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

23 DATA SCAPE LIMITED,
24
25 Plaintiff,
26
27 vs.
28 SPOTIFY USA INC., and SPOTIFY
TECHNOLOGY S.A.,
Defendants.

Case No. 2:19-cv-04367

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

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

1 **PARTIES**

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

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

11 **JURISDICTION AND VENUE**

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

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

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

1 COUNT I

2 INFRINGEMENT OF U.S. PATENT NO. 10,277,675

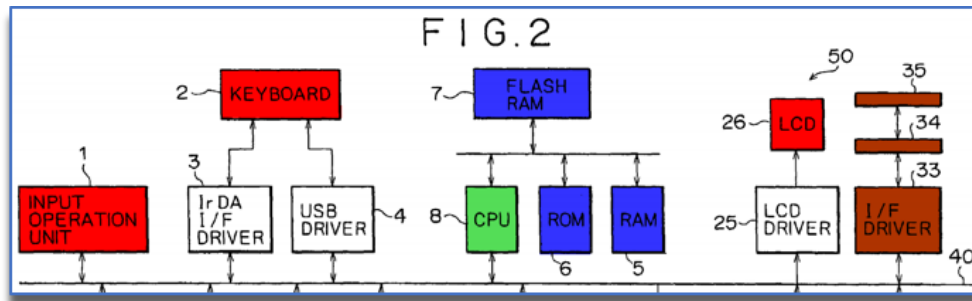
3 6. Plaintiff realleges and incorporates by reference the foregoing paragraphs,
4 as if fully set forth herein.

5 7. Data Scape is the owner by assignment of United States Patent No.
6 10,277,675 (“the ’675 Patent”), entitled “Communication System And Its Method and
7 Communication Apparatus And Its Method.” The ’675 Patent was duly and legally
8 issued by the United States Patent and Trademark Office on April 30, 2019. A true and
9 correct copy of the ’675 Patent is included as Exhibit A.

10 8. In their most basic form, and ignoring many claim limitations, the claims
11 of the ’675 Patent are directed to a data synchronization system with a processor
12 configured to detect a connection between two storage media and selectively transmit
13 certain digital data between first and second storage media based on a comparison of
14 edited digital data management information stored in the storage medium. The claims
15 are not directed to abstract ideas. The claims provide technical solutions to technical
16 problems, and, thus, are patent-eligible.

17 9. As the ’675 Patent states, the inventor, the inventor, Akihiro Morohashi,
18 working at Sony Corporation, aimed to solve the problems skilled artisans in 1999 faced
19 trying to selectively transfer digital data between two electronic apparatuses. *E.g.*, ’675
20 Patent, Col. 1:64-2:44. For example, many used optical disks to accomplish this
21 process, but that was “cumbersome” and did not enable easy or random selection of
22 files to transfer. *Id.* And when others burned digital files into hard disk drives or
23 semiconductor memory, those systems still required a large amount of time to
24 selectively transfer certain digital data between electronic apparatuses. *Id.* And in any
25 case, there was no reasonable way to selectively synchronize select digital content data
26 between the apparatuses. *Id.* These problems were specific to the technological process
27 of selective digital-data transfer between electronic apparatuses. *Id.* at 1:33-2:31. And
28 with 28 columns of text and 13 figures, including Figure 2 below, the inventors taught

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



8 10. Enabled by these teachings, the '675 patent recites in its claims various
9 technical solutions to the existing technological problems and shortcomings. For
10 example, various claims require the then-unconventional system of electronic
11 components configured to use certain digital "management information" to compare,
12 edit, and selectively transfer separate digital content data between two identified
13 apparatuses. *See, e.g.*, '675 Patent, Claim 1 ("a second hardware storage medium
14 configured to store management information of data to be transferred to said first
15 storage medium; a hardware interface configured to communicate data with said first
16 apparatus; a processor configured to: detect whether said first apparatus and said second
17 apparatus are connected; select certain data to be transferred; edit said management
18 information based on said selection without regard to the connection of said first
19 apparatus and said second apparatus; compare said management information edited by
20 said processor with management information of data stored in said first storage medium;
21 and transmit the selected data stored in said second apparatus to said first apparatus via
22 said hardware interface based on said management information edited by said processor
23 when said processor detects that said first apparatus and said second apparatus are
24 connected based upon a result of the comparison").

25 11. The '675 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 [a] storage configured to store
28 management information, [b] hardware interface configured to communicate digital

1 data between two storage media, [c] processor configured to detect a
2 connection, [d] processor configured to select certain data and to edit said management
3 information based on said selection, without regard to the connection, and [e] processor
4 configured to [i] transfer the selected data via said communicator based on said
5 management information, [ii] compare said management information with management
6 information in said first storage medium, and [iii] to transmit data based on the
7 comparison. And the dependent claims also include limitations that were not in the prior
8 art, let alone well-understood, routine, and conventional. *See, e.g.*, limitations of claims
9 2-12 of the ‘675 patent.

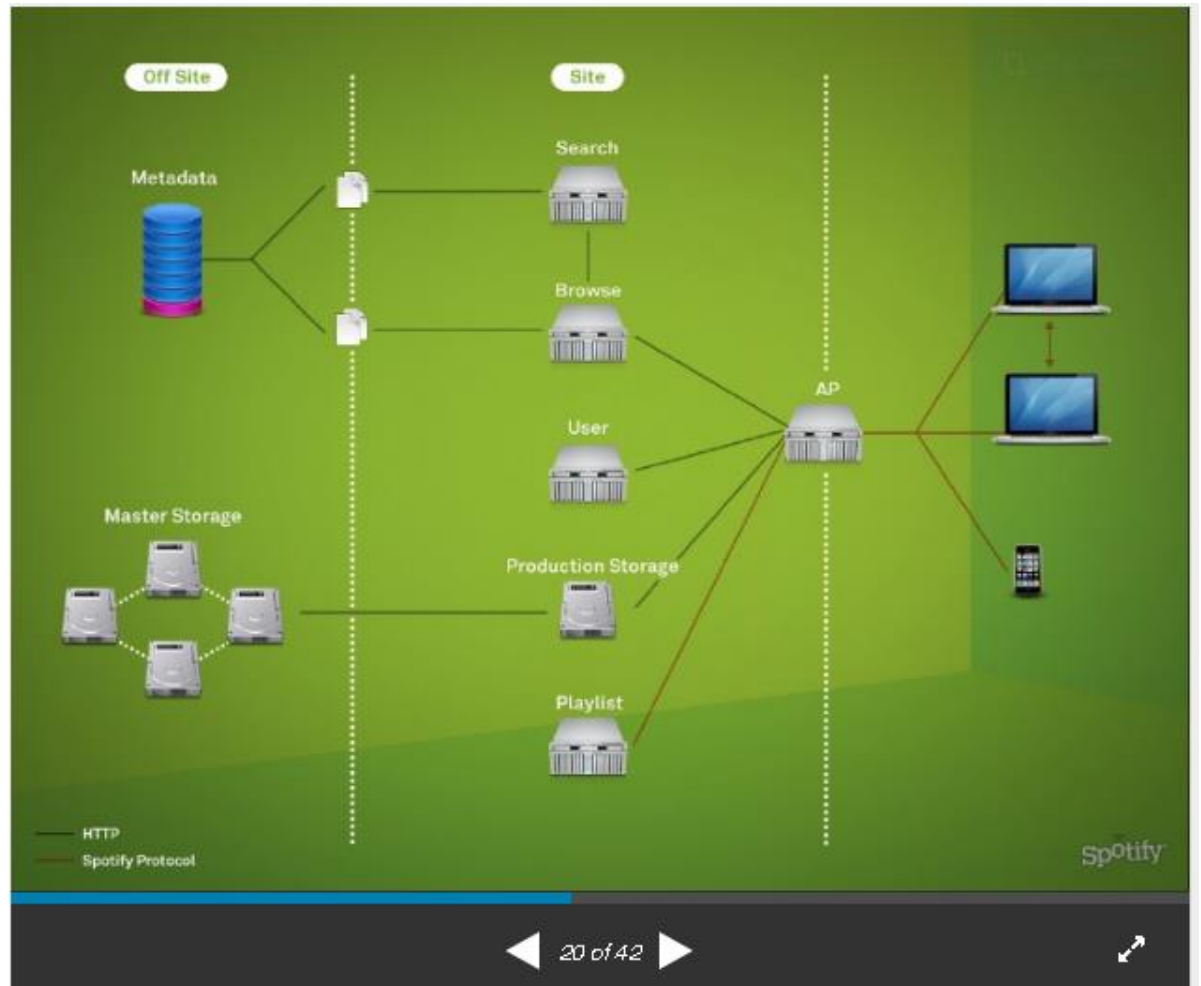
10 12. Defendants have offered for sale, sold and/or imported into the United
11 States products and services that infringe the ‘675 patent, and continues to do so. By
12 way of illustrative example, these infringing products and services include, without
13 limitation, Defendants’ products and services, *e.g.*, the Spotify music streaming
14 platform, and all versions and variations thereof since the issuance of the ‘675 Patent
15 (“Accused Instrumentalities”).

16 13. Defendants have directly infringed and continues to infringe the ‘675
17 Patent, for example, by making, selling, offering for sale, and/or importing the Accused
18 Instrumentalities, and through their own use and testing of the Accused
19 Instrumentalities. Defendants use the Accused Instrumentalities for their own internal
20 non-testing business purposes, while testing the Accused Instrumentalities, and while
21 providing technical support and repair services for the Accused Instrumentalities to
22 Defendants’ customers.

23 14. For example, the Accused Instrumentalities, including Spotify Premium,
24 infringe Claim 1 of the ‘675 Patent. One non-limiting example of the Accused
25 Instrumentalities’ infringement is presented below.

26 15. The Accused Instrumentalities include “[a] communication system
27 including a first apparatus having a first hardware storage medium, and a second
28 apparatus.” For example, the Accused Instrumentalities communicate music files and

1 playlists stored on one device (e.g., a desktop computer with the Spotify app installed,
 2 or Access Point, Production Storage, User and Playlist) to another device (e.g., a user's
 3 mobile device or tablet with the Spotify app installed). *See, e.g.*, "Local Files,"
 4 available at https://support.spotify.com/us/using_spotify/features/listen-to-local-files/
 5 ("[Y]ou can also use your Spotify app to play music files stored on your computer
 6 (which we call "local files).").



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

24 16. The Accused Instrumentalities include a second apparatus comprising: "a
 25 second hardware storage medium configured to store management information of data
 26 to be transferred to said first storage medium." For example, the desktop computer,
 27 mobile devices, and server components include a storage medium, e.g. a hard drive.
 28 The second storage medium is configured to store management information of data to

1 be transferred. *See, e.g.,* “Local Files,” *available at*
2 https://support.spotify.com/us/using_spotify/features/listen-to-local-files/ (“Import
3 your local files to Spotify using the desktop app...[a]dd the files to a playlist.”) (“In
4 addition to over 35 million tracks we offer, you can also use your Spotify app to play
5 music files stored on your computer (which we call “local files”).”).

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

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

22 19. The Accused Instrumentalities further include a second apparatus
23 comprising a processor configured to “select certain data to be transferred; edit said
24 management information based on said selection without regard to the connection of
25 said first apparatus and said second apparatus.” For example, the desktop computer with
26 the Spotify app installed (as well as Access Point, Production Storage, User and Playlist)
27 allows a user to select the uploaded files and add the files to a playlist without regard to
28 whether the mobile device or tablet is connected to the web server. *See, e.g.,* “Local

1 Files” (“2. Add the files to a playlist. 3. Log in on your mobile or tablet using the same
2 WiFi network as your desktop app.”).

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

19 21. Defendants have had knowledge of the ‘675 Patent and their infringement
20 since at least the filing of the original Complaint in this action, or shortly thereafter,
21 including by way of this lawsuit. By the time of trial, Defendants will have known and
22 intended (since receiving such notice) that their continued actions would actively induce
23 and contribute to the infringement of the claims of the ‘675 Patent.

24 22. Defendants’ affirmative acts of making, using, selling, offering for sale,
25 and/or importing the Accused Instrumentalities have induced and continue to induce
26 users of the Accused Instrumentalities to use the Accused Instrumentalities in their
27 normal and customary way to infringe the claims of the ‘675 Patent. Use of the Accused
28

1 Instrumentalities in their ordinary and customary fashion results in infringement of the
2 claims of the '675 Patent.

3 23. For example, Defendants explain to customers the benefits of using the
4 Accused Instrumentalities, such as by touting their advantages of allowing users to use
5 the Spotify app to play music files stored on the users' desktop computer. Defendants
6 also induce their customers to use the Accused Instrumentalities to infringe other claims
7 of the '675 Patent. Defendants specifically intended and was aware that the normal and
8 customary use of the Accused Instrumentalities on compatible systems would infringe
9 the '675 Patent. Defendants performed the acts that constitute induced infringement,
10 and would induce actual infringement, with the knowledge of the '675 Patent and with
11 the knowledge, or willful blindness to the probability, that the induced acts would
12 constitute infringement. On information and belief, Defendants engaged in such
13 inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through their
14 user manuals, product support, marketing materials, demonstrations, installation
15 support, and training materials to actively induce the users of the accused products to
16 infringe the '675 Patent. Accordingly, Defendants have induced and continue to induce
17 end users of the accused products to use the accused products in their ordinary and
18 customary way with compatible systems to make and/or use systems infringing the '675
19 Patent, knowing that such use of the Accused Instrumentalities with compatible systems
20 will result in infringement of the '675 Patent. Accordingly, Defendants have been (since
21 at least as of filing of the original complaint), and currently are, inducing infringement
22 of the '675 Patent, in violation of 35 U.S.C. § 271(b).

23 24. Defendants have also infringed, and continues to infringe, claims of the
24 '675 Patent by offering to commercially distribute, commercially distributing, making,
25 and/or importing the Accused Instrumentalities, which are used in practicing the
26 process, or using the systems, of the '675 Patent, and constitute a material part of the
27 invention. Defendants know the components in the Accused Instrumentalities to be
28 especially made or especially adapted for use in infringement of the '675 Patent, not a

1 staple article, and not a commodity of commerce suitable for substantial noninfringing
2 use. For example, the ordinary way of using the Accused Instrumentalities infringes the
3 patent claims, and as such, is especially adapted for use in infringement. Accordingly,
4 Defendants have been, and currently are, contributorily infringing the '675 Patent, in
5 violation of 35 U.S.C. § 271(c).

6 25. For similar reasons, Defendants also infringe the '675 Patent by supplying
7 or causing to be supplied in or from the United States all or a substantial portion of the
8 components of the Accused Instrumentalities, where such components are uncombined
9 in whole or in part, in such manner as to actively induce the combination of such
10 components outside of the United States in a manner that would infringe the '675 Patent
11 if such combination occurred within the United States. For example, Defendants supply
12 or cause to be supplied in or from the United States all or a substantial portion of the
13 software (e.g., the Spotify app) components of the Accused Instrumentalities in such a
14 manner as to actively induce the combination of such components (e.g., by instructing
15 users to use multiple devices, each with the Spotify app installed, to share files stored
16 on distinct devices) outside of the United States.

17 26. Defendants also indirectly infringe the '675 Patent by supplying or causing
18 to be supplied in or from the United States components of the Accused Instrumentalities
19 that are especially made or especially adapted for use in infringing the '675 Patent and
20 are not a staple article or commodity of commerce suitable for substantial non-
21 infringing use, and where such components are uncombined in whole or in part,
22 knowing that such components are so made or adapted and intending that such
23 components are combined outside of the United States in a manner that would infringe
24 the '675 Patent if such combination occurred within the United States. Because the
25 Accused Instrumentalities are designed to operate as the claimed system and apparatus,
26 the Accused Instrumentalities have no substantial non-infringing uses, and any other
27 uses would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or
28 experimental. For example, Defendants supply or cause to be supplied in or from the

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

10 27. As a result of Defendants' infringement of the '675 Patent, Plaintiff Data
11 Scape is entitled to monetary damages in an amount adequate to compensate for
12 Defendants' infringement, but in no event less than a reasonable royalty for the use
13 made of the invention by Defendants, together with interest and costs as fixed by the
14 Court.

15 **COUNT II**

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

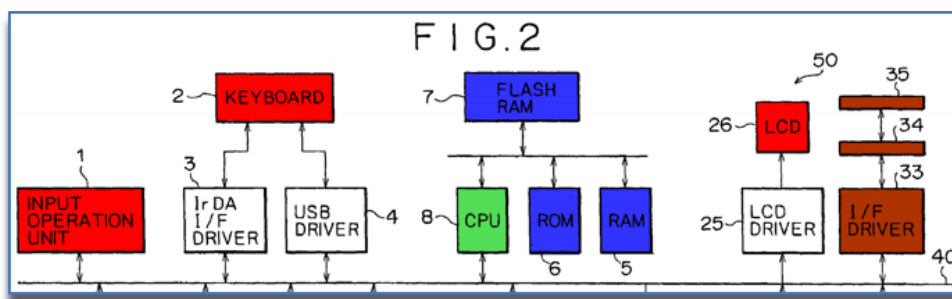
17 28. Plaintiff realleges and incorporates by reference the foregoing paragraphs,
18 as if fully set forth herein.

19 29. Data Scape is the owner by assignment of United States Patent No.
20 9,380,112 ("the '112 Patent") entitled "Communication System And Its Method and
21 Communication Apparatus And Its Method." The '112 Patent was duly and legally
22 issued by the United States Patent and Trademark Office on June 28, 2016. A true and
23 correct copy of the '112 Patent is included as Exhibit B.

24 30. In their most basic form, and ignoring many claim limitations, the claims
25 of the '112 Patent are directed to a data synchronization apparatus configured to
26 recognize an identifier of a portable device and a list of digital musical content stored
27 therein, and selectively transfer only edited portions of the musical content to the
28 portable device and assure the content is played back as a collection. The claims are not

1 directed to abstract ideas. The claims provide technical solutions to technical problems,
2 and, thus, are patent-eligible.

3 31. As the '112 Patent states, the inventor, Akihiro Morohashi, working at
4 Sony Corporation, aimed to solve the problems skilled artisans in 1999 faced trying to
5 selectively transfer data between two electronic apparatuses. *E.g.*, '112 Patent, Col
6 2:16-54. For example, many used optical disks to accomplish this process, but that was
7 “cumbersome” and did not enable easy or random selection of files to transfer. *Id.* at
8 25-37. And when others burned digital files into hard disk drives or semiconductor
9 memory, those systems still required a large amount of time to selectively transfer
10 certain digital data between electronic apparatuses. *Id.* And in any case, there was no
11 reasonable way to selectively synchronize select digital content data between the
12 apparatuses. *Id.* These problems were specific to the technological process of selective
13 digital-data transfer between electronic apparatuses. *Id.* at 1:42-2:37. And with over 28
14 columns of text and 13 figures, including Figure 2 below, the inventor taught various
15 technical solutions involving an unconventional server with a controller configured with
16 circuitry to compare certain digital management information:



22 32. Enabled by these teachings, the patent recites in its claims various
23 technical solutions to the existing technological problems and shortcomings. For
24 example, various claims require the then-unconventional system of electronic
25 components configured to use a digital “identifier” to compare, edit and selectively
26 transfer separate lists of digital musical content data between two apparatuses. See,
27 *e.g.*, '112 Patent, Claim 1 (“[a] communication apparatus configured to transfer data to
28 a portable apparatus . . . comprising . . . [b] a memory configured to store a first list of

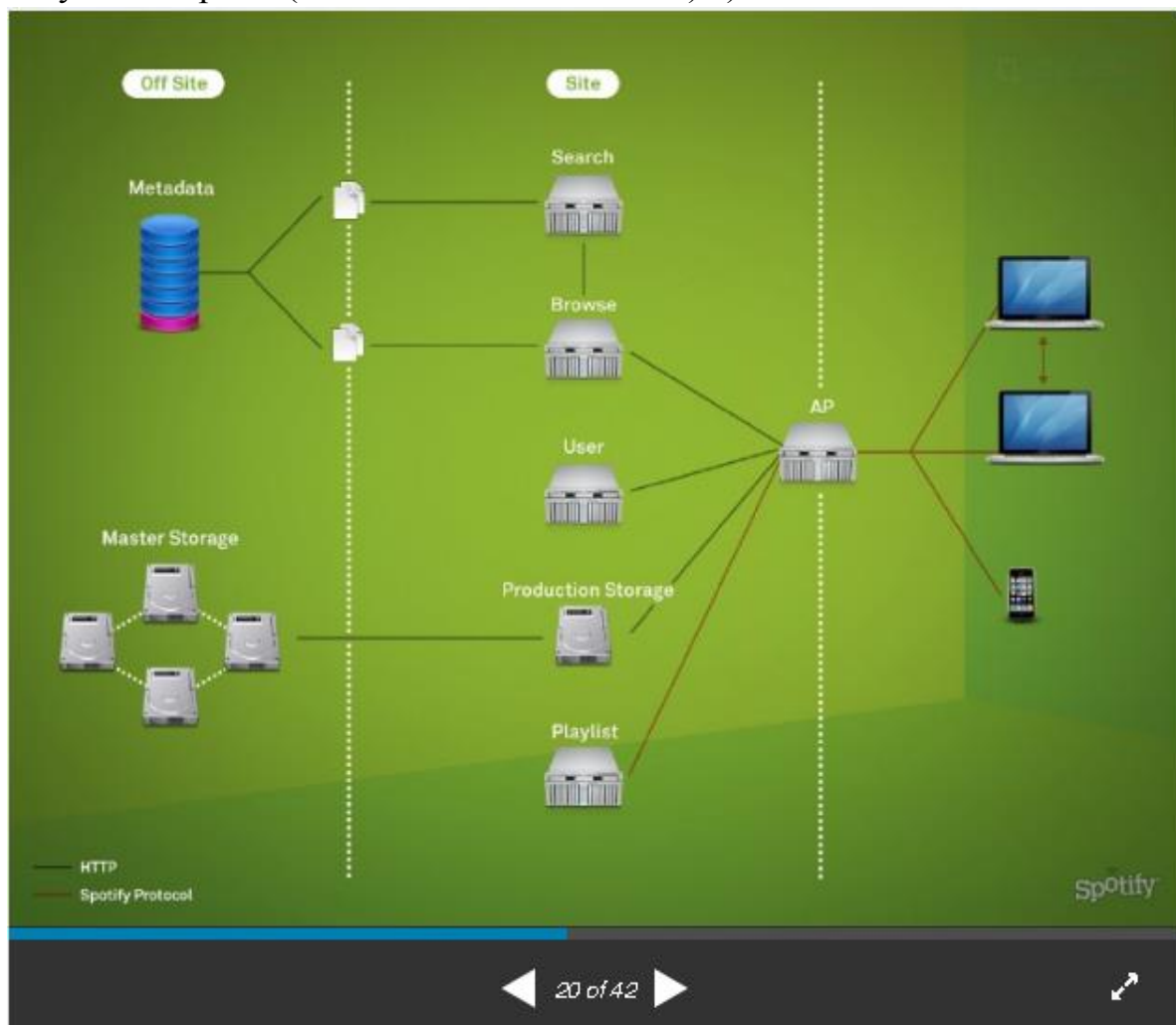
1 musical content data; . . . [c] circuitry configured to . . . [i] edit the first list of musical
2 content data . . . [ii] compare the edited first list of musical content data a list of musical
3 content data stored in the portable apparatus; [iii] control transfer of selected musical
4 content data stored in the communication apparatus to the portable apparatus . . . based
5 on the result of the comparison . . . ; and [iv] control playback of musical content data
6 based on the edited first list of musical content data so that . . . [the] musical content
7 data is played back as a collection, the edited first list of musical content data being
8 associated with an identifier stored in the communication apparatus that uniquely
9 identifies the portable apparatus.”).

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

25 34. Defendants have offered for sale, sold and/or imported into the United
26 States products and services that infringe the ’112 patent, and continues to do so. By
27 way of illustrative example, these infringing products and services include, without
28 limitation, Defendants’ products and services, *e.g.,* the Spotify music streaming

1 platform, and all versions and variations thereof since the issuance of the '112 Patent
 2 (“Accused Instrumentalities”).

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



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

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

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

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

24 39. The Accused Instrumentalities further include circuitry configured to
25 “compare the edited first list of musical content with a list of musical content stored in
26 the portable apparatus.” For example, when the mobile device is connected to the
27 desktop, the Spotify app will compare playlists of music present on the mobile device
28 to playlists present on the desktop to determine which files to transfer to the mobile

1 device. *See, e.g.*, “Local Files” (“2. Add the files to a playlist. 3. Log in on your mobile
2 or tablet using the same WiFi network as your desktop app. 4. Select [on the mobile
3 device] the playlist containing the local files.”).

4 40. The Accused Instrumentalities further include circuitry configured to
5 “control transfer of selected musical content data stored in the communication apparatus
6 to the portable apparatus via the data interface based on a result of the comparison after
7 the connection of the communication apparatus and the portable apparatus in
8 connected.” For example, when the mobile device is connected to the desktop, the
9 Spotify app will compare playlists of music present on the mobile device to playlists
10 present on the desktop to determine which files to transfer to the mobile device. *See,*
11 *e.g.*, “Local Files” (“2. Add the files to a playlist. 3. Log in on your mobile or tablet
12 using the same WiFi network as your desktop app. 4. Select [on the mobile device] the
13 playlist containing the local files.”).

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

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

6 43. Defendants' affirmative acts of making, using, selling, offering for sale,
7 and/or importing the Accused Instrumentalities have induced and continue to induce
8 users of the Accused Instrumentalities to use the Accused Instrumentalities in their
9 normal and customary way to infringe the claims of the '112 Patent. Use of the Accused
10 Instrumentalities in their ordinary and customary fashion results in infringement of the
11 claims of the '112 Patent.

12 44. For example, Defendants explain to customers the benefits of using the
13 Accused Instrumentalities, such as by touting their advantages of allowing users to use
14 the Spotify app to play music files stored on the users' desktop computer. Defendants
15 also induce their customers to use the Accused Instrumentalities to infringe other claims
16 of the '112 Patent. Defendants specifically intended and was aware that the normal and
17 customary use of the Accused Instrumentalities on compatible systems would infringe
18 the '112 Patent. Defendants performed the acts that constitute induced infringement,
19 and would induce actual infringement, with the knowledge of the '112 Patent and with
20 the knowledge, or willful blindness to the probability, that the induced acts would
21 constitute infringement. On information and belief, Defendants engaged in such
22 inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through its user
23 manuals, product support, marketing materials, demonstrations, installation support,
24 and training materials to actively induce the users of the accused products to infringe
25 the '112 Patent. Accordingly, Defendants have induced and continue to induce end
26 users of the accused products to use the accused products in their ordinary and
27 customary way with compatible systems to make and/or use systems infringing the '112
28 Patent, knowing that such use of the Accused Instrumentalities with compatible systems

1 will result in infringement of the '112 Patent. Accordingly, Defendants have been (since
2 at least as of filing of the original complaint), and currently are, inducing infringement
3 of the '112 Patent, in violation of 35 U.S.C. § 271(b).

4 45. Defendants have also infringed, and continue to infringe, claims of
5 the '112 Patent by offering to commercially distribute, commercially distributing,
6 making, and/or importing the Accused Instrumentalities, which are used in practicing
7 the process, or using the systems, of the '112 Patent, and constitute a material part of
8 the invention. Defendants know the components in the Accused Instrumentalities to be
9 especially made or especially adapted for use in infringement of the '112 Patent, not a
10 staple article, and not a commodity of commerce suitable for substantial noninfringing
11 use. For example, the ordinary way of using the Accused Instrumentalities infringes the
12 patent claims, and as such, is especially adapted for use in infringement. Accordingly,
13 Defendants have been, and currently are, contributorily infringing the '112 Patent, in
14 violation of 35 U.S.C. § 271(c).

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

26 47. Defendants also indirectly infringe the '112 Patent by supplying or causing
27 to be supplied in or from the United States components of the Accused Instrumentalities
28 that are especially made or especially adapted for use in infringing the '112 Patent and

1 are not a staple article or commodity of commerce suitable for substantial non-
2 infringing use, and where such components are uncombined in whole or in part,
3 knowing that such components are so made or adapted and intending that such
4 components are combined outside of the United States in a manner that would infringe
5 the '112 Patent if such combination occurred within the United States. Because the
6 Accused Instrumentalities are designed to operate as the claimed system and apparatus,
7 the Accused Instrumentalities have no substantial non-infringing uses, and any other
8 uses would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or
9 experimental. For example, Defendants supply or cause to be supplied in or from the
10 United States all or a substantial portion of the software (e.g., the Spotify Premium app)
11 components that are especially made or especially adapted for use in the Accused
12 Instrumentalities, where such hardware and software components are not staple articles
13 or commodities of commerce suitable for substantial noninfringing use, knowing that
14 such components are so made or adapted and intending that such components are
15 combined outside of the United States, as evidenced by Defendants' own actions or
16 instructions to users in, e.g., combining multiple devices with the Spotify app installed,
17 into infringing systems, and enabling and configuring the infringing functionalities of
18 the Accused Instrumentalities.

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

24 **COUNT III**

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

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

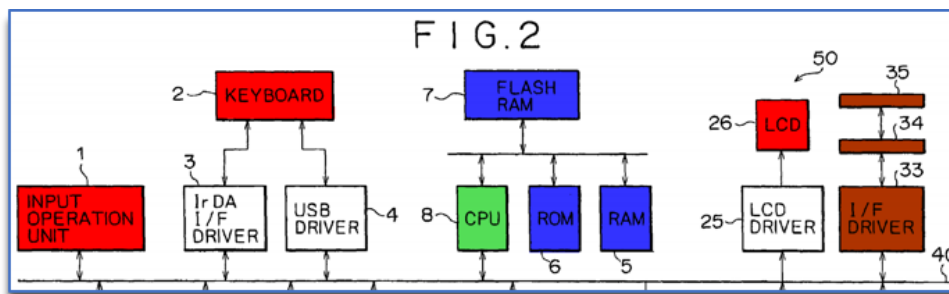
28

1 50. Data Scape is the owner by assignment of United States Patent No.
2 9,712,614 (“the ‘614 Patent”) entitled “Communication System And Its Method and
3 Communication Apparatus And Its Method.” The ‘614 Patent was duly and legally
4 issued by the United States Patent and Trademark Office on July 18, 2017. A true and
5 correct copy of the ‘614 Patent is included as Exhibit C.

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

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

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



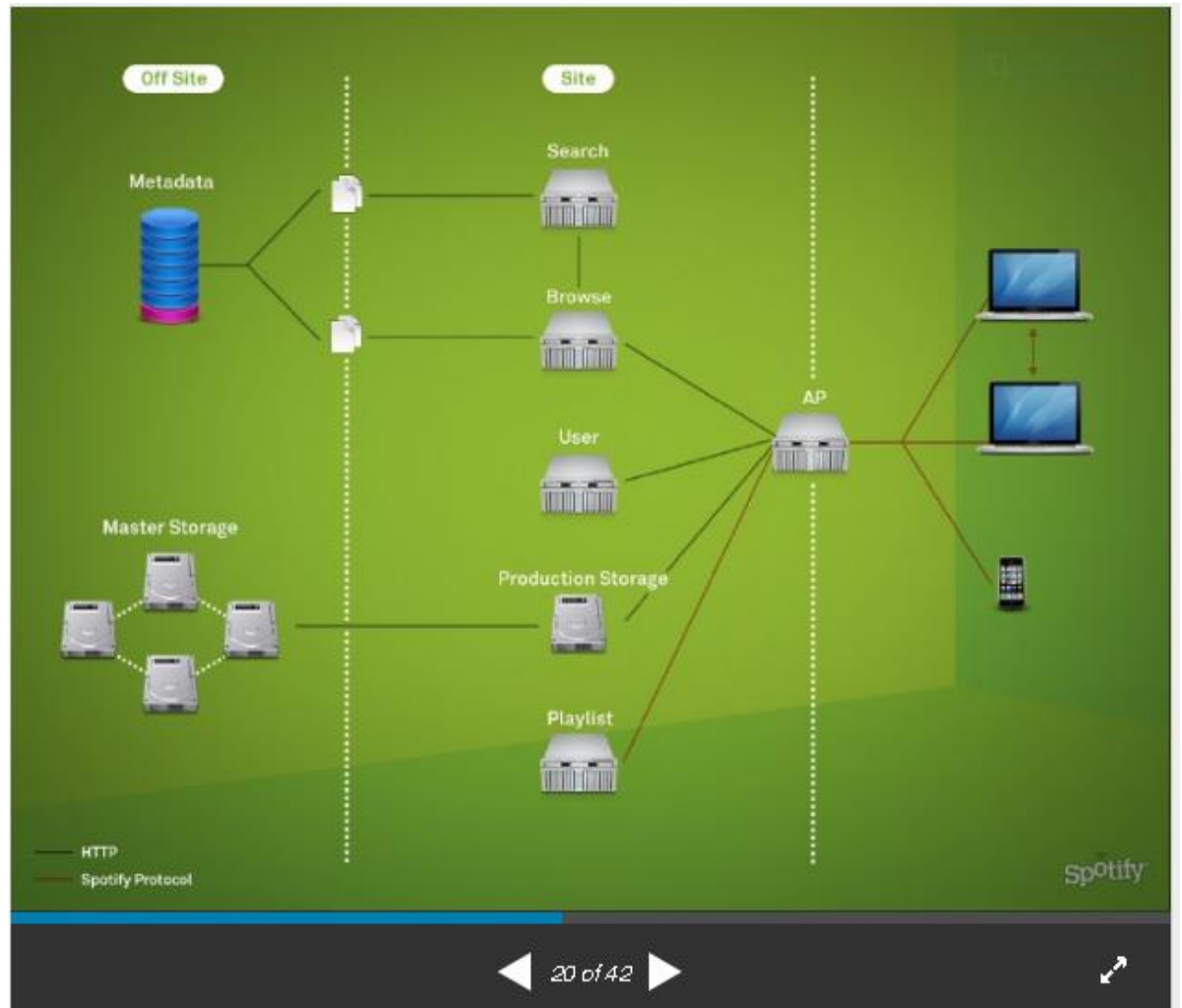
9 53. Enabled by these teachings, the patent recites in its claims various
 10 technical solutions to the existing technological problems and shortcomings. For
 11 example, various claims require the then-unconventional system of electronic
 12 components configured to use a digital “identifier” to compare, 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 54. 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 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 of the '614 patent.

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

27 56. The Accused Instrumentalities includes "[a] communication apparatus."
28 For example, a mobile device with the Spotify app installed can be connected to a

1 desktop computer with the Spotify app installed, to transfer files, e.g. local files, stored
 2 on the desktop computer (or Access Point, Production Storage, User and Playlist) (e.g.
 3 a communication apparatus) to the mobile device. *See, e.g.*, “Local Files”, available at
 4 https://support.spotify.com/us/using_spotify/features/listen-to-local-files/ (“In addition
 5 to over 35 million tracks we offer, you can also use your Spotify app to play music files
 6 stored on your computer (which we call "local files").”).



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

24 57. The Accused Instrumentalities include a communication apparatus
 25 comprising “a memory configured to store musical content data and a plurality of
 26 program lists associated with the musical content data.” For example, the desktop
 27 computer with the Spotify app installed (or mobile devices or server components)
 28 contains memory that will store musical files as individual files, or as playlists: *See,*

1 e.g., “Local Files” (“In addition to over 35 million tracks we offer, you can also use
2 your Spotify app to play music files stored on your computer (which we call “local
3 files”).”).

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

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

28

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

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

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

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

25 64. The Accused Instrumentalities further include circuitry configured to
26 “compare the program list with a second list of musical content data stored in the
27 predetermined external reproduction apparatus.” For example, when the mobile device
28 is connected to the desktop, the Spotify app will compare playlists of music present on

1 the mobile device to playlists present on the desktop to determine which files to transfer
2 to the mobile device. *See, e.g.*, “Local Files” (“2. Add the files to a playlist. 3. Log in
3 on your mobile or tablet using the same WiFi network as your desktop app. 4. Select
4 [on the mobile device] the playlist containing the local files.”).

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

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

26 67. Defendants have had knowledge of the ’614 Patent and their infringement
27 since at least the filing of the original Complaint in this action, or shortly thereafter,
28 including by way of this lawsuit. By the time of trial, Defendants will have known and

1 intended (since receiving such notice) that their continued actions would actively induce
2 and contribute to the infringement of the claims of the '614 Patent.

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

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

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

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

23 72. Defendants also indirectly infringe the '614 Patent by supplying or causing
24 to be supplied in or from the United States components of the Accused Instrumentalities
25 that are especially made or especially adapted for use in infringing the '614 Patent and
26 are not a staple article or commodity of commerce suitable for substantial non-
27 infringing use, and where such components are uncombined in whole or in part,
28 knowing that such components are so made or adapted and intending that such

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

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

21 **PRAYER FOR RELIEF**

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

23 a. A judgment in favor of Plaintiff that Defendants have infringed, either
24 literally and/or under the doctrine of equivalents, the '675 Patent, the '614 Patent, and
25 the '112 Patent (collectively, "asserted patents");

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

1 c. A judgment and order requiring Defendants 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 Defendants 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 Defendants; and

10 f. Any and all other relief as the Court may deem appropriate and just under
11 the 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: May 20, 2019

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