 Patent, knowing
12 that such use of the Accused Instrumentalities with compatible systems will result in
13 infringement of the '929 Patent. Accordingly, Defendant has been (since at least as of
14 filing of the original complaint), and currently is, inducing infringement of the '929
15 Patent, in violation of 35 U.S.C. § 271(b).

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

27 26. As a result of Defendant's infringement of the '929 Patent, Plaintiff Data
28 Scape is entitled to monetary damages in an amount adequate to compensate for

1 Defendant's infringement, but in no event less than a reasonable royalty for the use
2 made of the invention by Defendant, together with interest and costs as fixed by the
3 Court.

4 COUNT II

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

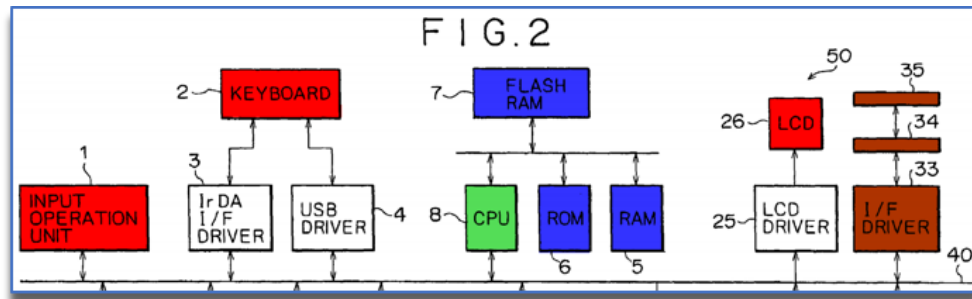
6 27. Plaintiff realleges and incorporates by reference the foregoing paragraphs,
7 as if fully set forth herein.

8 28. Data Scape is the owner by assignment of United States Patent No.
9 7,617,537 ("the '537 Patent"), entitled "Communication System And Its Method and
10 Communication Apparatus And Its Method." The '537 Patent was duly and legally
11 issued by the United States Patent and Trademark Office on May 18, 2010. A true and
12 correct copy of the '537 Patent is included as Exhibit B.

13 29. In their most basic form, and ignoring many claim limitations, the claims
14 of the '537 Patent are directed to a data synchronization system configured to compare
15 identifiers in first and second apparatuses and thereby selectively delete and transfer
16 certain digital content data across the two apparatuses. The claims are not directed to
17 abstract ideas. The claims provide technical solutions to technical problems, and, thus,
18 are patent-eligible.

19 30. As the '537 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.*, '537 Patent, Col 2:1-
22 39. 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 2:10-29. 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 1:27-2:22. And with 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 31. Enabled by these teachings, the patents recite in their 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 digital “identifiers” to compare, edit, delete and
 14 selectively transfer separate digital content data between two apparatuses. *See,*
 15 *e.g.*, ’537 Patent, Claim 15 (“[a] communication apparatus configured to transfer
 16 content data to a portable apparatus comprising ... [b] a storing unit ... [c] a processor
 17 configured to ... [i] judge whether said portable apparatus and said communication
 18 apparatus are connected; [ii] compare . . . an identifier of said portable apparatus with
 19 an identifier stored in said communication apparatus; [iii] compare . . . a first list of
 20 content data of said portable apparatus and a second list of content data in said
 21 communication apparatus; [iv] transfer content data, from the communication apparatus
 22 to the portable apparatus, which is registered in said second list and not registered in
 23 said first list; and [v] delete second content data, from the portable apparatus, which is
 24 registered in said first list and is not registered in said second list.”).

25 32. The ’537 patent and its file history make clear that each included
 26 independent-claim limitations were not in the prior art, let alone well-understood,
 27 routine, and conventional. This includes the claimed communication apparatus
 28 configured to (1) compare an identifier of a portable apparatus with an identifier stored

1 therein; (2) compare a first list of content data stored in the portable apparatus with a
2 second list of content data in the communication apparatus; (3) transfer content data
3 which is registered in the second list and not the first list; and (4) delete second content
4 data which is registered in the first list and not in the second list. And the dependent
5 claims also include limitations that were not in the prior art, let alone well-understood,
6 routine, and conventional. *See, e.g.*, limitations of claims 16, 17, 18, and 19 of the '537
7 patent.

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

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

19 35. For example, the Accused Instrumentalities, including Pandora Premium,
20 infringe Claim 1 of the '537 Patent. One non-limiting example of the Accused
21 Instrumentalities' infringement is presented below.

22 36. The Accused Instrumentalities perform a communication method to
23 transfer content data to a first apparatus from a second apparatus. For example, the
24 Accused Instrumentalities communicate music files and playlists stored on one device
25 (*e.g.*, web servers in the Pandora System) to another device (*e.g.*, a user's mobile device
26 or tablet with the Pandora app installed). *See, e.g.*, "Pandora Premium Will Change
27 The Way You Listen to Music", available at [http://blog.pandora.com/us/pandora-](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/)
28 [premium-will-change-the-way-you-listen-to-music/](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/) ("With Pandora Plus we

1 introduced our predictive offline feature that automatically downloads your top stations
2 and switches you to one of them when you lose a signal. We’re bringing that feature to
3 Pandora Premium, and adding the ability to download any album, song or playlist you
4 want with no limits.”); “Offline Mode and Downloads” *available at*
5 https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US:

6 **For Pandora Plus Subscribers:**

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

11 **For Pandora Premium Subscribers:**

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

14 37. The Accused Instrumentalities perform a communication method to
15 transfer content data from a first apparatus to a second apparatus further comprising
16 judging whether said first apparatus and said second apparatus are connected. For
17 example, the Pandora System can determine whether the server is connected to a mobile
18 device or tablet. *See, e.g.*, “Offline Mode and Downloads”:

19 **Download Music for Offline Mode**

20 **Pandora Plus Subscribers:**

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

24 **Pandora Premium Subscribers:**

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

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

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

Automatic Offline Mode

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

Download Music for Offline Mode

Pandora Plus Subscribers:

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

Pandora Premium Subscribers:

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

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

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

1
2
3
4
5
6
7
8
9 40. The Accused Instrumentalities perform a communication method to
10 transfer content data from a first apparatus to a second apparatus further comprising
11 transferring, from the second apparatus to the first apparatus, first content data, which
12 is registered in said second list and is not registered in said first list. For example, the
13 Pandora System will resume a download previously started when a connection with the
14 mobile device or tablet is lost and restored, and will not resend the same information.
15 *See, e.g., "Offline Mode and Downloads":*

Download Music for Offline Mode

Pandora Plus Subscribers:

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

Pandora Premium Subscribers:

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

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

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

16
17
18
19
20
21
22
23
24 41. The Accused Instrumentalities perform a communication method to
25 transfer content data from a first apparatus to a second apparatus further comprising
26 deleting, from the first apparatus, second content data, which registered in said first list
27 and is not registered in the second list. For instance, if a Playlist stored in Pandora
28

1 servers is edited to remove a song, the Playlist on the mobile device will have the same
2 song deleted.

3 Edit your playlist on the web

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

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

10 Download your Playlist

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

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

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

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

17 [https://help.pandora.com/s/article/Playlists-on-](https://help.pandora.com/s/article/Playlists-on-Premium1519949304429?language=en_US#download)
18 [Premium1519949304429?language=en_US#download](https://help.pandora.com/s/article/Playlists-on-Premium1519949304429?language=en_US#download)

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

24 43. Defendant's 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 '537 Patent. Use of the Accused
28 Instrumentalities in their ordinary and customary fashion results in infringement of the
claims of the '537 Patent.

1 44. For example, Defendant explains to customers the benefits of using the
2 Accused Instrumentalities, such as by touting their advantages of allowing users to use
3 the Pandora app to play music files and store music files and playlists on the users'
4 devices. Defendant also induces its customers to use the Accused Instrumentalities to
5 infringe other claims of the '537 Patent. Defendant specifically intended and was aware
6 that the normal and customary use of the Accused Instrumentalities on compatible
7 systems would infringe the '537 Patent. Defendant performed the acts that constitute
8 induced infringement, and would induce actual infringement, with the knowledge of
9 the '537 Patent and with the knowledge, or willful blindness to the probability, that the
10 induced acts would constitute infringement. On information and belief, Defendant
11 engaged in such inducement to promote the sales of the Accused Instrumentalities, *e.g.*,
12 through its user manuals, product support, marketing materials, demonstrations,
13 installation support, and training materials to actively induce the users of the accused
14 products to infringe the '537 Patent. Accordingly, Defendant has induced and continues
15 to induce end users of the accused products to use the accused products in their ordinary
16 and customary way with compatible systems to make and/or use systems infringing
17 the '537 Patent, knowing that such use of the Accused Instrumentalities with compatible
18 systems will result in infringement of the '537 Patent. Accordingly, Defendant has been
19 (since at least as of filing of the original complaint), and currently is, inducing
20 infringement of the '537 Patent, in violation of 35 U.S.C. § 271(b).

21 45. Defendant has also infringed, and continues to infringe, claims of the '537
22 Patent by offering to commercially distribute, commercially distributing, making,
23 and/or importing the Accused Instrumentalities, which are used in practicing the
24 process, or using the systems, of the '537 Patent, and constitute a material part of the
25 invention. Defendant knows the components in the Accused Instrumentalities to be
26 especially made or especially adapted for use in infringement of the '537 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 Defendant has been, and currently is, contributorily infringing the '537 Patent, in
3 violation of 35 U.S.C. § 271(c).

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

9 COUNT III

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

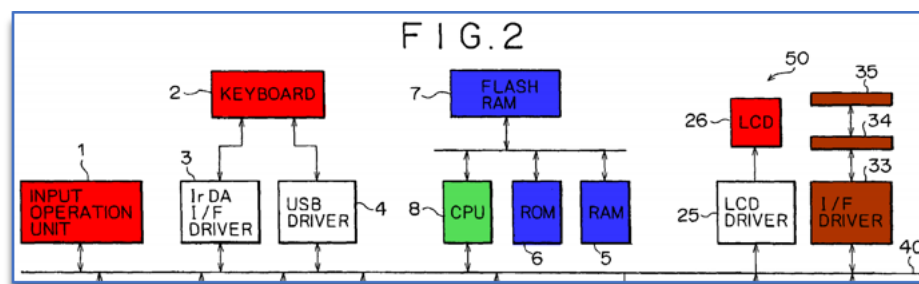
11 47. Plaintiff realleges and incorporates by reference the foregoing paragraphs,
12 as if fully set forth herein.

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

18 49. In their most basic form, and ignoring many claim limitations, the claims
19 of the '112 Patent are directed to a data synchronization apparatus configured to
20 recognize an identifier of a portable device and a list of digital musical content stored
21 therein, and selectively transfer only edited portions of the musical content to the
22 portable device and assure the content is played back as a collection. The claims are not
23 directed to abstract ideas. The claims provide technical solutions to technical problems,
24 and, thus, are patent-eligible.

25 50. As the '112 Patent states, the inventor, Akihiro Morohashi, working at
26 Sony Corporation, aimed to solve the problems skilled artisans in 1999 faced trying to
27 selectively transfer data between two electronic apparatuses. *E.g.*, '112 Patent, Col
28 2:16-54. For example, many used optical disks to accomplish this process, but that was

1 “cumbersome” and did not enable easy or random selection of files to transfer. *Id.* at
 2 2:25-37. And when others burned digital files into hard disk drives or semiconductor
 3 memory, those systems still required a large amount of time to selectively transfer
 4 certain digital data between electronic apparatuses. *Id.* And in any case, there was no
 5 reasonable way to selectively synchronize select digital content data between the
 6 apparatuses. *Id.* These problems were specific to the technological process of selective
 7 digital-data transfer between electronic apparatuses. *Id.* at 1:42-2:37. And with over 28
 8 columns of text and 13 figures, including Figure 2 below, the inventor taught various
 9 technical solutions involving an unconventional server with a controller configured with
 10 circuitry to compare certain digital management information:



16 51. Enabled by these teachings, the patents recite in their claims various
 17 technical solutions to the existing technological problems and shortcomings. For
 18 example, various claims require the then-unconventional system of electronic
 19 components configured to use a digital “identifier” to compare, edit and selectively
 20 transfer separate lists of digital musical content data between two apparatuses. See,
 21 e.g., ’112 Patent, Claim 1 (“[a] communication apparatus configured to transfer data to
 22 a portable apparatus . . . comprising . . . [b] a memory configured to store a first list of
 23 musical content data; . . . [c] circuitry configured to . . . [i] edit the first list of musical
 24 content data . . . [ii] compare the edited first list of musical content data a list of musical
 25 content data stored in the portable apparatus; [iii] control transfer of selected musical
 26 content data stored in the communication apparatus to the portable apparatus . . . based
 27 on the result of the comparison . . . ; and [iv] control playback of musical content data
 28 based on the edited first list of musical content data so that . . . [the] musical content

1 data is played back as a collection, the edited first list of musical content data being
2 associated with an identifier stored in the communication apparatus that uniquely
3 identifies the portable apparatus.”).

4 52. The ‘112 patent and its file history make clear that each included
5 independent-claim limitations were not in the prior art, let alone well-understood,
6 routine, and conventional. This includes the claimed communication apparatus
7 configured to transfer data to a portable apparatus comprising (1) a memory configured
8 to store a first list of musical content data and (2) circuitry configured to (a) edit the
9 first list of musical content data, (b) compare the edited first list of musical content data
10 a list of musical content data stored in the portable apparatus, (c) control transfer of
11 selected musical content data stored in the communication apparatus to the portable
12 apparatus based on the result of the comparison, and (d) control playback of musical
13 content data based on the edited first list of musical content data so that the musical
14 content data is played back as a collection, the edited first list of musical content data
15 being associated with an identifier stored in the communication apparatus that uniquely
16 identifies the portable apparatus. And the dependent claims also include limitations that
17 were not in the prior art, let alone well-understood, routine, and conventional. *See, e.g.*,
18 limitations of claims 2, 3, 4, 5, 6, 7, and 8 of the ’112 patent.

19 53. Defendant has offered for sale, sold and/or imported into the United States
20 products and services that infringe the ’112 patent, and continues to do so. By way of
21 illustrative example, these infringing products and services include, without limitation,
22 Defendant’s products and services, *e.g.*, the Pandora System, and all versions and
23 variations thereof since the issuance of the ’112 Patent (“Accused Instrumentalities”).

24 54. The Accused Instrumentalities includes “[a] communication apparatus
25 configured to transfer data to a portable apparatus.” For example, the Accused
26 Instrumentalities communicate music files and playlists stored on servers in the Pandora
27 System to a mobile device or tablet with the Pandora app installed. *See, e.g.*, “Pandora
28 Premium Will Change The Way You Listen to Music”, *available at*

1 [http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/)
 2 [music/](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/) (“With Pandora Plus we introduced our predictive offline feature that
 3 automatically downloads your top stations and switches you to one of them when you
 4 lose a signal. We’re bringing that feature to Pandora Premium, and adding the ability to
 5 download any album, song or playlist you want with no limits.”); “Offline Mode and
 6 Downloads” *available at* [https://help.pandora.com/s/article/Offline-Mode-and-](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US)
 7 [Downloads?language=en_US:](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US)

8 **For Pandora Plus Subscribers:**

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

13 **For Pandora Premium Subscribers:**

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

16 55. The Accused Instrumentalities include a communication apparatus
 17 comprising “a memory configured to store a first list of musical content data.” For
 18 example, the Pandora System, stores a user’s playlists, albums, and stations, which can
 19 be transferred to a mobile device or tablet with the Pandora App installed. *See, e.g.,*
 20 “Playlists on Premium” *available at* [https://help.pandora.com/s/article/Playlists-on-](https://help.pandora.com/s/article/Playlists-on-Premium-1519949304429?language=en_US#editweb)
 21 [Premium-1519949304429?language=en_US#editweb.](https://help.pandora.com/s/article/Playlists-on-Premium-1519949304429?language=en_US#editweb)

22 **Edit your playlist on the web**

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Download Music for Offline Mode

Pandora Plus Subscribers:

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

Pandora Premium Subscribers:

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

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

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

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

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

Download Music for Offline Mode

Pandora Plus Subscribers:

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

Pandora Premium Subscribers:

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

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

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

Automatic Offline Mode

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

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

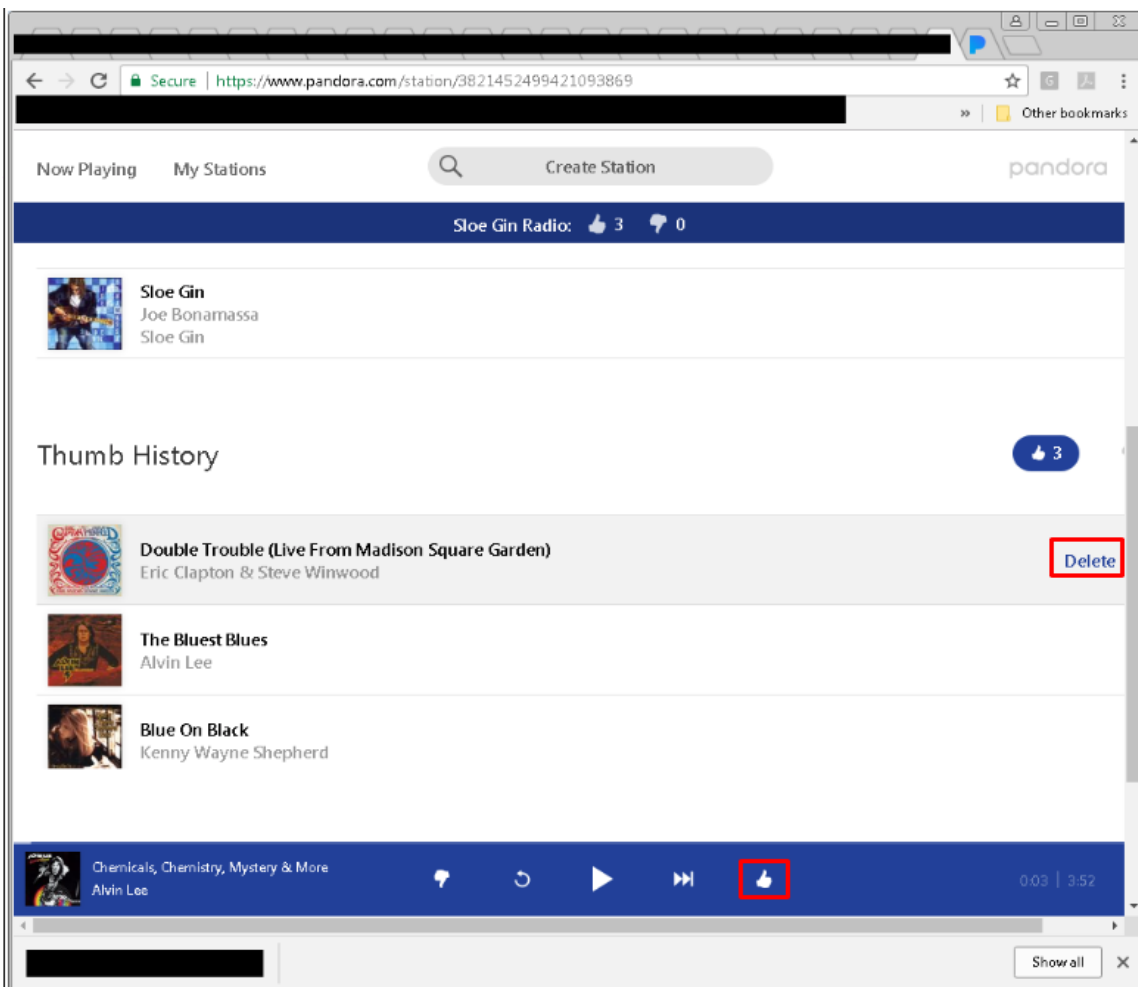
57. The Accused Instrumentalities further include circuitry configured to “edit the first list of musical content based on input from a user without regard to the connection of the communication apparatus and the portable apparatus.” For example,

1 the Pandora System allows items to be added to a playlist by using the “Thumbs-up”
 2 icon on a song that is playing, and to delete songs from a playlist, regardless of whether
 3 the mobile device or tablet is connected to the Pandora Server. *See, e.g.*, “Playlists on
 4 Premium”:

5 **Edit your playlist on the web**

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

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



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

5 **Edit your playlist on the web**

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

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

12 **Download your Playlist**

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

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

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

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

17
 18 [https://help.pandora.com/s/article/Playlists-on-](https://help.pandora.com/s/article/Playlists-on-Premium1519949304429?language=en_US#download)
 19 [Premium1519949304429?language=en_US#download](https://help.pandora.com/s/article/Playlists-on-Premium1519949304429?language=en_US#download)

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

1 **Edit your playlist on the web**

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

- 3
- 4 • **To remove songs from your playlist**, scroll down and press the circled (X) to the left of the songs you would like to remove or swipe the track name from right to left. (Deleting songs from your custom playlists will not remove the original Thumb rating from your stations).
 - 5 • **To adjust the order of your playlist**, hold and drag the list icon on the right of the track title to the desired position.
 - 6 • **To rename your playlist**, tap the current name then enter whatever you'd like to call it.
 - 7 • Tap the **Add Similar Songs** button located at the bottom of your playlist if you need some assistance with building your playlist. Pandora will add songs that match the musical qualities of the tracks already in your playlist. You can re-order songs we've added or delete any unwanted songs.
-

8 **Download your Playlist**

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

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

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

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

13 [https://help.pandora.com/s/article/Playlists-on-](https://help.pandora.com/s/article/Playlists-on-Premium1519949304429?language=en_US#download)
14 [Premium1519949304429?language=en_US#download.](https://help.pandora.com/s/article/Playlists-on-Premium1519949304429?language=en_US#download)

15 60. The Accused Instrumentalities further include circuitry configured to
16 “control playback of musical content data based on the edited first list of musical
17 content data so that the musical content data referenced in the edited first list of musical
18 content data is played back as a collection, the edited first list of musical content data
19 being associated with an identifier stored in the communication apparatus that uniquely
20 identifies the portable apparatus.” For example, the Pandora System can uniquely
21 identify the user account and the device on which the playlists are stored:
22
23
24
25
26
27
28

Someone else is listening to your Pandora account

Home > Account

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

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

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

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

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

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

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

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

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

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

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

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

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

63. For example, Defendant explains to customers the benefits of using the Accused Instrumentalities, such as by touting their advantages of allowing users to use the Pandora app to play music files and store music files and playlists on users' devices. Defendant also induces its customers to use the Accused Instrumentalities to infringe other claims of the '112 Patent. Defendant specifically intended and was aware that the normal and customary use of the Accused Instrumentalities on compatible systems

1 would infringe the '112 Patent. Defendant performed the acts that constitute induced
2 infringement, and would induce actual infringement, with the knowledge of the '112
3 Patent and with the knowledge, or willful blindness to the probability, that the induced
4 acts would constitute infringement. On information and belief, Defendant engaged in
5 such inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through its
6 user manuals, product support, marketing materials, demonstrations, installation
7 support, and training materials to actively induce the users of the accused products to
8 infringe the '112 Patent. Accordingly, Defendant has induced and continues to induce
9 end users of the accused products to use the accused products in their ordinary and
10 customary way with compatible systems to make and/or use systems infringing the '112
11 Patent, knowing that such use of the Accused Instrumentalities with compatible systems
12 will result in infringement of the '112 Patent. Accordingly, Defendant has been (since
13 at least as of filing of the original complaint), and currently is, inducing infringement
14 of the '112 Patent, in violation of 35 U.S.C. § 271(b).

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

26
27
28

1 **COUNT IV**

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

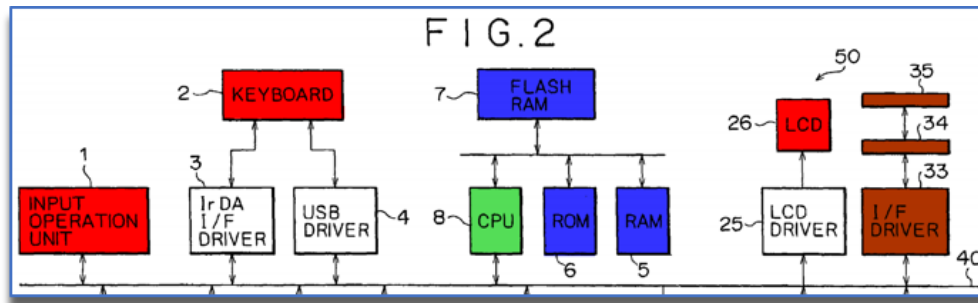
3 65. Plaintiff realleges and incorporates by reference the foregoing paragraphs,
4 as if fully set forth herein.

5 66. Data Scape is the owner by assignment of United States Patent No.
6 9,712,614 (“the ‘614 Patent”) entitled “Communication System And Its Method and
7 Communication Apparatus And Its Method.” The ‘614 Patent was duly and legally
8 issued by the United States Patent and Trademark Office on July 18, 2017. A true and
9 correct copy of the ‘614 Patent is included as Exhibit D.

10 67. In their most basic form, and ignoring many claim limitations, the claims
11 of the ‘614 Patent are directed to a data synchronization apparatus configured to
12 recognize an identifier of a portable device and a list of digital musical content stored
13 therein, and selectively transfer to the portable device only musical content found in the
14 communication apparatus and not in the portable device and assure the content is played
15 back as a collection. The claims are not directed to abstract ideas. The claims provide
16 technical solutions to technical problems, and, thus, are patent-eligible.

17 68. As the ‘614 Patent states, the inventor, Akihiro Morohashi, working at
18 Sony Corporation, aimed to solve the problems skilled artisans in 1999 faced trying to
19 selectively transfer data between two electronic apparatuses. *E.g.*, ‘614 Patent, Col
20 2:16-54. For example, many used optical disks to accomplish this process, but that was
21 “cumbersome” and did not enable easy or random selection of files to transfer. *Id.* at
22 2:25-37. And when others burned digital files into hard disk drives or semiconductor
23 memory, those systems still required a large amount of time to selectively transfer
24 certain digital data between electronic apparatuses. *Id.* And in any case, there was no
25 reasonable way to selectively synchronize select digital content data between the
26 apparatuses. *Id.* These problems were specific to the technological process of selective
27 digital-data transfer between electronic apparatuses. *Id.* at 1:42-2:37. And with over 28
28 columns of text and 13 figures, including Figure 2 below, the inventor taught various

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



9 69. Enabled by these teachings, the patents recite in their claims various
 10 technical solutions to the existing technological problems and shortcomings. For
 11 example, various claims require the then-unconventional system of electronic
 12 components configured to use a digital “identifier” to compare, edit and selectively
 13 transfer separate lists of digital musical content data between two apparatuses. See,
 14 e.g., ’614 Patent, Claim 1 (“[a] communication apparatus comprising . . . [a] a memory
 15 configured to store musical content data and a plurality of lists associated with the
 16 musical content data; [b] a data interface configured to interface with an external
 17 reproduction apparatus; [c] circuitry configured to [i] control playback of musical
 18 content data based on a program list so that the musical content data referenced in the
 19 program list is played back as collection, the program list being associated with a
 20 predetermined identified; . . . [ii] accept edits to the program list; [iii] determine whether
 21 an identifier received by the circuitry via the data interface is the predetermined
 22 identifier; [iv] control transfer of the musical content data to the predetermined external
 23 reproduction apparatus . . . based on the program list; [v] compare the program list with
 24 a second list of musical content data stored in the predetermined external reproduction
 25 apparatus; [vi] identify a piece of musical content data common to the program list and
 26 the second list based on the result of the comparison; and [vi] control transfer to the
 27 predetermined external reproduction apparatus of the musical content data . . . such that
 28 transfer of the identified piece of musical content data common to the program list and
 the second list is omitted”).

1 70. The '614 patent and its file history make clear that each included
2 independent-claim limitations were not in the prior art, let alone well-understood,
3 routine, and conventional. This includes the communication apparatus comprising (1)
4 a memory configured to store musical content data and a plurality of lists associated
5 with the musical content data; (2) a data interface configured to interface with an
6 external reproduction apparatus; (3) circuitry configured to [i] control playback of
7 musical content data based on a program list so that the musical content data referenced
8 in the program list is played back as collection, the program list being associated with
9 a predetermined identified; [ii] accept edits to the program list; [iii] determine whether
10 an identifier received by the circuitry via the data interface is the predetermined
11 identifier; [iv] control transfer of the musical content data to the predetermined external
12 reproduction apparatus based on the program list; [v] compare the program list with a
13 second list of musical content data stored in the predetermined external reproduction
14 apparatus; [vi] identify a piece of musical content data common to the program list and
15 the second list based on the result of the comparison; and [vi] control transfer to the
16 predetermined external reproduction apparatus of the musical content data such that
17 transfer of the identified piece of musical content data common to the program list and
18 the second list is omitted. And the dependent claims also include limitations that were
19 not in the prior art, let alone well-understood, routine, and conventional. *See, e.g.,*
20 limitations of claims 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 of the '614 patent.

21 71. Defendant has offered for sale, sold and/or imported into the United States
22 products and services that infringe the '614 patent, and continues to do so. By way of
23 illustrative example, these infringing products and services include, without limitation,
24 Defendant's products and services, *e.g.,* the Pandora System, and all versions and
25 variations thereof since the issuance of the '614 Patent ("Accused Instrumentalities").

26 72. The Accused Instrumentalities includes "[a] communication apparatus."
27 For example, the Accused Instrumentalities communicate music files and playlists
28 stored on one device (*e.g.,* web servers in the Pandora System) to another device (*e.g.,*

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

10 **For Pandora Plus Subscribers:**

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

15 **For Pandora Premium Subscribers:**

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

18 73. 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 mobile device
21 or tablet with the Pandora App installed, as well as the Pandora Server, contains
22 memory that will store musical files as individual files, station, albums or as playlists:
23 *See, e.g.*, “Pandora Premium Will Change The Way You Listen to Music”, *available at*
24 [http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/)
25 [music/](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/) (“With Pandora Plus we introduced our predictive offline feature that
26 automatically downloads your top stations and switches you to one of them when you
27 lose a signal. We’re bringing that feature to Pandora Premium, and adding the ability to
28 download any album, song or playlist you want with no limits.”); “Offline Mode and
Downloads” *available at* [https://help.pandora.com/s/article/Offline-Mode-and-](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US)
[Downloads?language=en_US:](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US)

For Pandora Plus Subscribers:

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

For Pandora Premium Subscribers:

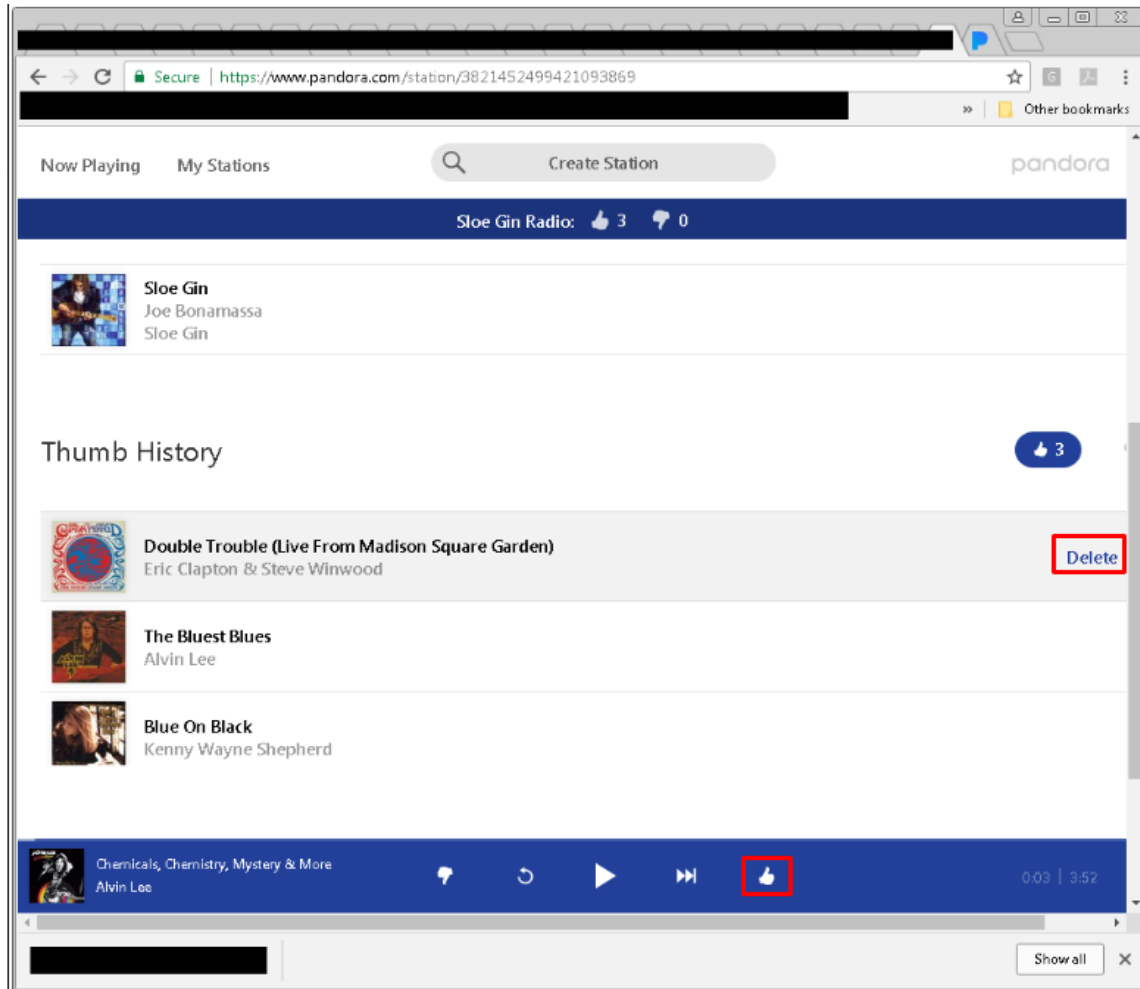
Pandora Premium subscribers have the ability to download many songs, albums, stations, or playlists from Pandora's library to listen to offline and download them by using the instructions below.

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

Edit your playlist on the web

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

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



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

What are Playlists?

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

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

1 [https://help.pandora.com/s/article/Playlists-on-Premium-](https://help.pandora.com/s/article/Playlists-on-Premium-1519949304429?language=en_US#download)
2 [1519949304429?language=en_US#download](https://help.pandora.com/s/article/Playlists-on-Premium-1519949304429?language=en_US#download)

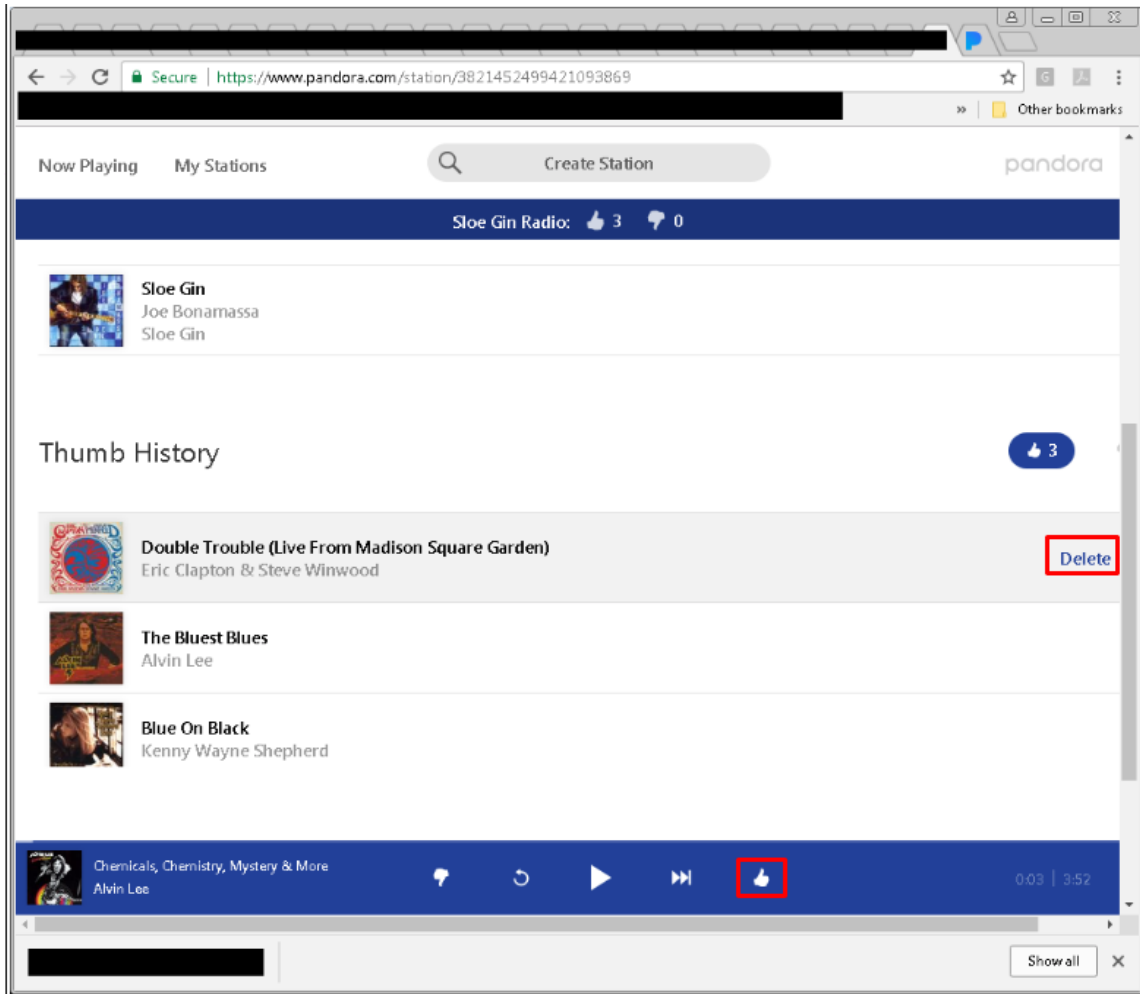
3 76. The Accused Instrumentalities further include a communication apparatus
4 comprising circuitry configured to “control presentation of the program list to a user via
5 user interface.” For example, the Pandora App includes a graphic user interface that will
6 show the Playlists that are available.

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

13 **Edit your playlist on the web**

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

- 15
- 16 • **To remove songs from your playlist**, scroll down and press the circled (X) to the left of the songs you would
like to remove or swipe the track name from right to left. (Deleting songs from your custom playlists will not
remove the original Thumb rating from your stations).
 - 17 • **To adjust the order of your playlist**, hold and drag the list icon on the right of the track title to the desired
position.
 - 18 • **To rename your playlist**, tap the current name then enter whatever you'd like to call it.
 - 19 • Tap the **Add Similar Songs** button located at the bottom of your playlist if you need some assistance with
building your playlist. Pandora will add songs that match the musical qualities of the tracks already in your
playlist. You can re-order songs we've added or delete any unwanted songs.
- 20
21
22
23
24
25
26
27
28



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

Someone else is listening to your Pandora account

Home > Account

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

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

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

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

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

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

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

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

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

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

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

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

Edit your playlist on the web

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

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

Download your Playlist

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

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

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

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

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

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

Edit your playlist on the web

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

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

Download your Playlist

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

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

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

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

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

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

6 Edit your playlist on the web

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

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

13 Download your Playlist

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

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

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

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

20 [https://help.pandora.com/s/article/Playlists-on-](https://help.pandora.com/s/article/Playlists-on-Premium1519949304429?language=en_US#download)
 21 [Premium1519949304429?language=en_US#download](https://help.pandora.com/s/article/Playlists-on-Premium1519949304429?language=en_US#download)

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

1 Edit your playlist on the web

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

- 3
- 4 • **To remove songs from your playlist**, scroll down and press the circled (X) to the left of the songs you would like to remove or swipe the track name from right to left. (Deleting songs from your custom playlists will not remove the original Thumb rating from your stations).
 - 5 • **To adjust the order of your playlist**, hold and drag the list icon on the right of the track title to the desired position.
 - 6 • **To rename your playlist**, tap the current name then enter whatever you'd like to call it.
 - 7 • Tap the **Add Similar Songs** button located at the bottom of your playlist if you need some assistance with building your playlist. Pandora will add songs that match the musical qualities of the tracks already in your playlist. You can re-order songs we've added or delete any unwanted songs.
-

8 Download your Playlist

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

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

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

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

13 [https://help.pandora.com/s/article/Playlists-on-](https://help.pandora.com/s/article/Playlists-on-Premium1519949304429?language=en_US#download)
 14 [Premium1519949304429?language=en_US#download](https://help.pandora.com/s/article/Playlists-on-Premium1519949304429?language=en_US#download)

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

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

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

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

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

1 **COUNT V**

2 **INFRINGEMENT OF U.S. PATENT NO. 10,027,751**

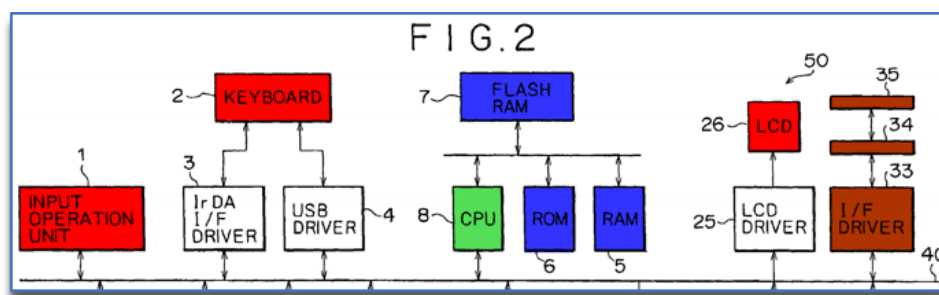
3 87. Plaintiff realleges and incorporates by reference the foregoing paragraphs,
4 as if fully set forth herein.

5 88. Data Scape is the owner by assignment of United States Patent No.
6 10,027,751 (“the ‘751 Patent”) entitled “Communication system and its method and
7 communication apparatus and its method.” The ‘751 Patent was duly and legally issued
8 by the United States Patent and Trademark Office on July 17, 2018. A true and correct
9 copy of the ‘751 Patent is included as Exhibit E.

10 89. In their most basic form, and ignoring many claim limitations, the claims
11 of the ‘751 Patent are directed to a data synchronization system with a controller
12 configured to selectively transmit certain digital data between first and second
13 apparatuses based on a comparison of edited management information stored in the
14 apparatuses as well as determination of the size of the data to be transferred. The claims
15 are not directed to abstract ideas. The claims provide technical solutions to technical
16 problems, and, thus, are patent-eligible.

17 90. As the ‘751 Patent states, the inventor, Akihiro Morohashi, working at
18 Sony Corporation, aimed to solve the problems skilled artisans in 1999 faced trying to
19 selectively transfer data between two electronic apparatuses. *E.g.*, ‘751 Patent, Col
20 2:20-59. For example, many used optical disks to accomplish this process, but that was
21 “cumbersome” and did not enable easy or random selection of files to transfer. *Id.* at
22 2:29-41. And when others burned digital files into hard disk drives or semiconductor
23 memory, those systems still required a large amount of time to selectively transfer
24 certain digital data between electronic apparatuses. *Id.* And in any case, there was no
25 reasonable way to selectively synchronize select digital content data between the
26 apparatuses. *Id.* These problems were specific to the technological process of selective
27 digital-data transfer between electronic apparatuses. *Id.* at 1:46-2:41. And with over 28
28 columns of text and 13 figures, including Figure 2 below, the inventor taught various

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



9 91. Enabled by these teachings, the patents recite in their claims various
10 technical solutions to the existing technological problems and shortcomings. For
11 example, various claims require the then-unconventional system of electronic
12 components configured to use digital “identifiers” to compare, edit, delete and
13 selectively transfer separate digital content data between two apparatuses. See,
14 e.g., ’751 Patent, Claim 1 (“[a] communication apparatus configured to transfer content
15 data to an apparatus . . . comprising . . . [b] a hardware storage medium configured to
16 store management information . . . [c] a communicator . . . [d] a detector . . . [e] a
17 controller configured to control transfer of the selected data . . . to the apparatus . . .
18 based on the management information . . . configured to . . . [i] compare the management
19 information edited by the editor with the management information of data stored in the
20 apparatus; [ii] determine a size of the selected data in the communication apparatus; and
21 [iii] transmit data . . . based on a result of the comparison and the determination”).

22 92. The ‘751 patent and its file history make clear that each included
23 independent-claim limitations were not in the prior art, let alone well-understood,
24 routine, and conventional. This includes the claimed communication apparatus
25 configured to transfer content data to an apparatus comprising: (a) a hardware storage
26 medium configured to store management information; (b) a communicator; (c) a
27 detector; (e) a controller configured to control transfer of the selected data to the
28 apparatus based on the management information configured to (i) compare the
management information edited by the editor with the management information of data

1 stored in the apparatus; (ii) determine a size of the selected data in the communication
2 apparatus; and (iii) transmit data based on a result of the comparison and the
3 determination. And the dependent claims also include limitations that were not in the
4 prior art, let alone well-understood, routine, and conventional. *See, e.g.*, limitations of
5 claims 2-14 of the '751 patent.

6 93. On information and belief, Pandora has offered for sale, sold and/or
7 imported into the United States Pandora products and services that infringe the '751
8 patent, and continues to do so. By way of illustrative example, these infringing products
9 and services include, without limitation, Defendant's products and services, *e.g.*, the
10 Pandora System, including Pandora Premium, and all versions and variations thereof
11 since the issuance of the '751 Patent ("Accused Instrumentalities").

12 94. On information and belief, Pandora has directly infringed and continues to
13 infringe the '751 Patent, for example, by making, selling, offering for sale, and/or
14 importing the Accused Instrumentalities, and through its own use and testing of the
15 Accused Instrumentalities, which constitute a communication apparatus of Claim 1 of
16 the '751 Patent configured to transmit data to an apparatus comprising: a hardware
17 storage medium configured to store management information of data to be transferred
18 to the apparatus; a communicator configured to communicate data with the apparatus;
19 a detector configured to detect whether the communication apparatus and the apparatus
20 are connected; an editor configured to select certain data to be transferred and to edit
21 the management information based on the selection without regard to the connection of
22 the communication apparatus and the apparatus; and a controller configured to control
23 transfer of the selected data stored in the communication apparatus to the apparatus via
24 the communicator based on the management information edited by the editor when the
25 detector detects that the communication apparatus and the apparatus are connected,
26 wherein the controller is configured to compare the management information edited by
27 the editor with management information of data stored in the apparatus, determine a
28 size of the selected data in the communication apparatus, and transmit data in the

1 communication apparatus based on result of the comparison and the determination.
2 Upon information and belief, Pandora uses the Accused Instrumentalities, which are
3 infringing systems, for its own internal non-testing business purposes, while testing the
4 Accused Instrumentalities, and while providing technical support and repair services
5 for the Accused Instrumentalities to Pandora's customers.

6 95. On information and belief, Pandora has had knowledge of the '751 Patent
7 since at least the filing of the original Complaint in this action, or shortly thereafter, and
8 on information and belief, Pandora knew of the '751 Patent and knew of its
9 infringement, including by way of this lawsuit. By the time of trial, Pandora will have
10 known and intended (since receiving such notice) that their continued actions would
11 actively induce and contribute to the infringement of the claims of the '751 Patent.

12 96. On information and belief, use of the Accused Instrumentalities in their
13 ordinary and customary fashion results in infringement of the claims of the '751 Patent.

14 97. Pandora's affirmative acts of making, using, selling, offering for sale,
15 and/or importing the Accused Instrumentalities have induced and continue to induce
16 users of the Accused Instrumentalities to use the Accused Instrumentalities in their
17 normal and customary way to infringe the claims of the '751 Patent, knowing that when
18 the Accused Instrumentalities are used in their ordinary and customary manner, such
19 systems constitute infringing communication systems comprising: a hardware storage
20 medium configured to store management information of data to be transferred to the
21 apparatus; a communicator configured to communicate data with the apparatus; a
22 detector configured to detect whether the communication apparatus and the apparatus
23 are connected; an editor configured to select certain data to be transferred and to edit
24 the management information based on the selection without regard to the connection of
25 the communication apparatus and the apparatus; and a controller configured to control
26 transfer of the selected data stored in the communication apparatus to the apparatus via
27 the communicator based on the management information edited by the editor when the
28 detector detects that the communication apparatus and the apparatus are connected,

1 wherein the controller is configured to compare the management information edited by
2 the editor with management information of data stored in the apparatus, determine a
3 size of the selected data in the communication apparatus, and transmit data in the
4 communication apparatus based on result of the comparison and the determination. For
5 example, Pandora explains to customers the benefits of using the Accused
6 Instrumentalities, such as by touting their advantages:

7
8 Offline Mode is a feature we offer to our subscribers that enables you to listen without a Wi-Fi or cell network signal.
Since you can utilize offline mode automatically as well as manually, it's a great way to stay connected to your music
wherever you are.

9
10 This feature is only available to our current Pandora Plus, Pandora Premium, or Premium Family subscribers, and only
from iOS or Android mobile devices, Apple Watches and Fitbits.

11 Learn more about using the Offline Mode feature by selecting from the options below:

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

13 Pandora also induces its customers to use the Accused Instrumentalities to infringe other
14 claims of the '751 Patent. Pandora specifically intended and was aware that the normal
15 and customary use of the Accused Instrumentalities on compatible systems would
16 infringe the '751 Patent. Pandora performed the acts that constitute induced
17 infringement, and would induce actual infringement, with the knowledge of the '751
18 Patent and with the knowledge, or willful blindness to the probability, that the induced
19 acts would constitute infringement. On information and belief, Pandora engaged in
20 such inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through
21 Pandora's user manuals, product support, marketing materials, demonstrations,
22 installation support, and training materials to actively induce the users of the accused
23 products to infringe the '751 Patent. Accordingly, Pandora has induced and continues
24 to induce end users of the accused products to use the accused products in their ordinary
25 and customary way with compatible systems to make and/or use systems infringing the
26 '751 Patent, knowing that such use of the Accused Instrumentalities with compatible
27 systems will result in infringement of the '751 Patent. Accordingly, Pandora has been
28

1 (since at least as of filing of the original complaint), and currently is, inducing
2 infringement of the ‘751 Patent, in violation of 35 U.S.C. § 271(b).

3 98. Pandora has also infringed, and continues to infringe, claims of the ‘751
4 patent by offering to commercially distribute, commercially distributing, making,
5 and/or importing the Accused Instrumentalities, which are used in practicing the
6 process, or using the systems, of the ‘751 patent, and constitute a material part of the
7 invention. Pandora knows the components in the Accused Instrumentalities to be
8 especially made or especially adapted for use in infringement of the ‘751 patent, not a
9 staple article, and not a commodity of commerce suitable for substantial noninfringing
10 use. For example, the ordinary way of using the Accused Instrumentalities infringes the
11 patent claims, and as such, is especially adapted for use in infringement. Accordingly,
12 Pandora has been, and currently is, contributorily infringing the ‘751 patent, in violation
13 of 35 U.S.C. § 271(c).

14 99. The Accused Instrumentalities include “[a] communication apparatus
15 configured to transmit data to an apparatus, the communication apparatus comprising:
16 a hardware storage medium configured to store management information of data to be
17 transferred to the apparatus.” For example, the Accused Instrumentalities include a
18 communication apparatus (e.g., web servers in the Pandora System) comprising a
19 hardware storage medium (e.g., Flash Drive, Hard Drive, etc.) configured to transmit
20 data to, e.g., mobile devices or tablets. *See, e.g.*, “Pandora Premium Will Change The
21 Way You Listen to Music”, available at [http://blog.pandora.com/us/pandora-premium-](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/)
22 [will-change-the-way-you-listen-to-music/](http://blog.pandora.com/us/pandora-premium-will-change-the-way-you-listen-to-music/) (“With Pandora Plus we introduced our
23 predictive offline feature that automatically downloads your top stations and switches
24 you to one of them when you lose a signal. We’re bringing that feature to Pandora
25 Premium, and adding the ability to download any album, song or playlist you want with
26 no limits.”); “Offline Mode and Downloads” available at
27 https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US:
28

For Pandora Plus Subscribers:

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

For Pandora Premium Subscribers:

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

The hardware storage medium stores management information of the data to be transferred. For example, the Pandora System stores a user's playlists, albums, and stations which can be edited or modified and transferred to a mobile device or tablet with the Pandora app installed. *See, e.g., "Playlists on Premium" available at https://help.pandora.com/s/article/Playlists-on-Premium-1519949304429?language=en_US#editweb.*

Edit your playlist on the web

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

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

Download Music for Offline Mode

Pandora Plus Subscribers:

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

Pandora Premium Subscribers:

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

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

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

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

1 100. The Accused Instrumentalities include “a communicator configured to
2 communicate data with the apparatus.” For example, the Pandora System includes a
3 communicator configured to communicate, e.g, playlists, albums, and stations to the
4 mobile device or tablet over cellular and/or WiFi networks. *See, e.g.*, “Offline Mode
5 and Downloads” available at [https://help.pandora.com/s/article/Offline-Mode-and-](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US)
6 [Downloads?language=en_US](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US):

7 **For Pandora Premium Subscribers:**

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

10
11
12 See also *id.*:

13
14
15 **Enable or Disable Offline Mode**

16 If you'd like to enable or disable Offline Mode, go to **My Collection** and tap the menu icon. Find the Offline
Mode switch at the bottom of the menu to turn Offline Mode on or off.

17 Also, as long as a mobile network or Wi-Fi connection is available, you'll have the option to switch back to online mode
from the Now Playing screen.

18 To do that:

- 19
1. Click on the ribbon above the album art that says Offline Mode.
 2. Follow the prompt that asks you to confirm that you would like to Go Online.
 3. Toggle the Offline Mode feature OFF.
- 20

21 101. The Accused Instrumentalities include “a detector configured to detect
22 whether the communication apparatus and the apparatus are connected.” For example,
23 the Pandora System includes a communicator configured to communicate, e.g, playlists,
24 albums, and stations to the mobile device or tablet. *See, e.g.*, “Offline Mode and
25 Downloads” available at [https://help.pandora.com/s/article/Offline-Mode-and-](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US)
26 [Downloads?language=en_US](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US):

Download Music for Offline Mode

Pandora Plus Subscribers:

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

Pandora Premium Subscribers:

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

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

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

Automatic Offline Mode

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

Also, the Pandora System can determine whether a specific device is connected:

Someone else is listening to your Pandora account

Home > Account

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

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

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

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

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

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

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

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

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

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

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

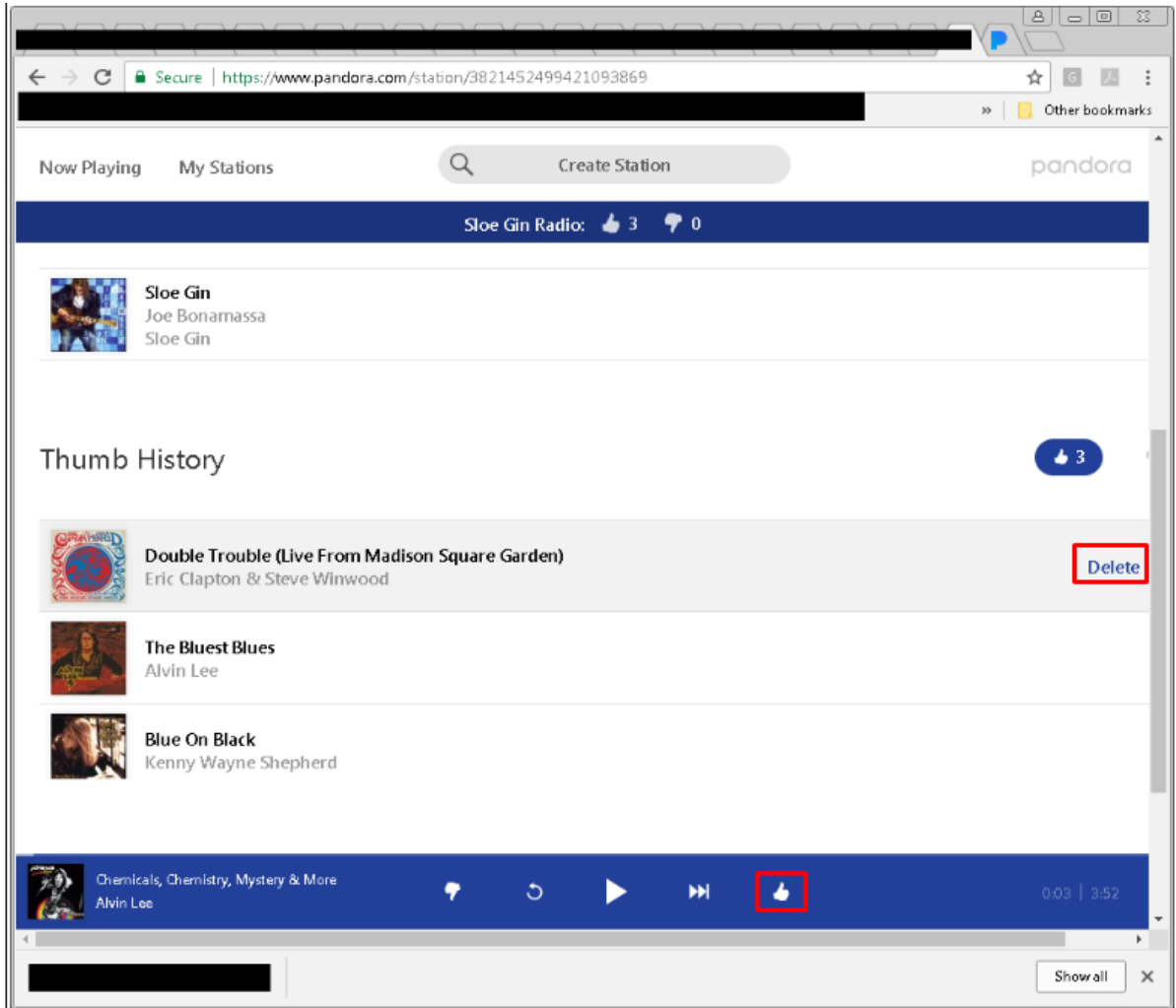
102. The Accused Instrumentalities include “an editor configured to select certain data to be transferred and to edit the management information based on the

1 selection without regard to the connection of the communication apparatus and the
2 apparatus.” For example, the Pandora System allows items to be added to a playlist by
3 using the "Thumbs-up" icon on a song that is playing, and to delete songs from a
4 playlist, regardless of the mobile device or tablet is connected to the Pandora Server.
5 See, e.g., "Playlists on Premium":

6 **Edit your playlist on the web**

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

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



103. The Accused Instrumentalities includes “a controller configured to control transfer of the selected data stored in the communication apparatus to the apparatus via the communicator based on the management information edited by the editor when the detector detects that the communication apparatus and the apparatus are connected.” For instance, if a Playlist stored in Pandora servers is edited to remove a song, the Playlist on the mobile device will have the same song deleted.

Edit your playlist on the web

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

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

Download your Playlist

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

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

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

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

104. https://help.pandora.com/s/article/Playlists-on-Premium1519949304429?language=en_US#download. As a further example, the Pandora System will resume a download previously started when a connection with the mobile device or tablet is lost and restored, and will not resend the same information. See, e.g., "Offline Mode and Downloads":

Download Music for Offline Mode

Pandora Plus Subscribers:

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

Pandora Premium Subscribers:

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

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

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

1 105. The Accused Instrumentalities further includes a controller configured to
2 “compare the management information edited by the editor with management
3 information of data stored in the apparatus.” For instance, if a Playlist stored in Pandora
4 servers is edited to remove a song, the Playlist on the mobile device will have the same
5 song deleted.

6
7 **Download your Playlist**

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

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

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

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

14 **Edit your playlist on the web**

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

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

24 [https://help.pandora.com/s/article/Playlists-on-](https://help.pandora.com/s/article/Playlists-on-Premium1519949304429?language=en_US#download)
25 [Premium1519949304429?language=en_US#download](https://help.pandora.com/s/article/Playlists-on-Premium1519949304429?language=en_US#download)

1 106. The Accused Instrumentalities further include a controller configured to
2 “determine a size of the selected data in the communication apparatus.” For example,
3 Pandora is configured to determine if the mobile device has more than 500 MB of data
4 before transferring music files to the device:

5 **How much storage do I need to download a station?**

6 Offline stations usually take up anywhere from 300 MB-700 MB of device space depending on the types of stations you
listen to. For example, classical music may take up more space than a pop station.

7 *Note: Because we know you care about the space on your device, Pandora will never use the last 500 MB of storage*
8 *available. When Pandora detects that there is not enough storage on your device for all of your offline stations, we will*
9 *download as many stations as we possibly can. Additionally, we will serve you a notification to alert you that you're*
approaching the 500 MB limit.

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

11 107. The Accused Instrumentalities further includes a controller configured to
12 “transmit data in the communication apparatus based on result of the comparison and
13 the determination.” For instance, if a Playlist stored in Pandora servers is edited to
14 remove a song, and if the mobile device has more than 400 MB remaining, the Playlist
15 on the mobile device will have the same song deleted, during the next download:

16 **Download your Playlist**

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

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

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

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

Edit your playlist on the web

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

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

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

108. Pandora also infringes other claims of the '751 Patent, directly and through inducing infringement and contributory infringement.

109. 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, Pandora has injured Data Scape and is liable to Data Scape for infringement of the '751 Patent pursuant to 35 U.S.C. § 271. As a result of Pandora's infringement of the '751 Patent, Plaintiff Data Scape is entitled to monetary damages in an amount adequate to compensate for Pandora's infringement, but in no event less than a reasonable royalty for the use made of the invention by Pandora, together with interest and costs as fixed by the Court.

COUNT VI

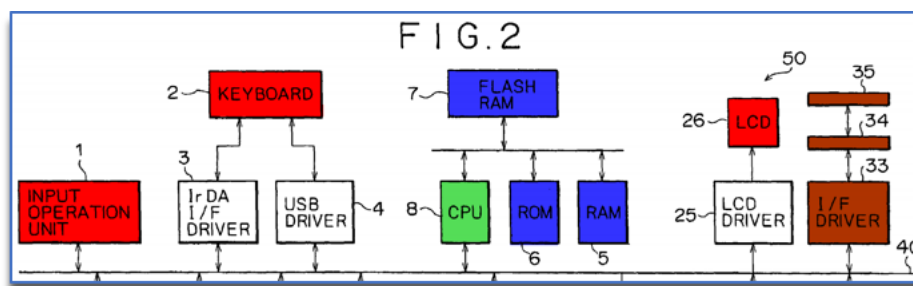
INFRINGEMENT OF U.S. PATENT NO. 9,736,238

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

111. Data Scape is the owner by assignment of United States Patent No. 9,736,238 ("the '238 Patent") entitled "Communication system and its method and communication apparatus and its method." The '238 Patent was duly and legally issued by the United States Patent and Trademark Office on July 17, 2018. A true and correct copy of the '238 Patent is included as Exhibit F.

1 112. In their most basic form, and ignoring many claim limitations, the claims
 2 of the '238 Patent are directed to a data synchronization apparatus configured to
 3 recognize an identifier of a portable device and a list of digital musical content stored
 4 therein, edit the list with a touch-sensor, and selectively transfer only edited portions of
 5 the musical content to the portable device after making sure the device has sufficient
 6 size to receive the data and assure the content is played back as a collection. The claims
 7 are not directed to abstract ideas. The claims provide technical solutions to technical
 8 problems, and, thus, are patent-eligible.

9 113. As the '238 Patent states, the inventor, Akihiro Morohashi, working at
 10 Sony Corporation, aimed to solve the problems skilled artisans in 1999 faced trying to
 11 selectively transfer data between two electronic apparatuses. *E.g.*, '238 Patent, Col
 12 2:17-56. For example, many used optical disks to accomplish this process, but that was
 13 “cumbersome” and did not enable easy or random selection of files to transfer. *Id.* at
 14 2:26-38. And when others burned digital files into hard disk drives or semiconductor
 15 memory, those systems still required a large amount of time to selectively transfer
 16 certain digital data between electronic apparatuses. *Id.* And in any case, there was no
 17 reasonable way to selectively synchronize select digital content data between the
 18 apparatuses. *Id.* These problems were specific to the technological process of selective
 19 digital-data transfer between electronic apparatuses. *Id.* at 1:43-2:39. And with over 28
 20 columns of text and 13 figures, including Figure 2 below, the inventor taught various
 21 technical solutions involving an unconventional server with a controller configured with
 22 circuitry to compare certain digital management information:



1 114. Enabled by these teachings, the patents recite in their claims various
2 technical solutions to the existing technological problems and shortcomings. For
3 example, various claims require the then-unconventional system of electronic
4 components configured to use digital “identifiers” to compare, edit, delete and
5 selectively transfer separate digital content data between two apparatuses. See,
6 e.g., ’238 Patent, Claim 13 (“[a] non transitory computer readable medium including
7 instructions, when executed by circuitry cause the circuitry to: (a) store, in a memory,
8 compressed musical content data and a program list . . .; (b) control a connection with
9 an internet server via a network; (c) control transmission of a user ID . . . an
10 authentication of the user ID and a billing process; (d) control downloading the
11 compressed musical content data; (e) control storage of the compressed musical content
12 data; (f) control display of a title list of the compressed musical content data . . .
13 including jacket image data . . .; (g) edit a program list based on a user input to the
14 displayed title list via a touch sensor; (h) associate the program list with a predetermined
15 identifier; (i) control playback of the compressed musical content data . . . as a
16 collection; (j) determine whether an identifier received by the circuitry . . . is the
17 predetermined identifier; (k) retrieve the program list among a plurality of program
18 lists . . . based on the determination as to the identifier . . .; (l) determine whether the
19 capacity of a memory of the portable apparatus is enough to store the compressed
20 musical content data . . .; (m) control transmission of the compressed musical content
21 data to the portable apparatus . . . in such a way that . . . data which is not stored in the
22 portable apparatus is transferred from the music server to the portable apparatus; and
23 (n) control to provide a warning in case that the music server and portable apparatus are
24 disconnected.”

25 115. The ‘751 patent and its file history make clear that each included
26 independent-claim limitations were not in the prior art, let alone well-understood,
27 routine, and conventional. This includes the claimed non transitory computer readable
28 medium including instructions, when executed by circuitry cause the circuitry to: (a)

1 store, in a memory, compressed musical content data and a program list; (b) control a
2 connection with an internet server via a network; (c) control transmission of a user ID
3 an authentication of the user ID and a billing process; (d) control downloading the
4 compressed musical content data; (e) control storage of the compressed musical content
5 data; (f) control display of a title list of the compressed musical content data including
6 jacket image data; (g) edit a program list based on a user input to the displayed title list
7 via a touch sensor; (h) associate the program list with a predetermined identifier; (i)
8 control playback of the compressed musical content data as a collection; (j) determine
9 whether an identifier received by the circuitry is the predetermined identifier; (k)
10 retrieve the program list among a plurality of program lists . . . based on the
11 determination as to the identifier.; (l) determine whether the capacity of a memory of
12 the portable apparatus is enough to store the compressed musical content data; (m)
13 control transmission of the compressed musical content data to the portable apparatus
14 in such a way that data which is not stored in the portable apparatus is transferred from
15 the music server to the portable apparatus; and (n) control to provide a warning in case
16 that the music server and portable apparatus are disconnected. And the dependent
17 claims also include limitations that were not in the prior art, let alone well-understood,
18 routine, and conventional. *See, e.g.*, limitations of claims 14-17 of the '238 patent.

19 116. On information and belief, Pandora has offered for sale, sold and/or
20 imported into the United States Pandora products and services that infringe the '238
21 patent, and continues to do so. By way of illustrative example, these infringing products
22 and services include, without limitation, Defendant's products and services, *e.g.*, the
23 Pandora System, including Pandora Premium, and all versions and variations thereof
24 since the issuance of the '238 Patent ("Accused Instrumentalities").

25 117. On information and belief, Pandora has directly infringed and continues to
26 infringe the '238 Patent, for example, by making, selling, offering for sale, and/or
27 importing the Accused Instrumentalities, and through its own use and testing of the
28 Accused Instrumentalities, which constitute non-transitory computer readable medium

1 including executable instructions claimed by Claim 13 of the '238 Patent which when
2 executed by circuitry cause the circuitry to: store, in a memory, compressed musical
3 content data and a program list associated with the compressed musical content data;
4 control a connection with an internet server via a network; control transmission of a
5 user ID via the network, an authentication process of the user ID and a billing process
6 being conducted based on the user ID; control downloading the compressed musical
7 content data from the internet server via the network; control storage of the compressed
8 musical content data to the memory; control display of a title list of the compressed
9 musical content data stored in the memory based on additional data of the compressed
10 musical content data, the additional data including jacket image data of the compressed
11 musical content data and the title list including a jacket image of the compressed
12 musical content data; edit a program list based on a user input to the displayed title list
13 via a touch sensor without regard to whether the music server is connected to a portable
14 apparatus; associate the program list with a predetermined identifier uniquely
15 identifying the portable apparatus among a plurality of portable apparatus; control
16 playback of the compressed musical content data based on the program list so that the
17 compressed musical content data referenced in the program list is played back as a
18 collection; determine whether an identifier received by the circuitry from the portable
19 apparatus is the predetermined identifier in response to a connection of the portable
20 apparatus to the music server; retrieve the program list among a plurality of program
21 lists stored in the memory based on the determination as to the identifier by the circuitry;
22 determine whether capacity of a memory of the portable apparatus is enough to store
23 the compressed musical content data in the program list as retrieved by the circuitry;
24 control transmission of the compressed musical content data to the portable apparatus
25 from the portable apparatus based on the program list in such a way that, of the
26 compressed data in the program list as retrieved by the circuitry, the compressed
27 musical content data which is not stored in the portable apparatus is transferred from
28

1 the music server to the portable apparatus; and control to provide a warning in a case
2 that the music server and the portable apparatus are disconnected.

3 118. Upon information and belief, Pandora uses the Accused Instrumentalities,
4 which are infringing systems, for its own internal non-testing business purposes, while
5 testing the Accused Instrumentalities, and while providing technical support and repair
6 services for the Accused Instrumentalities to Pandora's customers.

7 119. On information and belief, Pandora has had knowledge of the '238 Patent
8 since at least the filing of the original Complaint in this action, or shortly thereafter, and
9 on information and belief, Pandora knew of the '238 Patent and knew of its
10 infringement, including by way of this lawsuit. By the time of trial, Pandora will have
11 known and intended (since receiving such notice) that their continued actions would
12 actively induce and contribute to the infringement of the claims of the '238 Patent.

13 120. On information and belief, use of the Accused Instrumentalities in their
14 ordinary and customary fashion results in infringement of the claims of the '238 Patent.

15 121. Pandora's affirmative acts of making, using, selling, offering for sale,
16 and/or importing the Accused Instrumentalities have induced and continue to induce
17 users of the Accused Instrumentalities to use the Accused Instrumentalities in their
18 normal and customary way to infringe the claims of the '238 Patent, knowing that when
19 the Accused Instrumentalities are used in their ordinary and customary manner, such
20 systems constitute non-transitory computer readable medium including executable
21 instructions which when executed by circuitry cause the circuitry to: store, in a memory,
22 compressed musical content data and a program list associated with the compressed
23 musical content data; control a connection with an internet server via a network; control
24 transmission of a user ID via the network, an authentication process of the user ID and
25 a billing process being conducted based on the user ID; control downloading the
26 compressed musical content data from the internet server via the network; control
27 storage of the compressed musical content data to the memory; control display of a title
28 list of the compressed musical content data stored in the memory based on additional

1 data of the compressed musical content data, the additional data including jacket image
2 data of the compressed musical content data and the title list including a jacket image
3 of the compressed musical content data; edit a program list based on a user input to the
4 displayed title list via a touch sensor without regard to whether the music server is
5 connected to a portable apparatus; associate the program list with a predetermined
6 identifier uniquely identifying the portable apparatus among a plurality of portable
7 apparatus; control playback of the compressed musical content data based on the
8 program list so that the compressed musical content data referenced in the program list
9 is played back as a collection; determine whether an identifier received by the circuitry
10 from the portable apparatus is the predetermined identifier in response to a connection
11 of the portable apparatus to the music server; retrieve the program list among a plurality
12 of program lists stored in the memory based on the determination as to the identifier by
13 the circuitry; determine whether capacity of a memory of the portable apparatus is
14 enough to store the compressed musical content data in the program list as retrieved by
15 the circuitry; control transmission of the compressed musical content data to the
16 portable apparatus from the portable apparatus based on the program list in such a way
17 that, of the compressed data in the program list as retrieved by the circuitry, the
18 compressed musical content data which is not stored in the portable apparatus is
19 transferred from the music server to the portable apparatus; and control to provide a
20 warning in a case that the music server and the portable apparatus are disconnected..
21 For example, Pandora explains to customers the benefits of using the Accused
22 Instrumentalities, such as by touting their advantages:

23 Offline Mode is a feature we offer to our subscribers that enables you to listen without a Wi-Fi or cell network signal.
24 Since you can utilize offline mode automatically as well as manually, it's a great way to stay connected to your music
wherever you are.

25 This feature is only available to our current Pandora Plus, Pandora Premium, or Premium Family subscribers, and only
from iOS or Android mobile devices, Apple Watches and Fitbits.

26 Learn more about using the Offline Mode feature by selecting from the options below:

27
28 https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US.

1 Pandora also induces its customers to use the Accused Instrumentalities to infringe other
2 claims of the ‘238 Patent. Pandora specifically intended and was aware that the normal
3 and customary use of the Accused Instrumentalities on compatible systems would
4 infringe the ‘238 Patent. Pandora performed the acts that constitute induced
5 infringement, and would induce actual infringement, with the knowledge of the ‘238
6 Patent and with the knowledge, or willful blindness to the probability, that the induced
7 acts would constitute infringement. On information and belief, Pandora engaged in
8 such inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through
9 Pandora’s user manuals, product support, marketing materials, demonstrations,
10 installation support, and training materials to actively induce the users of the accused
11 products to infringe the ‘238 Patent. Accordingly, Pandora has induced and continues
12 to induce end users of the accused products to use the accused products in their ordinary
13 and customary way with compatible systems to make and/or use systems infringing the
14 ‘238 Patent, knowing that such use of the Accused Instrumentalities with compatible
15 systems will result in infringement of the ‘238 Patent. Accordingly, Pandora has been
16 (since at least as of filing of the original complaint), and currently is, inducing
17 infringement of the ‘238 Patent, in violation of 35 U.S.C. § 271(b).

18 122. Pandora has also infringed, and continues to infringe, claims of the ‘238
19 patent by offering to commercially distribute, commercially distributing, making,
20 and/or importing the Accused Instrumentalities, which are used in practicing the
21 process, or using the systems, of the ‘238 patent, and constitute a material part of the
22 invention. Pandora knows the components in the Accused Instrumentalities to be
23 especially made or especially adapted for use in infringement of the ‘238 patent, not a
24 staple article, and not a commodity of commerce suitable for substantial noninfringing
25 use. For example, the ordinary way of using the Accused Instrumentalities infringes the
26 patent claims, and as such, is especially adapted for use in infringement. Accordingly,
27 Pandora has been, and currently is, contributorily infringing the ‘238 patent, in violation
28 of 35 U.S.C. § 271(c).

1 123. The Accused Instrumentality includes a non-transitory computer readable
2 medium including executable instructions. For example, Pandora can be accessed either
3 through its Website or through an application installed in iOS Devices, Android
4 Devices, or through the Windows 10 App:

5 Using Pandora

6 Home > Using Pandora

7 How to use on iOS Devices

8 How to use on Android Devices

9 How to use our Website

10 How to use on Windows 10 App

11 [12 https://help.pandora.com/s/topic/0TO1W000000aJ9wWAE/using-](https://help.pandora.com/s/topic/0TO1W000000aJ9wWAE/using-pandora?language=en_US)
13 [14 pandora?language=en_US](https://help.pandora.com/s/topic/0TO1W000000aJ9wWAE/using-pandora?language=en_US)

15 124. The Accused Instrumentality further includes a non-transitory computer
16 readable medium including executable instructions, which when executed by circuitry
17 cause the circuitry to store, in a memory, compressed musical content data and a
18 program list associated with the compressed musical content data. For example,
19 Pandora compresses musical files with the Advanced Audio Coding or AAC+ standard.
20 *See* [21 https://www.howtogeek.com/185314/ask-htg-can-i-improve-the-quality-of-](https://www.howtogeek.com/185314/ask-htg-can-i-improve-the-quality-of-pandoras-music-streaming/)
22 [23 pandoras-music-streaming/](https://www.howtogeek.com/185314/ask-htg-can-i-improve-the-quality-of-pandoras-music-streaming/) (“Further, Pandora uses AAC+ (which offers much better
24 sound reproduction compared to MP3 files at the same kpbs bit-rate”). For example, the
25 Pandora Application will store these compressed musical files on an iOS or Android
26 Device, as well as in the Pandora Music Servers, as a playlist:

1

2

Pandora Plus subscribers:

3

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

4

Pandora Premium or Premium Family subscribers:

5

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

6

7

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

8

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

9

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

11 <https://help.pandora.com/s/article/Playlists-on-Premium->

12 [Download a Playlist](#)

13 Downloading playlists is only possible from certain mobile devices.

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

15

16

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

17

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

18

19

20 [1519949304429?language=en_US](https://help.pandora.com/s/article/Offline-Mode-and-Downloads?language=en_US)

21

22

23

24

125. The Accused Instrumentality further includes a non-transitory computer readable medium including executable instructions, which when executed by circuitry cause the circuitry to control a connection with an internet server via a network. For example, the Pandora Application allows the user to Enable or Disable Offline Mode:

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Enable or Disable Offline Mode

If you'd like to enable or disable Offline Mode, go to **My Collection** and tap the menu icon. Find the Offline Mode switch at the bottom of the menu to turn Offline Mode on or off.

Also, as long a mobile network or Wi-Fi connection is available, you'll have the option to switch back to online mode from the Now Playing screen.

To do that:

1. Click on the ribbon above the album art that says Offline Mode.
2. Follow the prompt that asks you to confirm that you would like to Go Online.
3. Toggle the Offline Mode feature OFF.

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

126. The Accused Instrumentality further includes a non-transitory computer readable medium including executable instructions, which when executed by circuitry cause the circuitry to control transmission of a user ID via the network, an authentication process of the user ID and a billing process being conducted based on the user ID. For example, in order to use Pandora, users are required to create an account consisting of an email address and password:

Create an account on a mobile device

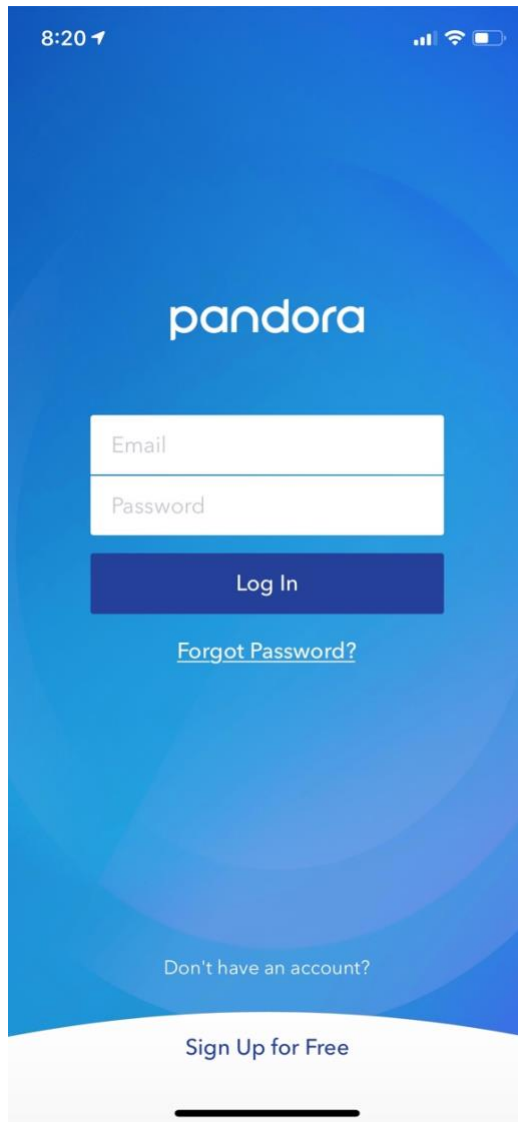
After downloading and launching the Pandora app from your device's app store, select **Sign Up**. Then fill out the registration information.

1. Enter the email address you would like to use. *The email address you choose for your Pandora account must be unique; you cannot use an email address associated with any other Pandora account.*
2. Enter a password.
3. Enter your birth year (enter year only, not month and day i.e 1975).
4. Enter your zip code.
5. Select gender.
6. Review the Terms of Use and Privacy Policy.
7. Tap **Sign Up** after you've reviewed that your information is accurate.

You can then start creating stations by entering an artist or song name.

** Pandora is available in the US Only.*

1 [https://help.pandora.com/s/article/Create-an-Account-](https://help.pandora.com/s/article/Create-an-Account-1519949296898?language=en_US)
2 [1519949296898?language=en_US](https://help.pandora.com/s/article/Create-an-Account-1519949296898?language=en_US). For example, as shown in the below screenshot of
3 an iPhone X using the Pandora application, a user is required to enter this email address
4 and password in order to use Pandora:



23
24 For example, upon entering the email and password, Pandora will authenticate the
25 User ID by determining whether or not any other device is currently making use of
26 that account information:

"Someone else is listening to your Pandora account."

Home > Account

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

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

How do I continue listening to my music?

How do I prevent this message from appearing?

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

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

How do I remove devices from my account?

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

For example, Pandora has several billing options, including for Pandora Premium:

Pandora offers three types of subscriptions.

- **Pandora Plus** is \$4.99 USD/month or \$54.89 USD/year (plus tax where applicable).
- **Pandora Premium** is \$9.99 USD/month or \$109.89 USD/year (plus tax where applicable).
- **Pandora Premium Family** is \$14.99 USD monthly or \$164.89 annually.

https://help.pandora.com/s/article/Upgrade-to-Pandora-Plus-or-Pandora-Premium-1519949306612?language=en_US. These billing options are charged and managed through, for example, the iTunes or Google Play Account associated with mobile device and email and password used to access Pandora at the time the billing option was selected:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Upgrade through iOS App Store

Pandora Plus is \$4.99 USD/month and Pandora Premium is \$12.99 USD/month when purchased through iTunes. Taxes may also apply to these fees depending on local tax laws in your area.

Annual subscriptions and Pandora Premium Family Plan are not available for purchase through iTunes.

To upgrade through the Pandora App on your iOS Device:

- 1. Tap the menu icon (or gear symbol if you're using an iPad) > **Settings** > **Upgrade**.
- 2. Agree to the Pandora Subscription terms of service to submit your payment.

Your subscription will be set to auto-renew by default through iTunes, but this can be changed at anytime after submitting your payment.

To learn how to make changes to your subscription plan, click [here](#).

Upgrade through Google Play

Pandora Plus is \$4.99 USD/month and Pandora Premium is \$9.99 USD/month when purchased through the Google Play Store on an Android device. Taxes may also apply to these fees depending on local tax laws in your area.

Annual subscriptions and Pandora Premium Family Plan are not available for purchase through Google Play.

You can upgrade through the Pandora app on Android by following these steps:

- 1. Tap the menu icon > **Settings**.
- 2. Select **Upgrade** and you will then be taken to the Google Play payment page.
- 3. Check the box stating that you agree to the payments for Google Play Terms of Service.
- 4. Confirm the purchase by selecting **Accept & Subscribe**. *Note: If you have a PIN enabled for purchasing, you'll need to enter that code after selecting **Accept & Subscribe**.*

Your subscription will be set to auto-renew by default, but this can be changed at anytime after submitting your payment. To learn how to make changes to your subscription plan, click [here](#).

https://help.pandora.com/s/article/Upgrade-to-Pandora-Plus-or-Pandora-Premium-1519949306612?language=en_US

127. The Accused Instrumentality further includes a non-transitory computer readable medium including executable instructions, which when executed by circuitry cause the circuitry to control downloading the compressed musical content data from the internet server via the network. For example, a mobile device using the Pandora

1 System can download music from the Pandora Servers by pressing the “download”
2 button:

3 **Download Music for Offline Mode**

4
5 **Pandora Plus subscribers:**

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

8 **Pandora Premium or Premium Family subscribers:**

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

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

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

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

16 128. The Accused Instrumentality further includes a non-transitory computer
17 readable medium including executable instructions, which when executed by circuitry
18 cause the circuitry to control storage of the compressed musical content data to the
19 memory. For example, a mobile device using the Pandora Application can, among other
20 things, control whether downloading occurs only over WiFi networks or by both WiFi
21 and Cellular Networks, can sort the downloads, and remove the downloads:
22
23
24
25
26
27
28

Download Settings

Offline station downloading only happens on Wi-Fi by default, but you can opt in to also download using your cellular connection. You can change this feature in the Settings section of our app.

Sort or View Your Offline Content

By default, songs, albums, stations, and playlists in Offline Mode are sorted by most recently downloaded. Artists, however, are sorted from A-Z.

To view only downloads, tap the row just under the Recently Played carousel, and a menu will drop down that will allow you to filter your collection. Toggle the switch to Show Only Downloads to view only content that is stored on your device.

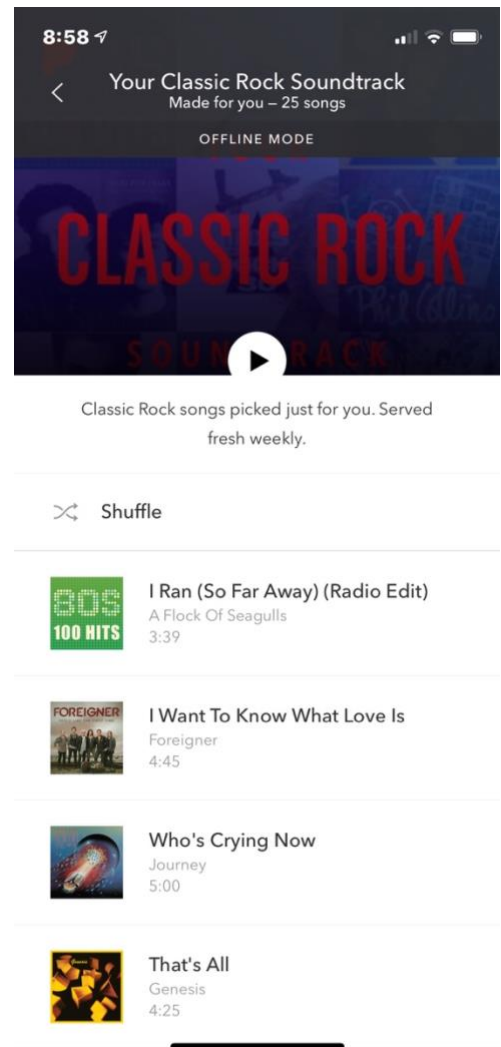
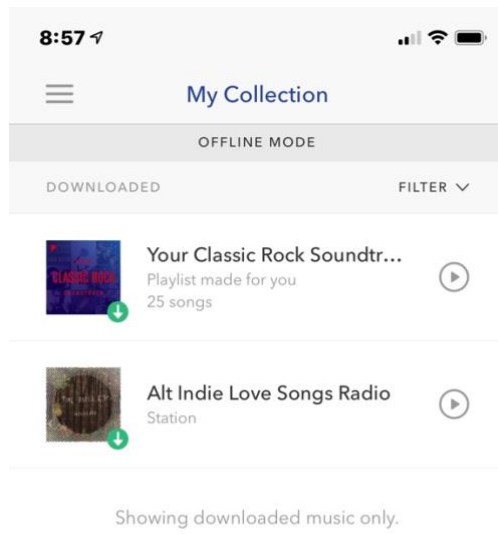
Remove All Downloads

1. From the **My Collection** screen, tap the Menu icon, then **Settings**.
2. Select **Audio Quality and Downloads**.
3. Tap **Reset downloads** at the bottom.
4. Finally, confirm that you would like all the offline content that's been downloaded to your device removed.

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

129. The Accused Instrumentality further includes a non-transitory computer readable medium including executable instructions, which when executed by circuitry cause the circuitry to control display of a title list of the compressed musical content data stored in the memory based on additional data of the compressed musical content data, the additional data including jacket image data of the compressed musical content data and the title list including a jacket image of the compressed musical content data. For example, as shown in the below screenshots from an iPhone X, in the Pandora Application every playlist has a jacket image associated with the playlist as well as a jacket image associated with each title:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



1 130. The Accused Instrumentality further includes a non-transitory computer
2 readable medium including executable instructions, which when executed by circuitry
3 cause the circuitry to edit a program list based on a user input to the displayed title list
4 via a touch sensor without regard to whether the music server is connected to a portable
5 apparatus. For example, the Pandora System allows a user to edit playlists via its
6 website interface:

7 From our Website

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

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

14 [https://help.pandora.com/s/article/Playlists-on-Premium-](https://help.pandora.com/s/article/Playlists-on-Premium-1519949304429?language=en_US)
15 [1519949304429?language=en_US](https://help.pandora.com/s/article/Playlists-on-Premium-1519949304429?language=en_US)

16 For example, the website can be accessed using a Surface Pro, or other computer
17 running the Windows 10 App, or other desktop or laptop using a touch sensor. For
18 example, the edits to the playlists via the website are made without regard to whether
19 the mobile device (*e.g.* iOS or android) is connected to the music server.

20 131. The Accused Instrumentality further includes a non-transitory computer
21 readable medium including executable instructions, which when executed by circuitry
22 cause the circuitry to associate the program list with a predetermined identifier uniquely
23 identifying the portable apparatus among a plurality of portable apparatus. For example,
24
25
26
27
28

1 the Pandora System can determine whether a device associated with a specific user
2 account is connected to the server:

3 Someone else is listening to your Pandora account

4 Home > Account

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

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

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

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

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

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

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

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

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

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

15 https://help.pandora.com/s/article/000001191?language=en_US. As further example,
16 each of the playlists are unique to the user account:

17 What are Playlists?

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

19 Personalized / Curated Playlists

20 Pandora will curate playlists personalized just for you. Some of these playlists are automatically generated, and a few will be added to your account automatically.

21 These auto-generated playlists are created after:

- 22 • you have Thumbed Up five or more songs on a radio station you've created
- 23 • You've been listening at the Premium level for a little while.

24 Some auto-generated playlists, like those created from your Thumbs Up, will be added to your Music collection automatically.

25 Others, such as those personalized to your individual moods, will be waiting for you in **Browse**.

26 [https://help.pandora.com/s/article/Playlists-on-Premium-
27 1519949304429?language=en_US](https://help.pandora.com/s/article/Playlists-on-Premium-1519949304429?language=en_US)

1 132. The Accused Instrumentality further includes a non-transitory computer
2 readable medium including executable instructions, which when executed by circuitry
3 cause the circuitry to control playback of the compressed musical content data based on
4 the program list so that the compressed musical content data referenced in the program
5 list is played back as a collection. For example, playlists in the Pandora system are
6 played back as a collection of songs in that list.

7

8 What are Playlists?

9 Playlists are a feature of Pandora Premium that allow you full control of what music you want to hear. You can create
10 custom playlists, and add specific songs and albums in the order you prefer. If you need help building your playlists, you
11 can ask Pandora to help by using the **Add Similar Songs** button.

12 [https://help.pandora.com/s/article/Playlists-on-Premium-](https://help.pandora.com/s/article/Playlists-on-Premium-1519949304429?language=en_US)
13 [1519949304429?language=en_US](https://help.pandora.com/s/article/Playlists-on-Premium-1519949304429?language=en_US)

14

15

16

17

18

19

20

21

22

23

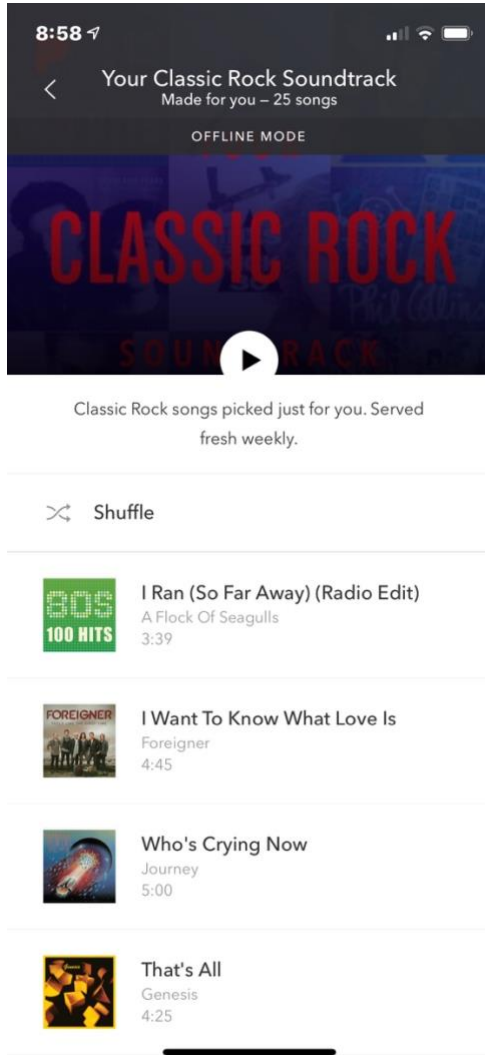
24

25

26

27

28



133. The Accused Instrumentality further includes a non-transitory computer readable medium including executable instructions, which when executed by circuitry cause the circuitry to determine whether an identifier received by the circuitry from the portable apparatus is the predetermined identifier in response to a connection of the portable apparatus to the music server. For example, the iOS or android device must be connected to the Pandora Server in order to access playlists, unless such playlists have previously been downloaded:

1 **For Pandora Plus subscribers:**

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

6 You can give a thumbs up, thumbs down, skip, or replay while in Offline Mode, just as you would with any other station.
7 Pandora will periodically review this feedback to further tune your stations.

8 Each week, we will revisit the stations we've stored for offline listening and swap in stations that are eligible to be cached
9 offline. Available offline stations will always be your most-listened-to stations.

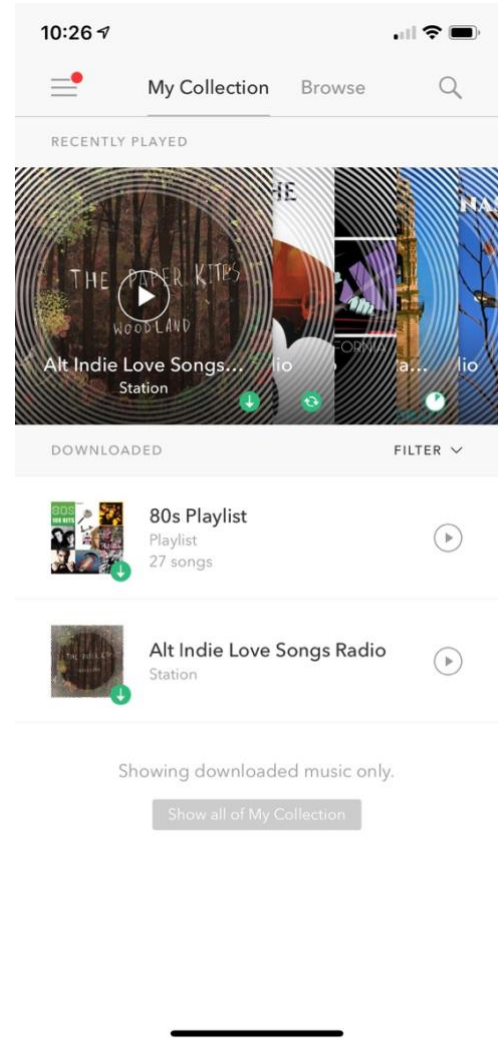
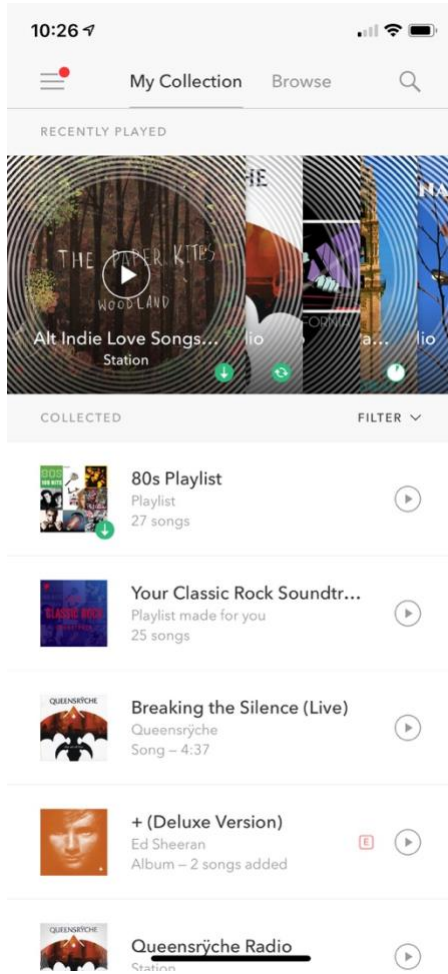
10 **For Pandora Premium or Premium Family subscribers:**

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

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

14 134. The Accused Instrumentality further includes a non-transitory computer
15 readable medium including executable instructions, which when executed by circuitry
16 cause the circuitry to retrieve the program list among a plurality of program lists stored
17 in the memory based on the determination as to the identifier by the circuitry. For
18 example, when an iOS or Android Device makes contact with the Pandora Server it will
19 display the playlists associated with that user account, as well as the playlists
20 downloaded to memory on the device:
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



135. The Accused Instrumentality further includes a non-transitory computer readable medium including executable instructions, which when executed by circuitry cause the circuitry to determine whether capacity of a memory of the portable apparatus is enough to store the compressed musical content data in the program list as retrieved by the circuitry. For example, Pandora is configured to determine if the mobile device has more than 500 MB of data before transferring music files to the device:

1 **How much storage do I need to download a station?**

2 Offline stations usually take up anywhere from 300 MB-700 MB of device space depending on the types of stations you
listen to. For example, classical music may take up more space than a pop station.

3 *Note: Because we know you care about the space on your device, Pandora will never use the last 500 MB of storage
4 available. When Pandora detects that there is not enough storage on your device for all of your offline stations, we will
5 download as many stations as we possibly can. Additionally, we will serve you a notification to alert you that you're
approaching the 500 MB limit.*

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

7 136. The Accused Instrumentality further includes a non-transitory computer
8 readable medium including executable instructions, which when executed by circuitry
9 cause the circuitry to control transmission of the compressed musical content data to
10 the portable apparatus from the portable apparatus based on the program list in such a
11 way that, of the compressed data in the program list as retrieved by the circuitry, the
12 compressed musical content data which is not stored in the portable apparatus is
13 transferred from the music server to the portable apparatus. For example, when a song
14 is added to a playlist in Pandora, the song is added to the playlist on the iOS or Android
15 device, and downloaded to memory on the next time the mobile device makes contact
16 with the Pandora Music server:

17 From our Website

18 To edit your playlists, go to **My Music** and tap the name of the playlist you'd like to make changes to. Next, tap
19 the **Edit** icon below the album art.

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

24 [https://help.pandora.com/s/article/Playlists-on-Premium-
25 1519949304429?language=en_US](https://help.pandora.com/s/article/Playlists-on-Premium-1519949304429?language=en_US)

26 137. The Accused Instrumentality further includes a non-transitory computer
27 readable medium including executable instructions, which when executed by circuitry
28 cause the circuitry to control to provide a warning in a case that the music server and

1 the portable apparatus are disconnected. For example, Pandora is designed to notify the
2 user that he or she is being switched to online mode in the event that the user becomes
3 disconnected with the Pandora server:

4
5 **Automatic Offline Mode**

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

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

10 138. Pandora also infringes other claims of the ‘238 Patent, directly and through
11 inducing infringement and contributory infringement.

12 139. By making, using, offering for sale, selling and/or importing into the
13 United States the Accused Instrumentalities, and touting the benefits of using the
14 Accused Instrumentalities’ accused features, Pandora has injured Data Scape and is
15 liable to Data Scape for infringement of the ‘238 Patent pursuant to 35 U.S.C. § 271.
16 As a result of Pandora’s infringement of the ‘238 Patent, Plaintiff Data Scape is entitled
17 to monetary damages in an amount adequate to compensate for Pandora’s infringement,
18 but in no event less than a reasonable royalty for the use made of the invention by
19 Pandora, together with interest and costs as fixed by the Court.

20 **PRAYER FOR RELIEF**

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

22 a. A judgment in favor of Plaintiff that Defendant has infringed, either
23 literally and/or under the doctrine of equivalents, the ‘929 Patent, ‘537 Patent, the ‘614
24 Patent, the ‘112 Patent, the ‘751 Patent, and the ‘238 Patent (collectively, “asserted
25 patents”);

26 b. A permanent injunction prohibiting Defendant from further acts of
27 infringement of the asserted patents;

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

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

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

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

12 **DEMAND FOR JURY TRIAL**

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

15
16 Respectfully Submitted,

17 Dated: March 25, 2019

18 /s/ Reza Mirzaie
19 **RUSS AUGUST & KABAT**
20 Marc A. Fenster, SBN 181067
21 Email: mfenster@raklaw.com
22 Reza Mirzaie (CA SBN 246953)
23 Email: rmirzaie@raklaw.com
24 Brian D. Ledahl (CA SBN 186579)
25 Email: bledahl@raklaw.com
26 Paul Kroeger (CA SBN 229074)
27 Email: pkroeger@raklaw.com
28 C. Jay Chung (CA SBN 252794)
Email: jchung@raklaw.com
Philip X. Wang (CA SBN 262239)
Email: pwang@raklaw.com

Attorneys for Plaintiff Data Scape Limited