

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

BLUEBONNET INTERNET MEDIA
SERVICES, LLC,

Plaintiff,

v.

PANDORA MEDIA, LLC,

Defendant.

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Civil Action No. 6:20-cv-731

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Bluebonnet Internet Media Services, LLC (“Bluebonnet”) files this Complaint for patent infringement against Defendant Pandora Media, LLC, and alleges as follows:

PARTIES

1. Bluebonnet is a Texas limited liability company having a place of business at 2307 Newforest Court, Arlington, Texas 76017. *See* Exhibit 1, a true and correct copy of Texas Certificate of Fact for Bluebonnet.

2. Pandora is a Delaware limited liability company with a principal place of business at 2100 Franklin St., Suite 700, Oakland, CA, 94612 and a regular and established place of business at 3601 South Congress Ave., K100, Austin, Texas 78704. *See* <https://www.pandora.com/static/careers/location-us.html> (last accessed July 2020), a true and correct copy of which is attached as Exhibit 2; *see also* Exhibit 3, a true and correct copy of search results for Pandora in Austin on Google Maps.

3. Pandora Media, LLC is the successor in interest to Pandora Media, Inc., which was acquired by Sirius XM Holdings Inc. in 2018. Pandora Media, LLC is a wholly owned subsidiary of Sirius XM Holdings, Inc. *See* Exhibit 4, a true and correct copy of 10-K for Sirius

XM Holdings Inc. for year ended December 31, 2019, p. 2 (“10-K 2019”). Pandora Media, LLC has offices in Atlanta, Georgia; Boulder, Colorado; Chicago, Illinois; New York, New York; and Oakland and Santa Monica, California. Exhibit 2; Exhibit 5, a true and correct copy of <https://www.pandora.com/contact> (last accessed July 2020); Exhibit 6, a true and correct copy from <https://pandora.com/careers/locations> (last accessed July 2020). As used herein, “Pandora” refers to Pandora Media, LLC and its predecessor in interest, Pandora Media, Inc.

4. Pandora may be served through its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

JURISDICTION AND VENUE

5. This is an action for patent infringement under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*, including 35 U.S.C. §§ 271, 281, and 284, among others. The Court has subject-matter jurisdiction over the claims raised in this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. Pandora has “regional sales and support offices” in Seattle, Washington; Portland, Oregon; **Dallas**, Texas; Boston, Massachusetts; and Detroit, Michigan” as well as “additional remote locations in local markets including Ashburn, Minneapolis, Cincinnati, Columbus, Baltimore, Denver, Hartford, **Houston**, Las Vegas, Miami, Kansas City, Orlando, Philadelphia, St. Louis, Tampa, Washington D.C., San Diego, Cleveland, Phoenix, **Austin**, Boulder, Charlotte, Nashville, Pittsburgh, Salt Lake City, Raleigh, and **San Antonio**... .” Exhibit 2, <https://pandora.com/static/careers/location-us.html> (last accessed July 2020) (emphasis added).

7. The Court has personal jurisdiction over Pandora because: (1) Pandora has offices in Texas including in Austin, San Antonio, Houston, and Dallas; and/or (2) Pandora, directly, by its own actions, and/or in combination with actions of customers and others under its control, has

committed acts of infringement in this District at least by making and using infringing systems and using, selling, and offering for sale infringing services.

8. Venue in this District is proper pursuant to 28 U.S.C. § 1400(b) because Pandora has a regular and established place of business in this District, which is located at 3601 South Congress Ave K100, Austin, Texas 78704, and/or, on information and belief, because Pandora has a regular and established place of business in this District in San Antonio, Texas, and has committed acts of patent infringement in this District. *See* Exhibit 2, <https://www.pandora.com/contact> (last accessed July 2020).

9. On information and belief, Pandora's acts of infringement in this District include, but are not limited to, using the Accused Instrumentalities and Services (defined below) by providing its streaming media services to its subscribers in this District.

FACTUAL ALLEGATIONS

The Asserted Patents

10. Bluebonnet is the owner by assignment of the following patents: United States Patent Nos. 9,405,753 (the "'753 Patent"); No. 9,547,650 (the "'650 Patent"); No. 9,779,095 (the "'095 Patent"); and No. 10,318,647 (the "'647 Patent") (collectively, the "Asserted Patents").

11. The '753 Patent was duly and legally issued by the United States Patent and Trademark Office ("USPTO") on August 2, 2016. A true and correct copy of the '753 Patent is attached hereto as Exhibit 7.

12. The '650 Patent was duly and legally issued by the USPTO on January 17, 2017. A true and correct copy of the '650 Patent is attached hereto as Exhibit 8.

13. The '095 Patent was duly and legally issued by the USPTO on October 3, 2017. A true and correct copy of the '095 Patent is attached hereto as Exhibit 9.

14. The '647 Patent was duly and legally issued by the USPTO on June 11, 2019. A true and correct copy of the '647 Patent is attached hereto as Exhibit 10.

15. All of the Asserted Patents share the same disclosure and claim priority to U.S. Utility Application No. 09/563,250, filed May 2, 2000, which in turn claims priority to U.S. Provisional Patent Application No. 60/177,786, filed January 24, 2000 ("Provisional Application" which matured into U.S. Patent No. 6,389,467 ("the '467 Patent").

16. The Asserted Patents expired on May 2, 2020.

17. The inventors of the Asserted Patents conceived of the inventions of the Asserted Patents at least as early as February 1999, if not earlier. After conception, the inventors worked diligently to reduce their inventions to practice. The inventors had in fact reduced their inventions to practice later in 1999 and constructively reduced the inventions to practice by the filing of the Provisional Patent Application.

18. Bluebonnet is entitled to sue to collect damages for all past infringement of the Asserted Patents, as shown by the documents recorded at the USPTO at Reel 041675, Frame 0788 *et seq.*, and Reel 041217, Frame 0628 *et seq.*, true and correct copies of which are attached hereto as Exhibits 11 and 12, respectively.

19. Bluebonnet and its predecessor-in-interest, Friskit, Inc., complied with the marking statute, 35 U.S.C. § 287.

20. Bluebonnet never made, offered for sale, or sold any "patented article" within the meaning of 35 U.S.C. § 287 after issuance of the ultimate parent of the Asserted Patents, the '467 Patent, which issued on May 14, 2002.

21. Bluebonnet's predecessor, Friskit, never made, offered for sale, or sold any "patented article" within the meaning of 35 U.S.C. § 287 after the issuance of the ultimate parent of the Asserted Patents, U.S. Patent No. 6,389,467, which issued on May 14, 2002.

22. Bluebonnet's predecessor-of-interest, Friskit, Inc. ("Friskit"), was involved in a dispute with Microsoft Corporation. That dispute was resolved by execution of a confidential settlement agreement in 2011 (the "Confidential Agreement").

23. Pandora is not a licensee and has no rights and is entitled to acquire no rights under the Confidential Agreement or any other agreement, including being a third-party beneficiary of the Confidential Agreement as to the Asserted Patents.

24. The Confidential Agreement will be provided to Pandora's counsel upon request and under appropriate terms and conditions to be negotiated.

Introduction to the Asserted Patents

25. The technology described in the Asserted Patents was invented by George Aposporos and Aviv Eyal. The two inventors began discussing their ideas for streaming technology in 1998 and by early 1999 conceived of a software system for searching, discovering and playing media through a streaming service. The same year, they formed Friskit, a multimedia company founded to commercialize their inventions. In January 2000, they filed their first provisional patent application, with the non-provisional utility application being filed in May 2000. By no later than June 2000, Friskit launched its streaming music service. As soon as a user navigated to Friskit.com, the service would automatically deploy a playback interface on the user's device. The playback interface was a "thin-client," and allowed the user to interact with Friskit's robust server-side system to enjoy streaming music from automatically generated playlists. Users could listen to continuous music for hours through "Mood" or "Genre" playlists

accessed via drop down selections. Users could enter the name of a favorite artist to hear a dynamically generated playlist of songs from that artist. A user could also take other actions to personalize their listening experience such as rating a song. Bluebonnet, through Friskit, was the pioneer of online streaming media services, and sought and obtained patents to protect its pioneering inventions.

26. One of the biggest problems with the state of the art at the time of the Asserted Patents was a lack of systems to enable users to discover new music that they would like. The then existing technology was deficient in creating and generating automatic and dynamic playlists, generating personalized playlists at scale, and/or providing a simple but complete experience to access and use streaming media over the network. The inventions claimed in the Asserted Patents improved and advanced the state of technology in numerous ways. For example, but not as a limitation, some of the inventions provided an improved streaming media platform that allowed the customization of the media to be streamed to particular individuals. These technologies were not well-understood, routine, or conventional in the streaming media industry at the time of the inventions. Indeed, there was a long-felt need in the art for user directed playlist generation at the time of the inventions of the Asserted Patents. Friskit was highlighted by Newsweek magazine as an improvement to streaming media and providing an interface that was “simple and elegant,” and connecting listeners to new music “they might not otherwise know is available.” Exhibits 13. The Washington Post newspaper described Friskit’s interface as a “very cool, very simple program,” and concluded its review with the statement – “Why can’t my radio work like this?” Exhibit 14, incorporated herein by this reference.

27. The Asserted Patents are directed to a complex “tiered” networked system architecture to provide streaming media services. This complex tiered networked system

includes numerous specially-purposed servers, modules, and a database management component that maintains an organizational data structure acting cooperatively as a system to provide streaming media services to a user for playback on the user's system through a playback interface. The system includes at least one user device in the form of an "internet enabled multimedia computing platform." *See, e.g.*, '753 Patent, Cl. 1. The internet enabled computing platform connects over the internet to the "tiered" networked system to send, among other things, ratings and to receive a playlist and streaming media content. *See, e.g.*, '753 Patent, Fig. 3 (showing "Front tier," "Middle tier," and "Backend tier").

28. The claimed system provides a playlist to a user for playback of media on the user's computing platform, which playlist is based at least in part upon a user's inputs into the system using the playback interface. These user inputs are generated through a "streaming media clips rating system" that is a part of the playback interface of the user's computing platform. The ratings are stored in an organizational data structure, a database, which may include ratings of other users. The inputs can be explicit ratings of streaming media previously experienced by a user, such as a "thumbs up" or "thumbs down" of reviewed content (as found in Pandora's Accused Instrumentalities and Services (defined below)). The inputs can also be "implicit ratings" that indicate a user's preferences, such as the decision to skip, listen to, or replay content (as found in Pandora's Accused Instrumentalities and Services (defined below)). These inputs are stored as ratings information, associated with individual media resources, and periodically updated.

29. Rating information can include information generated by an individual user, by many users, or both. The rating information is used by a play-list generator to affect selection of songs for the user. In some embodiments, the playlists are automatically and dynamically

generated in response to the user's rating information. In other embodiments, the playlists may be pre-generated and stored. In addition, some of the claimed inventions provide for the sharing of playlists between users.

30. The technology disclosed in the Asserted Patents is highly valuable, novel and non-obvious based on the number of times the parent '467 Patent was cited in the patent literature, nearly 500 times. *See*

<https://patents.google.com/patent/US6389467B1/en?q=6%2c389%2c467+#patentCitations>,

Google Patents analysis of forward citations.

Pandora's Patenting Activities and Knowledge of Bluebonnet's Technology

31. Pandora has pursued and been granted many of its own patents on systems and methods of personalizing playlists. For instance, Pandora was granted U.S. Patent 7,962,482, entitled "Methods and systems for utilizing contextual feedback to generate and modify playlists," and U.S. Patent 7,003,515 entitled "Consumer item matching method and system." It also pursued now abandoned U.S. Patent Application No. 11/279,567, entitled "Methods of presenting and providing content to a user" and U.S. Patent Application No. 11/295,339 entitled "Playlist generating methods." During prosecution of each of those patents/applications, the '467 patent was cited as prior art, meaning Pandora was aware of Bluebonnet's technologies prior to the filing of this action.

Bluebonnet's Asserted Patent Claims are Valid

32. Bluebonnet asserts that at least and without limitation, Claims 1 and 5 of the '753 Patent; Claims 2 and 14 of the '650 Patent; Claim 72 of the '095 Patent; Claims 21, 22, and 24 of the '647 Patent (collectively, the "Primary Asserted Claims") have been directly infringed, either literally or under the doctrine of equivalents ("DOE").

33. All claims of the Asserted Patents are presumed to be valid, including each of the Primary Asserted Claims.

34. All claims of the Asserted Patents, including each of the Primary Asserted Claims is directed to patentable subject matter under 35 U.S.C. § 101.

35. The Primary Asserted Claims of the '753 Patent are:

Claim 1: A system comprising:

a playback interface executing on an internet enabled multimedia computing platform including:

a media player that plays media resources delivered over the Internet from a remote server, and

a streaming media clips rating system that receives a rating when a user enters a rating selection by using one or more of an icon or display feature of the playback interface, and signals, via the Internet, the rating to a rating component; and

a rating system including:

a database management component that maintains an organizational data structure that describes rating information for the media resources,

the rating component receives, via the Internet, the rating from the streaming media clips rating system and modifies rating information in the organizational data structure at least based on the rating; and

a play-list generator adapted to automatically and dynamically generate at least one play-list based on rating information in the organizational data structure, wherein the play-list comprises identifiers of one or more media resources selected based on the rating information, wherein the media resources are played back on the media player.

Claim 5:

The system of claim 1, wherein the system further comprises a play-list communication component that communicates over the Internet the play-list or an identifier of the play-list to a second user for playback

of the play-list on a second internet enabled multimedia computing platform.

36. The Primary Asserted Claims of the '650 Patent:

Claim 2: A system comprising:

a first playback interface executing on an internet enabled multimedia computing platform including:

a first media player adapted to play media resources being delivered over the Internet from one or more remote servers, and

wherein a first user can select at least one play-list and the selected play-list corresponds to a playlist identifier, and further wherein the play-list comprises identifiers of one or more media resources, and

the first playback interface including a messaging component that allows the first user to select an action to send a message to a second user that allows the second user to playback the selected play-list; and

a second playback interface executing on an internet enabled multimedia computing platform including:

a second media player adapted to play media resources being delivered over the Internet from one or more remote servers, and

a streaming media clips rating system adapted to receive a rating when the second user enters a rating selection by using one or more of an icon or display feature of the playback interface, and signaling, via the Internet, the rating to a rating component; and

a rating system including:

a database management component that maintains an organizational data structure that describes rating information for the media resources,

the rating component adapted to receive, via the Internet, the rating from the streaming media clips rating system and modify rating information in the organizational data structure at least based on the rating;

a play-list generator adapted to automatically and dynamically generate at least one play-list for a user based on rating information in the organizational data structure, wherein a play-list generated by the play-list generator for a user comprises identifiers of at least one or more media resources that have similar attributes to one or more of the media resources that have received a positive rating selection from the user; and

wherein the second playback interface displays metadata for two or more of the media resources corresponding to the media resource identifiers in the play-list selected to be sent by the first user.

Claim 14: A system architecture comprising

a first client application installed on a first multimedia computing platform with internet access, the first client application including:

a first media player that plays media resources delivered over the Internet from one or more remote servers in communication with the first media player, and

a first streaming media clips rating system that receives a rating when a first user enters a rating selection by using one or more of an icon or display feature of the first client application, and signals, via the Internet, the rating to a rating component, and

a messaging component; and

a second client application installed on a second multimedia computing platform with internet access, the second client application including:

a second media player that plays media resources being delivered over the Internet from one or more remote servers in communication with the second media player, and

a second streaming media clips rating system that receives a rating when a second user enters a rating selection by using one or more of an icon or display feature of the second client application, and signals, via the Internet, the rating to the rating component; and

a rating system including:

a database management component that maintains an organizational data structure that describes rating information for the media resources,

the rating component located at least partially on one or more remote servers that receives, via the Internet, ratings from one or more of the first and second streaming media clips rating systems and modifies rating information in the organizational data structure at least based on the ratings;

a play-list generator located at least partially on one or more remote servers adapted to automatically and dynamically generate at least one play-list for a user based on rating information in the organizational data structure, wherein a play-list generated by the play-list generator for a user comprises identifiers of at least one or more media resources that have similar attributes to one or more of the media resources that have received a positive rating selection from the user; and

wherein the first user can select an action to send a message to the second user using the messaging component and the message includes a selectable link allowing the second user to playback the media resources in a play-list selected to be sent by the first user.

37. The Primary Asserted Claim of the '095 Patent follows:

Claim 72: A system comprising:

a playback interface executing on an internet enabled multimedia computing platform adapted to playback streaming media and to receive ratings, the playback interface including:

a media player adapted to play media resources being delivered over the Internet from one or more remote servers, and

a streaming media clips rating system adapted to receive a rating when respective users enter rating selections by using one or more of an icon or display feature of the playback interface, and signal, via the Internet, the ratings to a rating selection component; and

a rating system including:

a database management component that maintains an organizational data structure that describes rating information for the media resources, and

the rating selection component adapted to receive, via the Internet, the rating from the streaming media clips rating system and modify the rating information in the organizational data structure at least based on the rating; and

a play-list generator adapted to generate and store at least one play-list based on the rating information in the organizational data structure, wherein the play-list comprises identifiers of at least one or more media resources selected based on the rating information, wherein the media resources are capable of being played back on the media player.

38. The Primary Asserted Claims of the '647 Patent follows:

Claim 21: A system comprising:

An internet enabled multimedia computing platform including:

a playback interface adapted to receive at least one user's initial selection for streaming media based on at least one item of metadata, including at least genre, category, or other organizational information, at least one user selection for controlling the playback of streaming media, and rating information;

wherein the playback interface is adapted to signal, via the Internet, the user's initial selection based on at least one item of metadata to at least one rating component of the streaming media rating system, user selection for controlling the playback of streaming media, and rating information; and

a streaming media rating system including:

a database management component that maintains an organizational data structure that describes rating information for a media resource;

the rating component adapted to receive, via the Internet, a rating from the streaming media rating system and modify the rating information in the organizational data structure at least based on the rating information; and

a play-list generator adapted to generate at least one playlist based on at least a user's initial selection via the user interface of one or more user selections for streaming media based on at least one item of metadata, including at least one of a genre, category, or organizational information selected by the user and the rating information in the organizational data structure;

wherein the play-list is provided, via the Internet, to the playback interface, and wherein the play-list comprised of media resources is capable of being played back on the multimedia computing platform.

Claim 22:

The system of claim 21, wherein an initial playlist is generated by user's selection of a genre, artist, or other media resource attribute through the playback interface.

Claim 24:

The system of claim 21, wherein the playback interface allows the user to select an action to send a signal to a second internet enabled multimedia computing platform that allow a user to playback the play-list of media resources on the second internet enabled multimedia computing platform.

The specification and the figures and related text of the '753 Patent (all the Asserted Patents share the same specification) illustrate the complex, tiered networked system architecture of the inventions captured by the Primary Asserted Claims.

39. For example, Figure 2 “is a block diagram illustrating an architecture for use with an embodiment of the invention” ('753 Patent, 7:59 – 60):

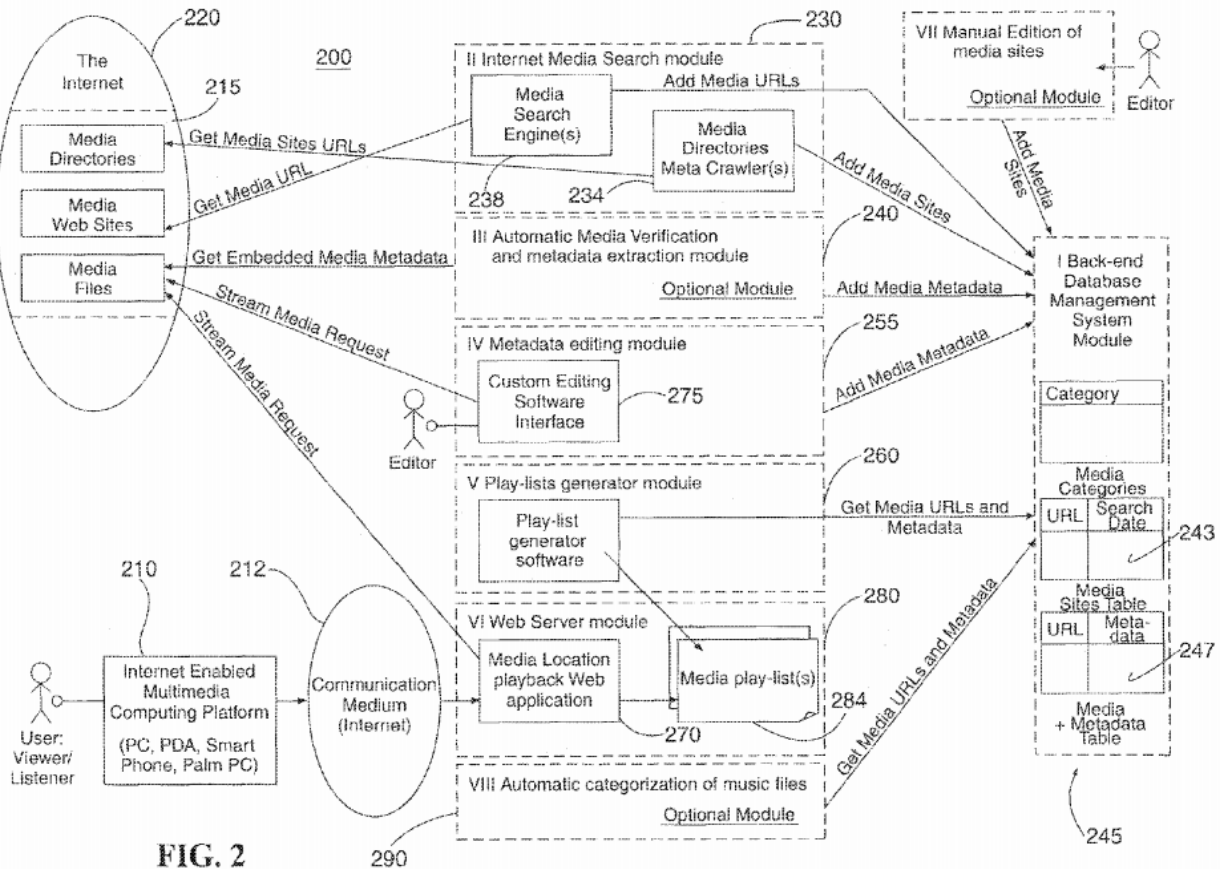


FIG. 2

As the Figure describes to a person skilled in the relevant art (“POSITA”), a user/listener using their device connects through the internet to a complex, tiered networked system that includes networked hardware components and/or software components that constitute modules performing specific tasks. *See, e.g.*, ‘753 Patent, Col. 11, ll. 42 – 48 (“As used herein, a module includes a program, a subroutine, a portion of a program, **a software component or a hardware component** capable of performing a stated task or function. A module can exist on a hardware component such as a server independently of other modules, or a module can exist with other modules on the same server or client terminal, or within the same program.” (emphasis added)). As an example, “Back-end Database Management System Module” (245 as shown above) manages information such as user feedback, search strings, media categories, media site/URLs, and metadata associated with that information. The Back-end Database Management System

Module interacts with one or more other modules as shown. A POSITA would understand that the “Back-end Database Management System Module” includes one or more servers including software component(s) as well as physical storage resources (such as, for example, magnetic hard drives) that store a database.

40. As another example, Figure 3 “is a block diagram illustrating a back-end architecture, under an embodiment of the invention” (7: 61 – 62):

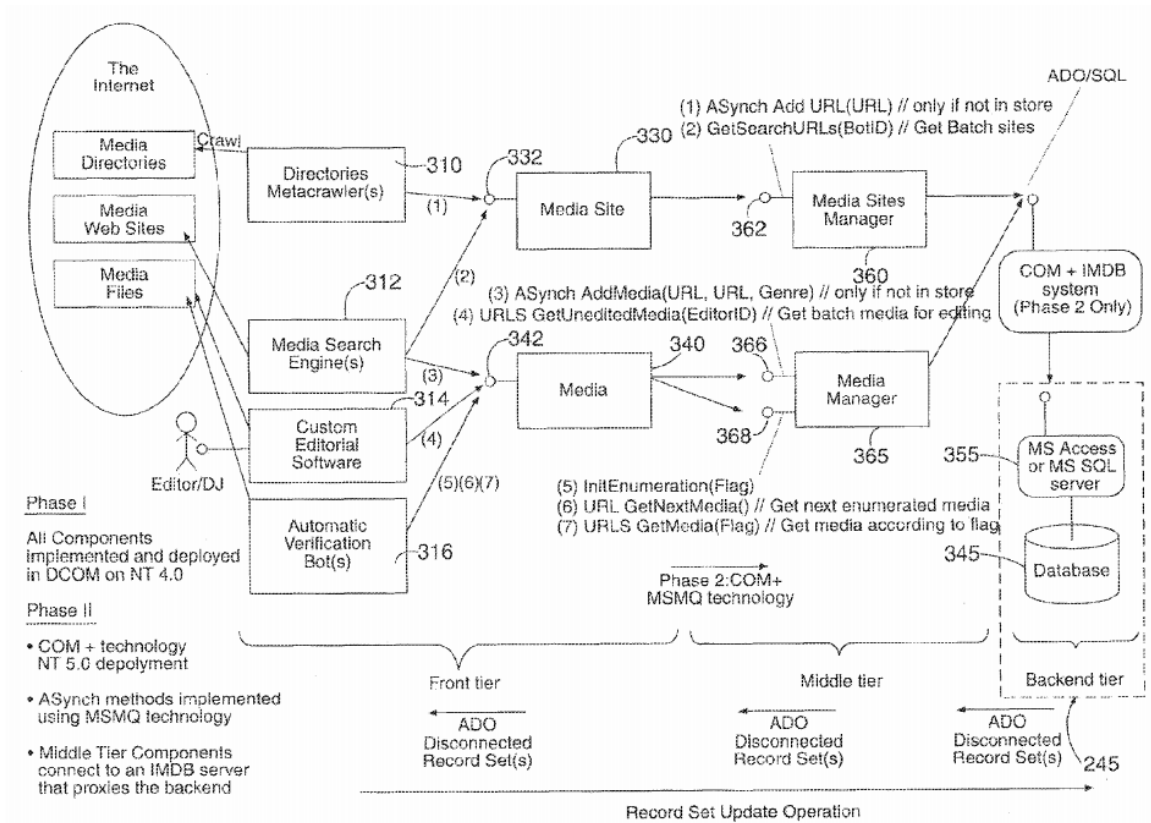


FIG. 3

Figure 3 shows how a complex “tiered” networked system architecture having a “Front tier,” a “Middle tier,” and a “Backend tier.” As illustrated, this complex tiered networked system had numerous modules including servers and other network hardware components as well as software components that acted cooperatively to provide streaming media services to a user as further recited in the Asserted Claims and described in the specification.

41. As another example, Figure 4 “is a block diagram illustrating a media search and playback system, under an embodiment of the invention” (’753 Patent, 7:63-64):

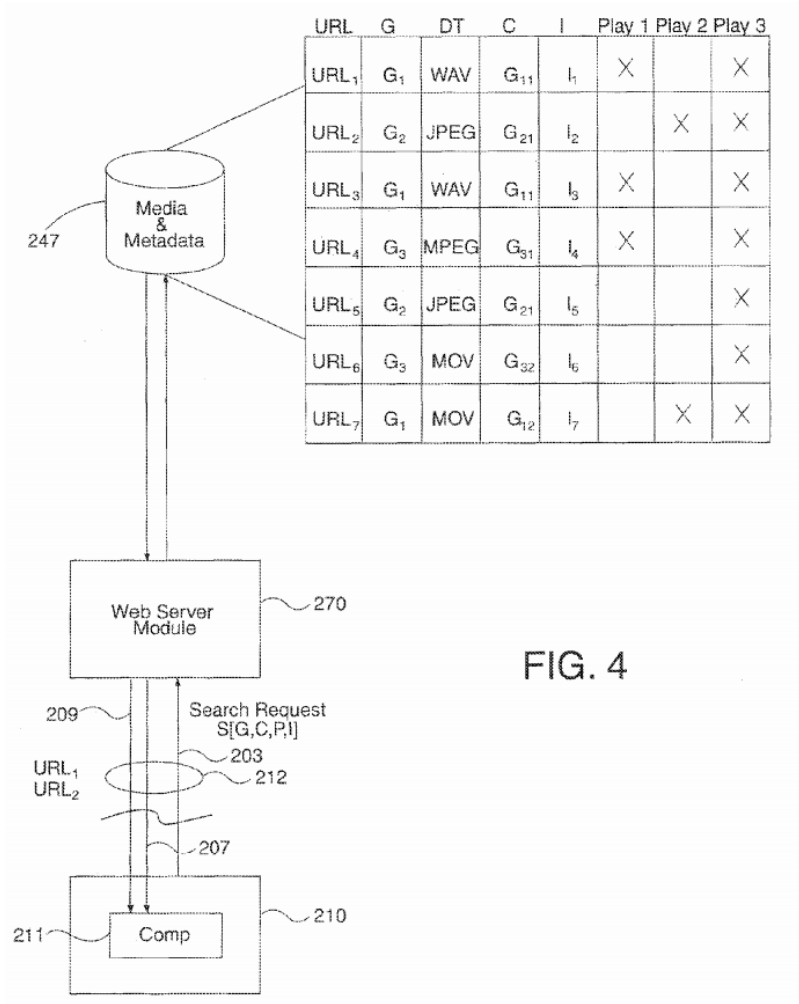


FIG. 4

Figure 4 “illustrates a block diagram in which system 200 receives a search request 203 and provides a response 209.” ’753 Patent, 19:34 – 35. “In an embodiment, system 200 processes the search request 203 using the web server module 270 and the media and metadata database 247.” *Id.* at 19:36 – 38. “The end terminal 210 signals the search request 203 to web server module 270. The web server module 270 accesses the media and metadata database 247 to retrieve one or more URLs matching the search request. The web server module 270 signals the

response containing the retrieved URLs to the media playback component 211 of end terminal 210.” ’753 Patent, 19:34-44. Again, the Patents are not describing abstract ideas, but a particular inventive solution to the problem of how to make a large-scale streaming media system offering a personalize media listening experience to a user.

42. Figure 12 “is a block diagram of a media playback including a rating feature, under an embodiment of the invention” (7:17 – 20):

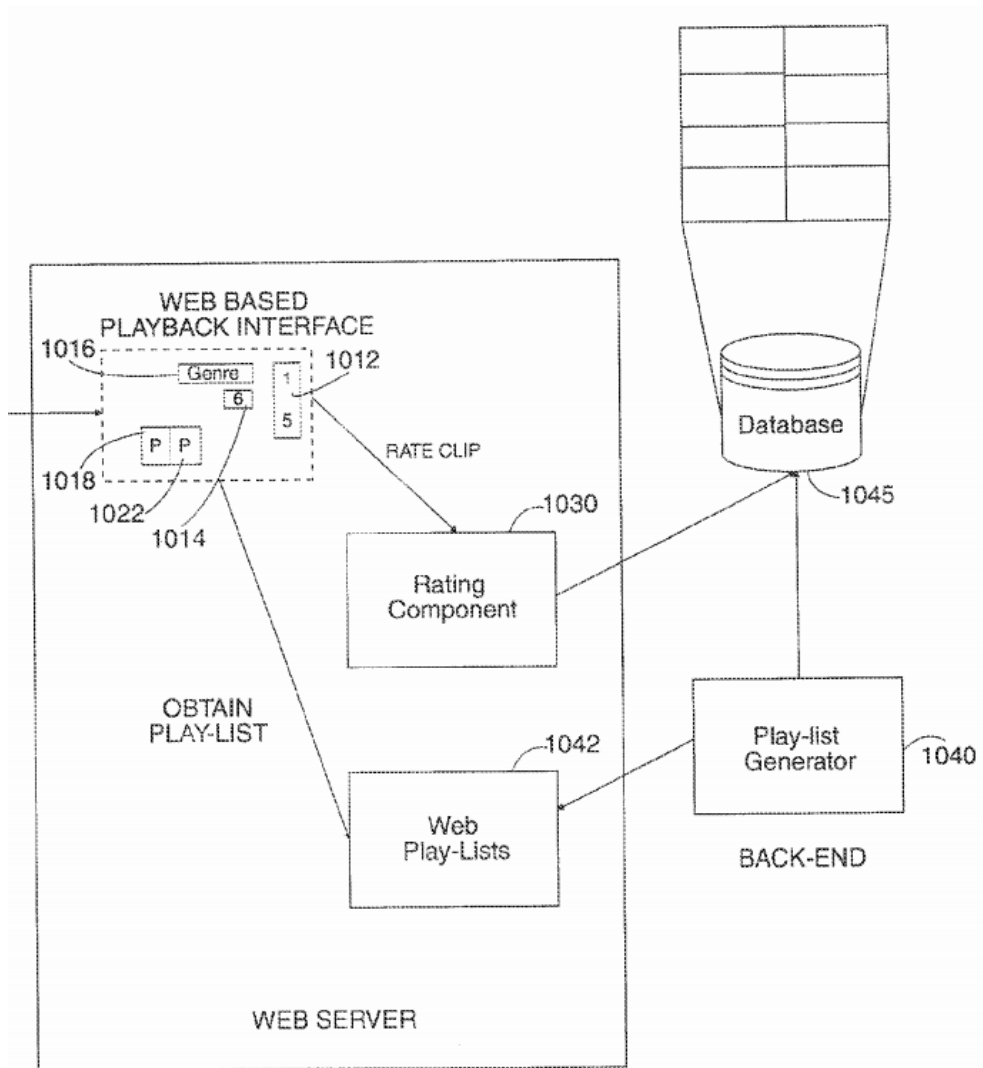


FIG. 12

“Fig[ure] 12 illustrates an architecture for use with the rating system, under an embodiment of the invention.” ‘753 Patent, 29:7-9. “The rating system 1000 may include or cooperate with components of a system such as described with FIG 2... .” ‘753 Patent, 29:11 – 12. Again, the use of the word “components” in conjunction with the figures informs a POSITA that the system is comprised of networked hardware components as well as software components. *See also* ‘753 Patent, 11: 44 – 48.

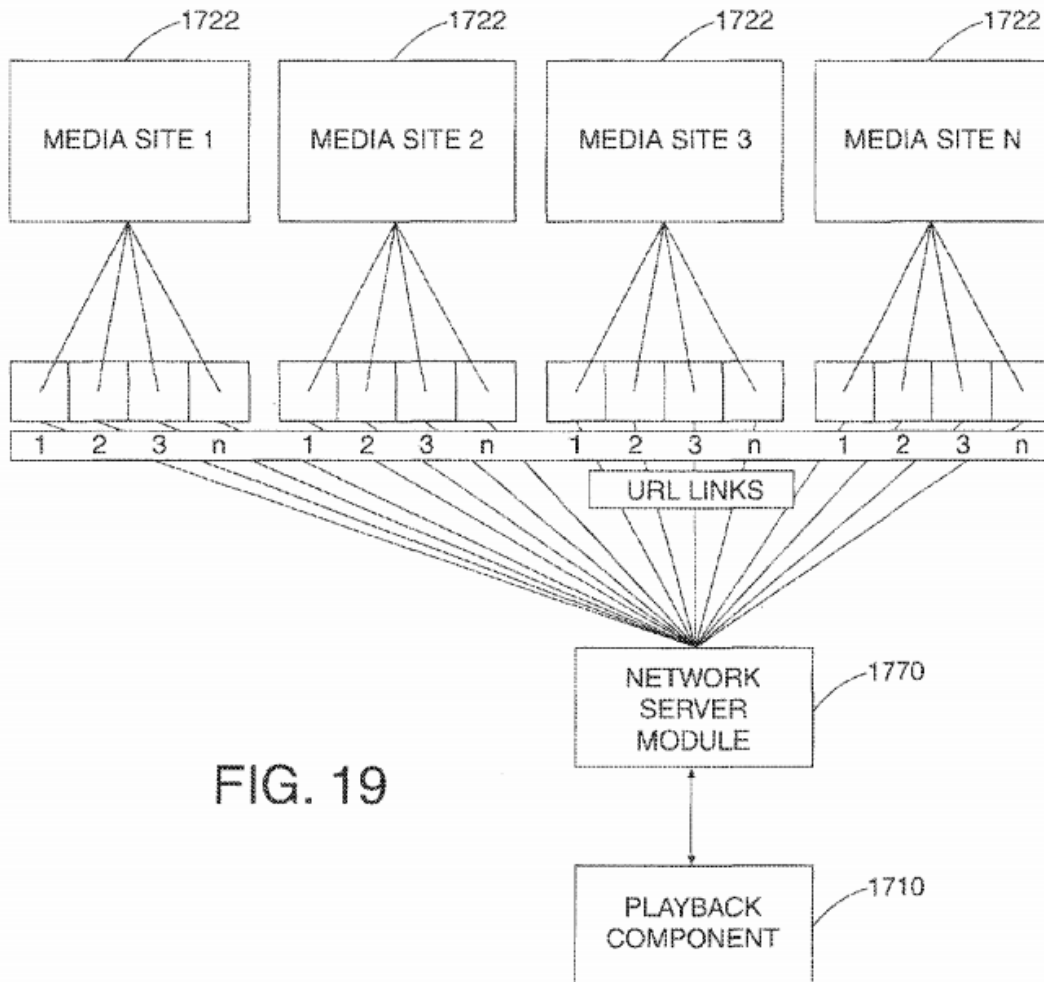
43. Figure 15 illustrates “an exemplary structure for a database to maintain updated records on ratings and votes tallied. The table may associate values corresponding [to] number of votes, rating, and other information to a media link containing a media clip.” ‘753 Patent, 7:26 – 28.

MEDIA DATABASE TABLE

Media URL	Number of Votes	Rating	Additional Info
URL	O... N	O... Max Rating	

FIG. 15

44. Figure 19 “illustrates a distributed playback architecture...” (7:36 – 37):



“Figure 19 illustrates a distributed playback architecture, under an embodiment of the invention. A user terminal 1710 has access to N network sites that provide access to media, also referred to here as media sites. The N media sites 1722 via web server module 1770. The media sites 1722 each have one or more links to media web resources. The links are represented by URLs 1-N. The web server module 1770 can load the media resources onto a media playback component of user terminal 1710. Once loaded, the media resources are played back by a media playback component on user terminal 1710.” ‘753 Patent, 32:53 – 63. Again, this Figure shows a complex, tiered networked system including networked hardware components and modules to a POSITA constituting new, nonobvious, and inventive improvements to the art.

45. In short, the first nineteen (19) figures of the Asserted Patents illustrate a complex, tiered networked system architecture and related processes that interact with the user's computing platform. The last three figures, Figures 20 – 22 of the specification, concern the system from the perspective of the user device. Specifically, on the user's side of the system, Figure 20 shows “a block diagram of a messaging application, under and embodiment of the invention.” 8:38 – 30. Figure 21 illustrates “a user interface for use with a media search and playback system... .” 8:40 – 43. Figure 22 shows another embodiment of a user interface.

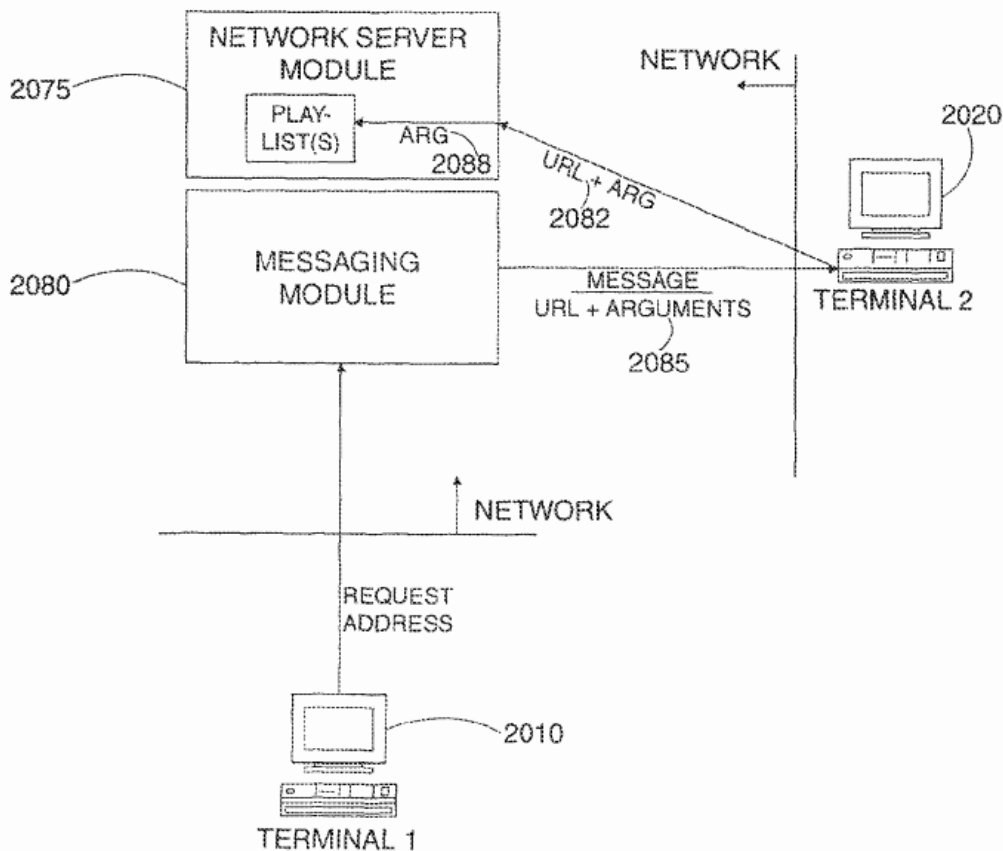


FIG. 20

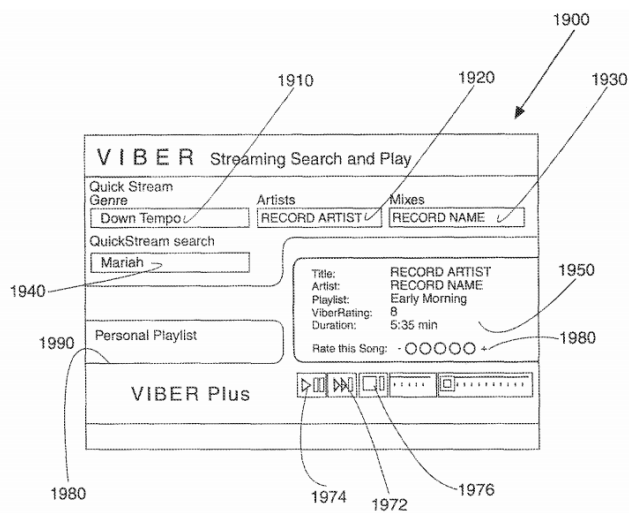


FIG. 21

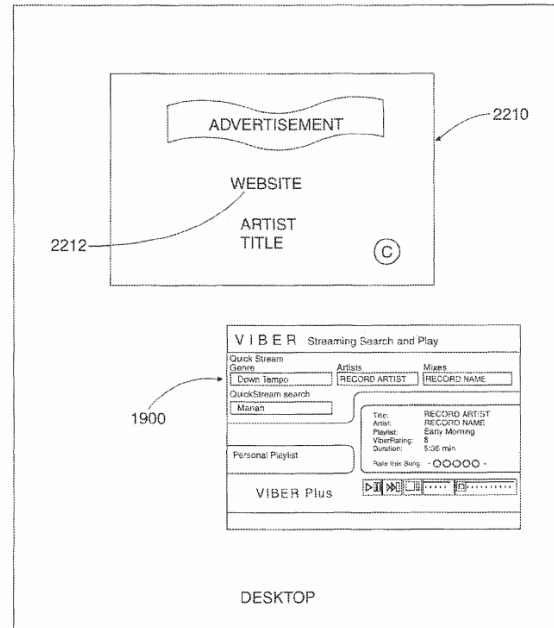


FIG. 22

These Figures too, along with their associated specification text, explain to a POSITA further technological improvements to the art.

46. Taking each of the Primary Asserted Claims as a whole, the claimed rating system is a complex tiered networked system architecture reflected in the Figures as well as the written description of the patent disclosure. The rating system includes some or all of the following: (1) a “remote server” (’753, Cl. 1; ’650, Cls. 1, 14; ’095, Cl. 72), which can be one or more servers located remotely from the user’s multimedia platform that manages and/or stores one or more media resources (e.g., see Fig. 3, “Media Files” in oval titled “The Internet”; see Col. 3, ll. 42-55; Col. 12, ll. 18 – 33); (2) a “rating component” (’753, Cl. 1; ’650, Cl. 14; ’095, Cl. 72; ’647, Cl. 21), which is comprised of one or more servers (see, e.g., Fig. 12); (3) a “database management component” (see Primary Asserted Claims), which is one or more servers connected to the network of the rating system and running one or more modules (see 11:42 – 48)

to manage a database stored on storage resources (such as a magnetic hard drives or SSID drives) (see 6:17 – 25; 30:61 - 67; Fig. 12; see 24: 50 - 55 (referring to Figure 2, wherein "Backend Database Management System Module" is described); see also Figure 3, where "Front tier," "Middle Tier" and "Backend Tier" are shown)); and (4) a "play-list generator" (all Primary Asserted Claims), which is one or more servers, which can be the same or separate from the rating component, running a software component that generates a playlist as further recited in the Primary Asserted Claims (see "play-list generator module 260" and "play-list generator 260"; 15:39 - 42; also Fig. 2; "play-list generator 1040 (Fig. 12)", Col. 33, l. 21; see also Figure 3, where "Front tier," "Middle tier" and "Backend tier" are shown; Fig. 2 shows "Playlist Generator module.").

47. In addition to the "rating system," the claimed systems include "an internet enabled multimedia computing platform" (all Primary Asserted Claims) and a "playback interface" ('753, cl. 1, '650, cl. 2; '095, cl. 72; '647, cl. 73) or "client application" ('650, cl. 14) "executing" ('753, cl. 1, '650, cl. 2; '095, cl. 72) or "installed" ('650, cl. 14) on the computing platform. *Id.* (except for '647, cl. 21, which recites "adapted to receive"). Examples of a "computing platform" include personal digital assistants (PDA), smart phones, and Internet enabled televisions and radios as well as personal computers. See, e.g., 13:50 – 55. In some of the Primary Asserted Claims, the claimed system also includes a "playlist communication component" ('753, cl. 5) or "messaging component" ('650, cls. 2 and 14), which is a module that is part of the playback interface. These additional components or modules allow a user to share a playlist with one or more other users. See also '647 Patent, cl. 24.

48. The claimed system of each of the Primary Asserted Claims constitutes more than an abstract idea and/or does significantly more than simply carry out an abstract idea. The

collection of tiered networked modules, including hardware components, including servers, and software components, together with the user's "computing platform" that includes a "playback interface" or "client application," act cooperatively and sequentially to perform the functions recited in the Primary Asserted Claims.

49. The claimed systems include a "database management component that maintains an organizational data structure" containing metadata associated with multimedia resources. For example, "[t]he rating system includes a database having a plurality of addresses. Each address locates a corresponding media resource on the network." Col. 6, ll. 20 – 22. Figure 15 illustrates one embodiment of the improved database. Col. 31, ll. 11 – 15. The database of the rating system, in addition to addresses on the network for media resources, also contains "one or more classes of information associated with each of the plurality of addresses" for the media resources. *Id.*; 6:33 – 35; *see also* 6:49 – 63.

50. Each of the Primary Asserted Claims also recites that the "database management component" maintains "an organizational data structure that describes rating information for the media resources." As further recited in the Primary Asserted Claims, "the rating component receives, via the Internet, the rating from the streaming media clips rating system and modifies rating information in the organizational data structure at least based on the rating." 753, Cl. 1; *see also* other Primary Asserted Claims (containing same or similar language); *see also* Fig. 12; Col. 7, 28 – 32; Cols. 28 - 31, Section E, "Rating System for Media Playback"; Col. 37, 47 – 48; Fig. 14. The claimed "rating component" and "organizational data structure" containing ratings information constituted another improvement in the art as well as another inventive concept.

51. The claimed systems do more than merely receive and store ratings information from a user in an organizational data structure. Rather, the claimed systems include a playlist

generator (software component(s) running on one or more hardware components) that “generates” a playlist using the rating information in the organization database as more particularly recited in each of the Primary Asserted Claims. *See* 7:28 – 33; 39 – 41; 30: 4 – 19; 42 – 45. Some of the claims require that the generation of a playlist be done “automatically and dynamically.” *See* ’753, Cl. 1; ’650, Cls. 2 and 14. A human could not “automatically and dynamically” generate a playlist within the meaning of the claims. Some of the claims further require that one user be able to share a playlist with another user. *See* ’753 Patent, Cl. 5; ’650 Patent, Cls. 2 and 14; ’647 Patent, Cl. 24.

52. Each of the Primary Asserted Claims is novel, nonobvious, and directed to an inventive concept. More particularly, all of the Asserted Claims were allowed in view of an extensive list, twelve pages in fact, of potential prior art. *See, e.g.*, ’753 Patent, pp. 2 – 16. Furthermore, all of the claims of the Asserted Patents were prosecuted under the PTO’s post-*Alice* guidelines for patentable subject matter eligibility.

53. As to each of the Primary Asserted Claims, at least the following limitations of the claims were not conventional or routine elements at the time of the invention: (1) “streaming media clips rating system” as further recited in all of the Primary Asserted Claims but for the ’650 Patent, Cl. 2 and ’647, Cl. 1; (2) “a play-list communication component” as further recited in ’753, Cl. 5; (3) “a messaging component” as further recited in ’650, Cls. 2 and 14; (4) “an organizational data structure that describes rating information for the media resources” as further recited in all of the Primary Asserted Claims; (5) a server side “rating component” as further recited in all of the Primary Asserted Claims; (6) “a playlist generator adapted to automatically and dynamically generate at least one play-list based on rating information in the organizational data structure” (as further recited in ’753 Patent, Cl. 1, ’650 Patent, Cls. 2, 14) or to even simply

“generate” without regards to “automatically and dynamically,” which limitation does not appear in the ’095 Patent, Cl. 72 and ’647, Cl. 21.

54. Furthermore, the claimed combinations were not routine or conventional system architectures even if one or more components thereof might have been conventional. Prior to the systems of the claimed inventions, there were no known systems for allowing a user to enter ratings, and for those ratings to be received by and stored in a database containing other metadata concerning media resources.

55. The Primary Asserted Claims were allowed after rejections based on the prior art were overcome. The Primary Asserted Claims of the ’650 Patent were allowed after being added by amendment where the originally filed claim 1 had been rejected under 35 U.S.C. § 101, thus demonstrating that the added limitations converted, at least in the mind of the USPTO, the claimed invention to covering patentable subject matter. *See* Exhibit 15, a true and correct copy of originally filed claim 1 added by Preliminary Amendment filed October 7, 2014 as found in the file history for ’753 Patent.

56. As filed in the application, claim 1 appeared as follows:

1. A system for sharing media playback from a network between a plurality of terminals, the plurality of terminals including a first terminal and a second terminal, the system comprising:

a play-list component locatable on the network by a selectable link, the play-list component identifying a plurality of links to form a play-list, each link in the play-list locating a media file on the network;

a network server module signaling the plurality of links that form the play-list to the first terminal, the network server module being able to receive a signal to transmit the selectable link to the second terminal to enable the second terminal to locate the play-list module.

Exhibit 15. The Examiner subsequently rejected this claim under 35 U.S.C. § 101. Exhibit 16, a true and correct copy of the Non-Final Rejection dated January 15, 2016.

57. In response to the Examiner's 101 rejection, claim 1 was amended as follows:

1. (Currently Amended) A system for sharing media playback from a network between a plurality of terminals, the plurality of terminals including a first terminal and a second terminal, the system comprising:

a play-list component locatable on the network by selection of a selectable link, the play-list component identifying a plurality of links to form a play-list, each link in the play-list locating a media file on the network;

a network server ~~module~~ signaling an indication of the plurality of links that form the play-list to the first terminal, the network server ~~module being~~ able to receive a signal to transmit the selectable link to the second terminal to enable the second terminal to locate the play-list module;

each respective first and second terminal comprising:

a playback interface including a media player that plays media resources delivered over the Internet from a remote server, and

a streaming media clips rating system that receives a rating when a user enters a rating selection by using one or more of an icon or display feature of the playback interface, and signals, via the Internet, the rating to a rating component; and

a rating system including:

a database management component that maintains an organizational data structure that describes rating information for the media resources;

the rating component receives, via the Internet, the rating from the streaming media clips rating system and modifies rating information in the organizational data structure at least based on the rating; and

the playback interface on the first terminal allows the user to select an action to send the signal via the network server module to the second terminal that allow the second terminal to playback the play-list to the user.

Exhibit 17, a true and correct copy of the Amendment and Response dated July 14, 2016.

58. Claim 2 as issued was originally filed as claim 32. Claim 14 as issued was filed as claim 44. Soon thereafter, claims 32 and 44 were added by a Supplemental Response before any office action. Exhibit 18, a true and correct copy of the Supplemental Response filed August 10, 2016.

59. On August 25, 2016, the Examiner issued a Final Rejection of these application claims (1, 32, and 44) on the basis of non-statutory double patenting, which was overcome by a terminal disclaimer. Importantly, the Examiner did not again reject these claims under 35 U.S.C. § 101. Exhibit 19, a true and correct copy of the Final Rejection dated August 25, 2016.

60. On October 12, 2016, an Amendment After Final was filed making minor amendments to the claims and abstract, along with a terminal disclaimer. Exhibit 20, a true and correct copy of the Amendment After Final dated October 12, 2016. The claims were then allowed. Exhibit 21, a true and correct copy of the Notice of Allowance dated October 26, 2016. The reason given for allowance was as follows:

The prior arts of record do not teach or suggest "a streaming media clips rating system that receives a rating when a user enters a rating selection by using one or more of an icon or display feature of the playback interface, and signals, via the Internet, the rating to a rating component; and a rating system includes a database management component and the rating component. The rating component receives, via the Internet, the rating from the streaming media clips rating system and modifies rating information in the organizational data structure at least based on the rating; and a play-list generator adapted to automatically and dynamically generate at least one play-list for a user based on rating information in the organizational data structure, wherein a play-list generated by the play-list generator for a user comprises identifiers of at least one or more media resources that have similar attributes to one or more of the media resources that have received a positive rating selection from the user

The examiner considers the applicants' claims 1 and 32-54 to be allowable based on the claim interpretation and the aforesaid prior arts of record.

Id. Thus, the Primary Asserted Claims of the '753 Patent were allowed over the prior art of record and with 101 issues being fully considered.

61. To the extent the Examiner's initial rejection under 35 U.S.C. § 101 was correct, which it was not, the additional limitations found in issued claim 2 and issued claim 14 as compared to originally filed and rejected claim 1 removed the inventions of these claims from the realm of abstract idea to patentable subject matter. In addition, the fact that issued claim 2 and issued claim 14 have limitations not appearing in original claim 1, which was rejected under Section 101, demonstrates that the added limitations embody an inventive concept.

62. Similarly, Primary Asserted Claims of the '647 Patent were allowed after being added by amendment where an originally filed claim had been rejected under 35 U.S.C. § 101, thus demonstrating that the claimed inventions too cover patentable subject matter, and, in addition, embody an inventive concept.

63. Originally filed claim 1 was the same as appearing above for the '650 Patent. *Cf.* Para. 56 above to Exhibit 22, a true and correct copy of the Preliminary Amendment dated January 17, 2017. The Examiner rejected claim 1 under Section 101. Exhibit 23, a true and correct copy of the Office Action dated July 3, 2017. On January 3, 2018, the applicant responded filed its Amendment and Response cancelling application claims 1 – 11 and adding claims 12 – 31. Exhibit 24, a true and correct copy of the Amendment and Response dated January 3, 2018.

64. On May 16, 2018, in a Final Rejection the Examiner rejected claims 12 – 31 for non-statutory double patenting and for obviousness based on U.S. Patent No. 7,448,062 (Blach et al.) and U.S. Publication No. 2014/0337298 (Kandekar et al.). Exhibit 25, a true and correct copy of the Final Rejection dated May 16, 2018.

65. On December 13, 2018, the applicant filed its Response after Final with a request for continued examination (RCE). Exhibit 26, a true and correct copy of the Response after Final. Therein, the applicant argued that Kandekar did not qualify as prior art. *Id.*

66. On December 17, 2018, the applicant submitted a Supplemental Amendment after Final adding claims 32 – 35, which issued as claims 21 – 24. Exhibit 27, a true and correct copy of the Supplemental Amendment.

67. On January 18, 2019, the Examiner issued a Notice of Allowance allowing claims 12 – 25. Exhibit 28, a true and correct copy of the Notice of Allowance. Therein, the Examiner stated the reason for allowance as follows:

The prior arts of record do not teach or suggest "a streaming media clips rating system that receives a rating when a user selects to send a message by selecting link that allows a media player to playback the media resource in a play-list selected to be sent by the user and a rating system includes a database management component and the rating component. The rating component receives, via the Internet, the rating from the streaming media clips rating system and modifies rating information in the organizational data structure at least based on the rating; and a play-list generator adapted to automatically and dynamically generate at least one play-list for a user based on rating information in the organizational data structure, wherein a play-list generated by the play-list generator for a user comprises identifiers of at least one or more media resources that have similar attributes to one or more of the media resources that have received a positive rating selection from the user

The examiner considers the applicants' claims 12-35 to be allowable based on the claim interpretation and the aforesaid prior arts of record.

68. To the extent the Examiner's initial rejection under 35 U.S.C. § 101 was correct, which it was not, the additional limitations found in issued claims 1 - 24, including claims 21,

22, and 24, as compared to originally filed claim 1, which was rejection under 35 U.S.C. § 101, removed the inventions of these claims from the realm of abstract idea to patentable subject matter. In addition, the fact that issued claims 21, 22, and 24 with limitations not appearing in original claim 1, which was rejected under Section 101, demonstrates that the added limitations embody an inventive concept.

69. In addition, statements made by the applicant during prosecution of these claims demonstrate that the claims are directed to an inventive concept. For example, during prosecution of claim 1 of the '753 Patent, the applicant, to overcome a rejection under Section 103, stated in the Amendment and Response dated March 1, 2016, that “none of the prior art references [cited by the Examiner in the Office Action dated February 11, 2016] disclose the rating nor rating component as claimed.” Exhibit 29, a true and correct copy of the Amendment and Response dated March 1, 2016.

70. Following this response, claim 1 (filed as claim 85) was allowed. Exhibit 30, a true and correct copy of the Notice of Allowance dated May 11, 2016. The applicant’s comment set forth above (from Ex. 29) and subsequent allowance reflects one of the inventive concepts of the claimed invention. The prior art did not teach the highly regarded and industry needed claimed ratings system where ratings information is stored in an organizational data structure in a system architecture. As explained by the applicant in the Comments on Statement of Reasons for Allowance dated May 16, 2016, “some independent claims have other reasons for allowance. Specifically, the prior art fails to teach the specific combination of features as recited in the independent claims 85, 94, 102, and 110.” Exhibit 31, a true and correct copy of Comments on Statement of Reasons for Allowance dated May 16, 2016.

71. The “ratings” received by a “ratings component” of a “ratings system,” which “ratings component” “modifies rating information in the organizational data structure” maintained on a “database management component,” along with a “playlist generator” that makes use of the rating information constitutes one of the inventive concepts. Merely sending ratings to a networked system from a user’s device does little to make a personalized playlist. The “playlist generator” was also an important part of the inventive concept. It was the personalization of a playlist based on rating information collected from users’ ratings that has made streaming music companies like Pandora successful. The inventors had personalization of streaming media in mind when they set out to improve upon the art. This holds true for all of the inventions of the Asserted Claims including the Primary Asserted Claims.

72. In addition, some of the Primary Asserted Claims, claim 5 of the ’753 Patent and claims 2 and 14 of the ’650 Patent, and claim 24 of the ’647 Patent, capture yet another inventive concept, the sharing of personalized playlists. This feature is explained, for example, as follows: “[a]fter reviewing the play-list 2075, the sender 2010 decides to share the media playback with a friend, recipient 2020, whom the sender believes would appreciate play-list 2075. The sender 2010 requests messaging module 2080 to transmit message 2085 to recipient 2020 by submitting the recipient’s e-mail address to the messaging module 2080. The message 2085 sits on the recipient’s terminal until accessed. The recipient 2020 selects message 2085 to access playlist 2075. ... Alternatively, sender 2010 may request the entire play-list 2075 to be transmitted to recipient 2020. In this way, sender 2010 and recipient 2020 may share a common interest in certain genres, category, artists etc. of media playback.” ’753 Patent, 35:54 – 36:2. The “playlist communication component” or “messaging component” limitations capture this additional inventive concept in the Primary Asserted Claims, which limitations standing alone and

especially in combination with the other claim limitations provide constitute an inventive concept in addition to those inventive concepts embodied in the claimed systems without either of these limitations.

73. The inventions of the Primary Asserted Claims solved the technological problem created when the internet boomed in the 1990's – an overwhelming amount of consumable digital media content at one's finger-tips. Looking beyond the priority date, it is evident that the invention embodied in these claims became ubiquitous in streaming media platforms. For example, the success of Pandora and its systems described below is due in large part to its ability to cull through large amounts of media resources to provide a user with a personalized music experience.

74. The fact that Bluebonnet's Primary Asserted Claims are patent eligible should not be a surprise to Pandora. Indeed, one patent owned by Pandora and directed at a system for personalizing a playlist is U.S. Patent No. 10,540,369, attached as Exhibit 32 and incorporated herein by this reference. During prosecution of the application that matured into that patent, counsel for Pandora made the following successful arguments to overcome the examiner's non-patentable subject matter rejection:

Summary of Substance of Interview

Applicant's representatives Caroline Greenwood, Reg. No. 69, 418 and Catie Murray conducted a telephonic interview with Examiner Lee on February 7, 2019. During the interview, rejections to claim 1 under §§ 101 and 103 were discussed. Agreement was reached that the proposed amendments, with the addition of reciting hardware components in the claimed steps, would overcome the current §101 rejection. No specific agreement was reached with respect to the §103 rejection.

Response to Rejection Under 35 USC § 101

Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more. In view of the amendments herein, the rejection is now overcome.

Pursuant to the 2019 Revised Subject Matter Eligibility Guidance (hereafter 2019 Guidance), Step 2A of the *Alice/Mayo* Test is a two-prong inquiry. "In Prong One, examiners

must evaluate whether the claim recites a judicial exception... In Prong Two, examiners evaluate whether the claim recites additional elements that integrate the exception into a practical application of that exception.” 2019 Guidance, pp. 15-16.

Prong One – The Claims do not Recite an Abstract Idea

The Office Action states that the claims are directed to the abstract ideas of “An algorithm for calculating parameters” and “an algorithm for determining the optimal number of visits by a business representative to a client.” The 2019 Guidance provides a list of enumerated abstract ideas, and states that “If the claim does not recite a judicial exception (a law of nature, nature phenomenon, or subject matter within the enumerated groupings of abstract ideas in Section I), then the claim is eligible at Prong One of revised Step 2A. This concludes the eligibility analysis, except in [a] rare circumstance.”

The claims do not fall into any of the groups of enumerated abstract ideas, which include “mathematical concepts,” “certain methods of organizing human activity,” and “mental processes.” The claims recite non-mathematical operations and non-fundamental activity, e.g., “receiving from a target user a like rating for a first media content item,” “receiving from the target user a dislike rating for a second media content item,” and “providing the target media content item to the target user.” In addition, the claims cannot be performed in the human by observation, evaluation, judgement or opinion, at least because the claims recite hardware components (e.g., one or more processors), and providing the target media content item over a network.

Prong 2 – Even if the Claims Do Recite an Abstract Idea, They are Not “Directed To” the Judicial Exception

With regards to Prong Two of step 2B, on page 13, the 2019 Guidance further states that a “claim is not ‘directed to’ a judicial exception, and thus is patent eligible, if the claim as a whole integrates the recited judicial exception into a practical application of that exception.” The 2019 Guidance instructs examiners to “evaluate integration into a practical application by (1) identifying whether there are additional elements recited in the claim beyond the judicial exception(s); and (b) evaluating those additional elements individually and in combination to determine whether they integrate the exception into a practical application.” Page 19.

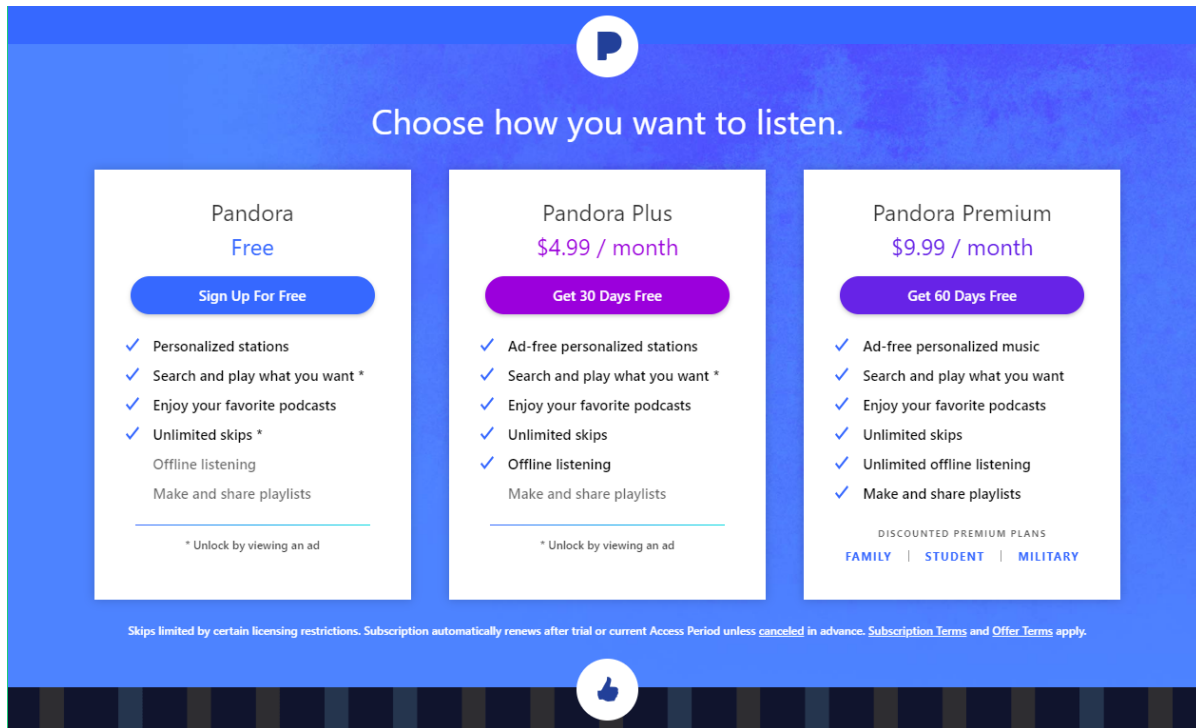
Assuming for the sake of argument that the claims are found to recite an enumerated abstract idea, the claims are eligible under Prong Two. Here, the claims integrate the alleged abstract ideas into a practical application that includes, for example, providing the target media content item to the target user over a network in response to determining that the recommendation score for the target media content item is above a threshold.

See Exhibit 33, incorporated herein by this reference. These successful arguments further demonstrate that the inventions of the Primary Asserted Claims are patent eligible under 35 U.S.C. § 101.

Pandora’s Accused Instrumentalities and Services

75. Pandora operates a streaming media service (the “Service”), claiming to be the world’s most powerful music discovery platform, offering a personalized experience for each of [Pandora’s] listeners wherever and whenever they want to listen to music.” Exhibit 34, Form 10-K for Pandora Media, Inc. for Fiscal Year Ended December 31, 2017, p. 2 (the “10-K 2017”). Pandora’s stated goal is to make its Service “available in any environment that has internet connectivity.” Exhibit 29, 10-K 2017, p. 4. Pandora is available as an ad-supported radio

service, a radio subscription service called Pandora Plus and an on-demand subscription service called Pandora Premium. *Id.* at p. 2. Pandora is a freemium service; basic features are free with advertisements or limitations, while additional features, such as improved streaming quality, music downloads and offline channels are offered via paid subscriptions.

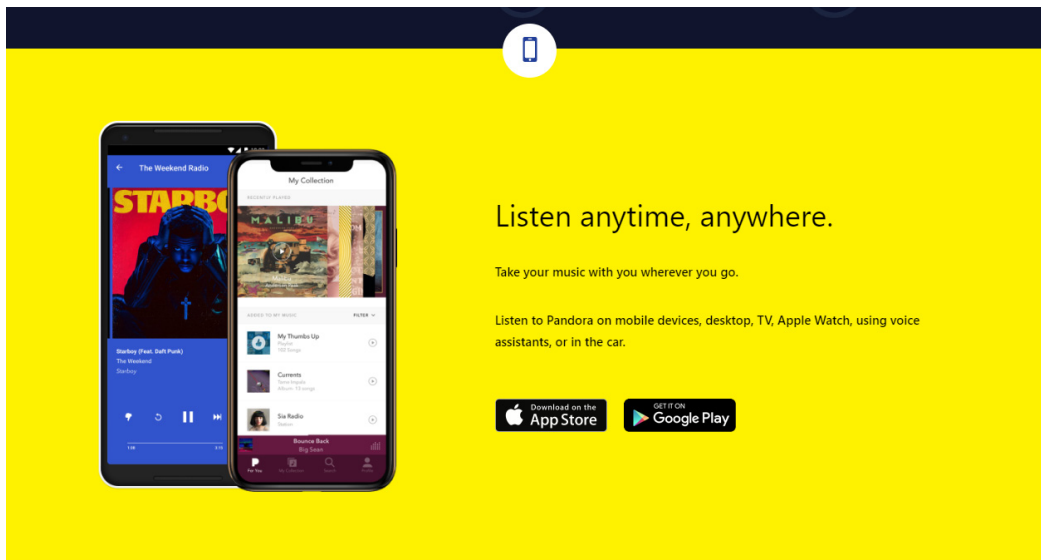


(from <https://pandora.com>, last visited July 28,2020).

76. As of December 31, 2019, Pandora had approximately 6.2 million subscribers and 63.5 million active users. Ex. 4, 10-K 2019, p. 2; *cf.* Ex. 30, 10-K 2017, p. 4 (5.48 million paid subscribers and 74.7 million active users).

77. Pandora's Service offered a personalized experience for each of its listeners wherever and whenever they want to listen to music, whether through personal computers, mobile devices, car speakers or connected devices in the home. Ex. 29, 10-K 2017, p. 2. Media content such as music or other recordings may be downloaded by a subscriber to Pandora's Service using any one of a multitude of devices. *Id.* at p. 4.

78. Examples of internet connectable devices that may receive streaming media using Pandora’s Service include mobile devices such as smartphones and tablets. Ex. 29, 10-K 2017, p. 4. The majority Pandora listener hours occur on mobile devices, with the majority of revenue generated from advertising on ad-supported service on these devices. 10K 2017, p. 2. In addition, “Pandora is integrated with connected devices, including automobiles, automotive aftermarket devices and consumer electronic devices, including many voice-based devices.” *Id.* Pandora is also available on certain automobiles with built-in internet connectivity and/or that are connectable to the internet through a smartphone. *Id.* “In addition, Pandora is integrated with thousands of consumer electronic and voice-based devices, including Sonos, Fitbit, Roku, Google Home, Amazon Echo, Comcast Xfinity, Apple TV, and Microsoft Xbox.” *Id.*; *see also* www.pandora.com/about. All of these devices are referred to herein as “Media-players.”



79. Mobile listeners have access to customized listener profiles which leverage data science to showcase a listener’s musical identity by highlighting user data such as recent favorites, top artists of all time, playlists and thumbs. 10-K 2017, p. 2. Further, Pandora uses

programming algorithms and data collected from listeners to predict listener music preferences and to provide music content suited to the tastes of each individual listener. 10-K 2017, p. 2.

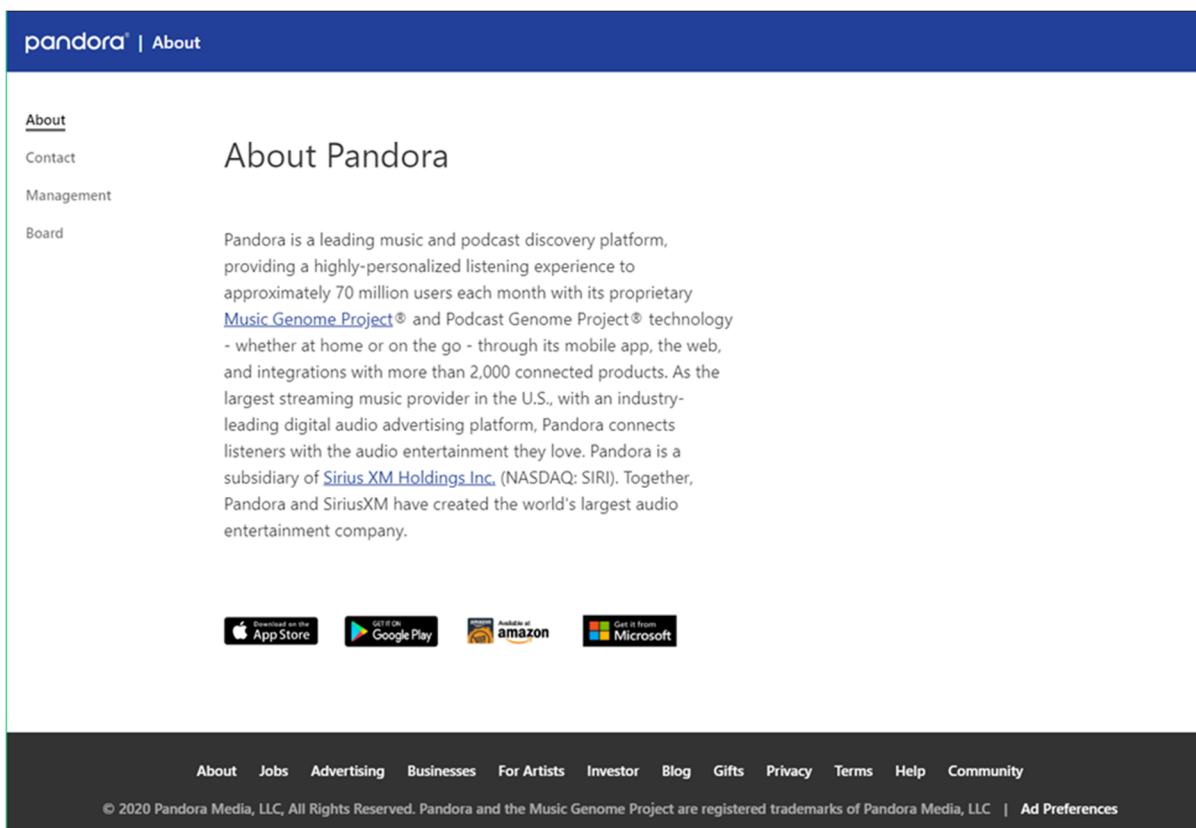
A hand-curated listening experience that's uniquely yours.

The most extensive analysis of music ever undertaken.
Pandora started with the Music Genome Project®, where our music experts analyzed every song on Pandora across genres and decades for nearly 500 musical traits.

Your Thumbs take it to the next level.
Pandora is powered by this analysis in combination with your Thumbs Up and Thumbs Down. That's how we personalize what plays next, just for you.

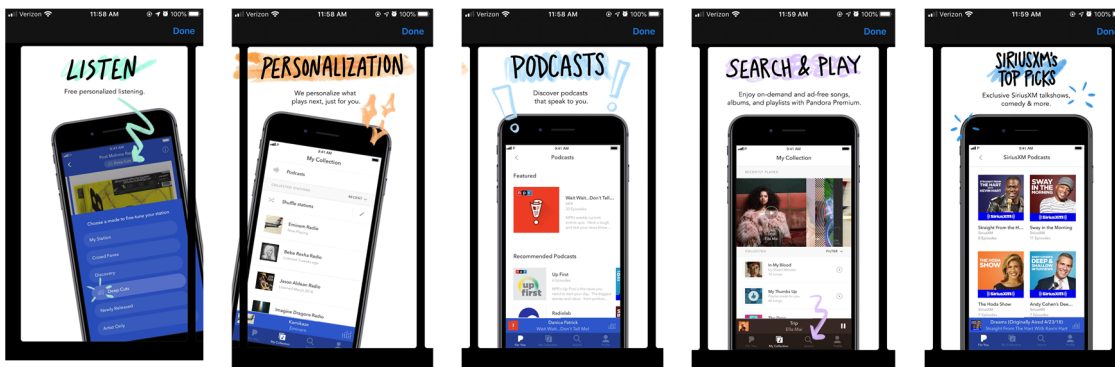
Explore the new Pandora!
Go beyond stations and find the music, comedy and podcasts you love. Play any song from Pandora's library, magically make playlists, go offline and more.

80. Pandora's Services utilize personalization technologies, including the Music Genome Project and Pandora's radio and playlist generating algorithms. Ex. 29, 10-K 2017, p. 3. The Music Genome Project was a database of over 1.5 million uniquely analyzed songs from over 250 thousand artists, spanning over 660 genres and sub-genres, which Pandora's team developed one song at a time by evaluating and cataloging each song's particular attributes. The Music Genome Project database is a subset of Pandora's full catalog available to be played. *Id.*

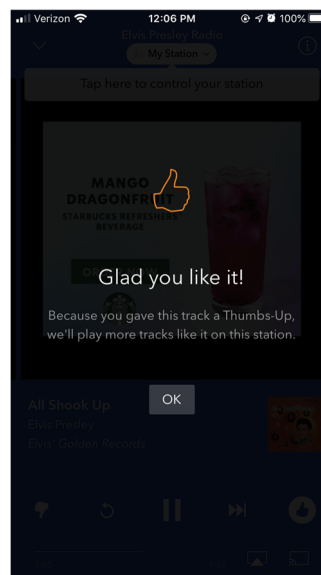
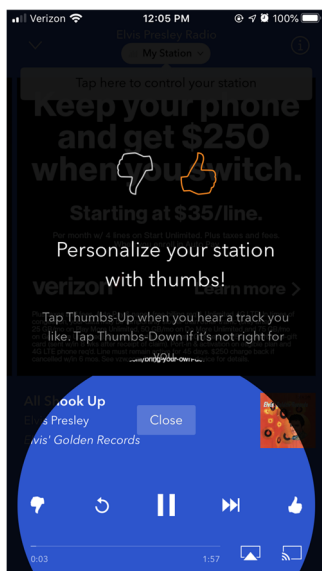


Ex. 31.2 (<https://www.pandora.com/about>, last visited July 28, 2020)

81. Pandora's Service incorporated playlist generating algorithms to further tailor the listener experience based on individual listener and broader audience reactions to the recordings picked by Pandora. Ex. 29, 10-K 2017, p. 3. Pandora has integrated this technology into its on-demand music service, Pandora Premium, giving listeners the ability to search and play any track or album, as well as, offering unique playlist features tailored to each listener's distinct preferences. Listeners can search, play and collect songs and albums, build playlists on their own or with the tap of a button and automatically generate playlists based on their listening activity, in conjunction with Music Genome Project information. Ex. 29, 10-K 2017, p. 3.



Screenshots of Pandora App on Apple's App Store, last visited June 25, 2020.



Screenshot of Pandora App User Tutorial, last visited June 25, 2020.

English (US) ▾

Recommendations and Personalization on Pandora

If you are looking for something new or want personalized recommendations, try the **For You** tab on mobile. This is where you can find all of our curated stations along with other music we think you'll love.

Thumbprint Radio, on the other hand, is designed to give you the ability to listen to all the songs you love – and songs we think you'll love – without having to interact with the app.

*Note: Genre stations, such as "Today's Top Hits" or "Love Songs" are stations created by and curated by Pandora, and they behave a differently than your own personalized stations. It is not possible to add variety or edit the name of these stations. If you'd like to have those options, try to create a station based off of an artist or song in that genre instead, or use **Pandora Modes** for a fresh listening experience.*

For more information, select one of the options below:

For You and Browse
"My Thumbs Up" Playlists
Pandora Modes
Thumbprint Radio

For You and Browse

For You provides personalized playlists, songs, genres, artists and more. You can find **For You** next to **My Collection** in the Pandora app for your mobile device.

If you're listening on the web or via our desktop app, you can use **Browse** to get similar recommendations.

To add content to your collection, tap **Collect**.

My Thumbs Up

My Thumbs Up playlists collect your Thumbs Up from each station in one place, creating one master personalized playlist.

Since playlists are only available on Pandora Premium, the My Thumbs Up playlist will only be available if you're upgraded.

Pandora Modes

Pandora Modes allow you to personalize your radio stations and reduce repetition. By applying different modes such as Discover mode, you can have a different experience on the same station.

Learn more about Pandora Modes [here](#).

Thumbprint Radio

Thumbprint Radio plays your Thumbed-Up songs from all your stations, as well as other songs related to those Thumbs.

To add the Thumbprint Radio Station:

Search for "Thumbprint Radio" in the search field. If you don't see the station, you may need to create a few more stations and give each of them some Thumbs Up. Once you've given enough Thumb feedback, you should be able to search for the station the following day.

Also, the stations used to create "Thumbprint Radio" will exclude artists that are Holiday, Children's, or Comedy, as these tracks tend not to mix as smoothly with other Thumbed-Up tracks from all your stations.

To fine tune your Thumbprint Radio Station:

Thumb Up or Down the tracks that play just as you would on any other station you create.

Trending Articles

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[Change your billing method or subscription plan](#)

[Web Troubleshooting: Whitelist Pandora with your Ad Blocker](#)

[Web Troubleshooting: Chrome](#)

[Pandora Account Privacy FAQ](#)

Need extra help?

[ASK THE COMMUNITY](#)

[EMAIL US](#)



(https://help.pandora.com/s/article/000001078?language=en_US, last visited July 28, 2020).

82. On information and belief, Pandora stored songs and related data and other content in its data centers. At least in 2017, well within the six-year period for damages under 35 U.S.C. § 286, Pandora's "data centers [were] located in colocation facilities operated by Equinix in San Jose, California and Ashburn, Virginia; Digital Realty Trued in Chicago Illinois and Oakland, California; and InfoMart, LLC in San Jose, California. *Id.*

83. Pandora's ad-supported service allows listeners to access its catalog of music, comedy, livestreams and podcasts through our personalized playlist generating system for free

across all its delivery platforms. Pandora's ad-supported service instantly generates a station that plays music that Pandora thinks that listener will enjoy. Over time, this service has evolved to further tailor the listener experience based on listener reactions to the content picked for them by Pandora. Listeners also have the ability to add variety to and rename stations, which further allows for the personalization of the service. 10-K 2017, p. 2.

84. Pandora also generates increasing revenue from its subscription offerings. Pandora Plus is an ad-free, paid subscription version of the Pandora radio service that also includes replays, additional skipping of songs, offline listening, higher quality audio on supported devices and longer timeout-free listening. Similar to the ad-supported service, the more the listener interacts with the platform, the more Pandora tailors the content recommended to the listener. 10-K 2017, p. 2.

85. Pandora's on-demand subscription service, Pandora Premium, launched in the United States in April 2017. Pandora Premium combines the radio features of Pandora Plus with a unique, on-demand experience, providing users with the ability to search, play and collect songs and albums, build playlists on their own or with the tap of a button, listen to curated playlists and share playlists on social networks. Unique to Pandora, a listener can create partial playlists and have Pandora complete the playlist based on the user's listening activity. 10-K 2017, p. 2.

86. At least Pandora's Premium service incorporates social networking features. Pandora's music feed enables a real-time, centralized stream for listeners to view the music that their social connections are experiencing and to provide and receive recommendations for songs, albums and artists. Listeners can also share their stations, songs, albums or playlists through

social media, messaging apps, texts, and email by using Pandora's share feature. *See* 10-K 2017, p. 2.

87. All of the Services offered by Pandora, including its Ad-Supported Radio Service, its Pandora Plus – Subscription Radio Service, and its Pandora Premium - On-Demand Subscription Service are referred herein as “Accused Services,” and the systems and components that enable Pandora to provide these Services are referred to herein as the “Accused Instrumentalities.” “Accused Instrumentalities and Services” as used herein refers to the Accused Instrumentalities and the Accused Services, collectively.

88. Pandora controls access to the Accused Instrumentalities and Services through the use of a username and password. Any end-user, whether a subscriber to the Ad-Supported Radio Service, Pandora Plus, or Pandora Premium, must first create an account before accessing any Pandora service. An end-user's Media-player cannot be used without a Pandora account. Therefore, Pandora controls the end-user's ability to utilize the Media-player to play media content from Pandora's Accused Service and derives a benefit and indeed a substantial benefit from such control.

89. Pandora's Accused Instrumentalities and Services infringe one or more claims of each of the Asserted Patents. For example, without limitation, Pandora's Accused Instrumentalities and Services meet all the limitations of each of the Primary Asserted Claims.

Factual Allegations Common to All Claims of Infringement

90. Pandora at least by its use of the Accused Instrumentalities and Services has infringed one or more claims of the Asserted Patents. More particularly, without limitation, Pandora by its use of the Accused Instrumentalities and Services has infringed one or more of the

Primary Asserted Claims as more particularly shown in the claim charts found Exhibits 35 - 38 attached hereto and incorporated herein.

91. Each of the following devices when used to access Pandora's Accused Services meets the limitation "internet enabled multimedia computing platform" within the meaning of the Primary Asserted Claims: personal computers, mobile devices, car enabled devices, or connected devices in the home.

92. To utilize Pandora's Accused Services, a user's device has a "playback interface" or "client application" within the meaning of Primary Asserted Claims.

93. To utilize Pandora's Accused Services, a user's device has a "media player" within the meaning of this term as it appears in the Primary Asserted Claims.

94. Songs streamed to a user's device using Pandora's Accused Services constitute "media resources" within the meaning of this term as it appears in the Primary Asserted Claims.

95. A song or other audio content streamed using Pandora's Accused Services to a user's device is delivered to the user's device via the Internet from one or more "remote servers" within the meaning of this term as it appears in the Primary Asserted Claims.

96. Pandora's Accused Instrumentalities and Services, excluding the user's system, constitutes a "rating system" within the meaning of this term as it appears in the Primary Asserted Claims.

97. Pandora stores rating information from its users in an "organizational data structure" within the meaning of this term as it appears in the Primary Asserted Claims.

98. Pandora's Accused Instrumentalities and Services includes a "database management component" within the meaning of this term as it appears in the Primary Asserted Claims.

99. Pandora's Accused Instrumentalities and Services utilize one or more servers connected to a network running a software component that receives a rating from a user's computing platform and, using that rating, causes information to be modified in an organizational database.

100. Pandora's Accused Instrumentalities and Services meet the limitation "rating component" within the meaning of this term as it appears in the Primary Asserted Claims.

101. Pandora's Accused Instrumentalities and Services include one or more servers running a software component that generates playlists to be sent to a user based on ratings information stored in an organizational database.

102. Pandora's Accused Instrumentalities and Services include a "play-list generator" within the meaning of this term as it appears in the Primary Asserted Claims.

103. The play-list generator of the Accused Instrumentalities and Services generates playlists "automatically and dynamically" within the meaning of this term as found in the Primary Asserted Claims of the '753 and '650 Patents.

104. The paid Premium subscription-based service of Pandora's Accused Instrumentalities and Services allowed users to share playlists over the network of Pandora's Accused Instrumentalities and Services with other subscribers.

FIRST CLAIM FOR RELIEF – INFRINGEMENT OF THE '753 PATENT

105. Bluebonnet incorporates paragraphs 1 through 104 as though fully set forth herein.

106. The '753 Patent includes thirty (30) claims.

107. Pandora has directly infringed one or more claims of the '753 Patent by making, importing, using (including use for testing purposes), offering for sale, and/or selling the Accused Instrumentalities and Services, all in violation of 35 U.S.C. § 271(a).

108. More particularly, without limitation, in accordance with Claims 1 and 5 of the '753 Patent, for example, Pandora's Accused Instrumentalities and Services provide a system for providing media streaming services comprising a playback interface executing on an internet enabled multimedia platform, which playback interface includes (1) a media player that plays media resources delivered over the Internet from remote servers and (2) a streaming media clips rating system that receives a user's rating using, for example, the "Thumbs-up" icon, and sends that rating over the Internet to a server-side rating component. Pandora's Accused Instrumentalities and Services further include a rating system. The rating system includes the aforementioned rating component that receives a user's rating, as well as a database management component that maintains an organizational data structure that includes rating information for the media resources, and a play-list generator. The play-list generator of Pandora's Accused Instrumentalities and Services automatically and dynamically generates at least one play-list based on rating information in the organizational data structure. Pandora's Accused Instrumentalities and Services further include a play-list communication component that allows a user to share a play-list with another user in accordance with Claim 5. More particularly without limitation as to other claims, Pandora's infringement of Claims 1 and 5 of the '753 Patent is further demonstrated in Exhibit 35.

109. Pandora controls and directs customers' use of the Accused Instrumentalities and Services by, among other reasons, requiring customers to utilize authorized accounts and secure identification to access and use the Accused Instrumentalities and Services. Pandora benefits

from such control and use by, among other things, Pandora's selling of advertising and/or or subscription fees.

110. Pandora's acts of infringement have occurred within this District and elsewhere throughout the United States.

111. As a result of Pandora's infringing conduct, Bluebonnet has suffered damages. Pandora is liable to Bluebonnet in an amount that adequately compensates it for Pandora's infringement in an amount that is no less than a reasonable royalty, together with interest and costs as fixed by this Court under 25 U.S.C. § 284.

SECOND CLAIM FOR RELIEF – INFRINGEMENT OF THE '650 PATENT

112. Bluebonnet incorporates paragraphs 1 through 111 as though fully set forth herein.

113. The '650 Patent includes twenty-four (24) claims.

114. Pandora has directly infringed one or more claims of the '650 Patent by making, importing, using (including use for testing purposes), offering for sale, and/or selling the Accused Instrumentalities and Services, all in violation of 35 U.S.C. § 271(a).

115. More particularly, without limitation, in accordance with Claims 2 and/or 14 of the '650 Patent, for example, Pandora's Accused Instrumentalities and Services provide a system for providing media streaming services comprising a playback interface executing on an internet enabled multimedia platform, which playback interface includes (1) a media player that plays media resources delivered over the Internet from remote servers and (2) a streaming media clips rating system that receives a user's rating using, for example, the "Thumbs-up" icon, and sends that rating over the Internet to a server-side rating component. Pandora's Accused Instrumentalities and Services further include a rating system. The rating system includes the

aforementioned rating component that receives a user's rating, as well as a database management component that maintains an organizational data structure that includes rating information for the media resources, and a play-list generator. The play-list generator of Pandora's Accused Instrumentalities and Services automatically and dynamically generates at least one play-list based on rating information in the organizational data structure. Pandora's playback interface includes a messaging component that allows a first user to select an action to send a message to a second user that allows a second user to playback the selected playlist. More particularly without limitation as to other claims, Pandora's infringement of Claims 2 and 14 is further demonstrated in Exhibit 36.

116. Pandora controls and directs customers' use of the Accused Instrumentalities and Services by, among other reasons, requiring customers to utilize authorized accounts and secure identification to access and use the Accused Instrumentalities and Services. Pandora benefits from such control and use by, among other things, Pandora's selling of advertising and/or or subscription fees.

117. Pandora's acts of infringement have occurred within this District and elsewhere throughout the United States.

118. As a result of Pandora's infringing conduct, Bluebonnet has suffered damages. Pandora is liable to Bluebonnet in an amount that adequately compensates it for Pandora's infringement in an amount that is no less than a reasonable royalty, together with interest and costs as fixed by this Court under 25 U.S.C. § 284.

THIRD CLAIM FOR RELIEF – INFRINGEMENT OF THE '095 PATENT

119. Bluebonnet incorporates paragraphs 1 through 118 as though fully set forth herein.

120. The '095 Patent includes one hundred two (102) claims.

121. Pandora has directly infringed one or more claims of the '095 Patent by making, importing, using (including use for testing purposes), offering for sale, and/or selling the Accused Instrumentalities and Services, all in violation of 35 U.S.C. § 271(a).

122. More particularly, without limitation, in accordance with Claim 72 of the '095 Patent, for example, Pandora's Accused Instrumentalities and Services provide a system for providing media streaming services comprising a playback interface executing on an internet enabled multimedia platform, which playback interface includes (1) a media player that plays media resources delivered over the Internet from remote servers and (2) a streaming media clips rating system that receives a user's rating using, for example, the "Thumbs-up" icon, and sends that rating over the Internet to a server-side rating component. Pandora's Accused Instrumentalities and Services further include a rating system. The rating system includes the aforementioned rating component that receives a user's rating, as well as a database management component that maintains an organizational data structure that includes rating information for the media resources, and a play-list generator. The play-list generator of Pandora's Accused Instrumentalities and Services generates at least one play-list based on rating information in the organizational data structure. More particularly without limitation as to other claims, Pandora's infringement of Claim 72 is further demonstrated in Exhibit 37.

123. Pandora controls and directs customers' use of the Accused Instrumentalities and Services by, among other reasons, requiring customers to utilize authorized accounts and secure identification to access and use the Accused Instrumentalities and Services. Pandora benefits from such control and use by, among other things, Pandora's selling of advertising and/or or subscription fees.

124. Pandora's acts of infringement have occurred within this District and elsewhere throughout the United States.

125. As a result of Pandora's infringing conduct, Bluebonnet has suffered damages. Pandora is liable to Bluebonnet in an amount that adequately compensates it for Pandora's infringement in an amount that is no less than a reasonable royalty, together with interest and costs as fixed by this Court under 25 U.S.C. § 284.

FOURTH CLAIM FOR RELIEF – INFRINGEMENT OF THE '647 PATENT

126. Bluebonnet incorporates paragraphs 1 through 125 as though fully set forth herein.

127. The '647 Patent includes twenty-four (24) claims.

128. Pandora has directly infringed one or more claims of the '647 Patent by making, importing, using (including use for testing purposes), offering for sale, and/or selling the Accused Instrumentalities and Services, all in violation of 35 U.S.C. § 271(a).

129. More particularly, without limitation, in accordance with Claim 21, 22, and 24 of the '647 Patent, for example, Pandora's Accused Instrumentalities and Services provide a system for providing media streaming services that comprises a playback interface executing on an internet enabled multimedia computing platform adapted to (1) receive a user's initial selection for streaming media based on at least one item of metadata, playback interface including a media player, (2) receive user selection for controlling playback of streaming media, and (3) receive ratings. Moreover, the playback interface signals the user's initial selection, the user selection for controlling playback, or ratings to at least one rating component, which is part of the streaming media rating system on the server-side of Pandora's Accused Instrumentalities and Services. Pandora's Accused Instrumentalities and Services also include a database

management component that maintains an organizational data structure containing ratings information, and a playlist generator that generates playlists based upon rating information. In further accordance with Claim 22, Pandora's Accused Instrumentalities and Services generates an initial playlist by the user's selection of a genre, artist, or other media resource attribute through the playback interface. In further accordance with Claim 24, the playback interface of Pandora's Accused Instrumentalities and Services allows the user to select an action to send a signal to a second internet enabled multimedia computing platform that allows a second user to playback the play-list shared by the first user. More particularly without limitation as to other claims, Pandora's infringement of Claims 21, 22, and 24 is further demonstrated in Exhibit 38.

130. Pandora controls and directs customers' use of the Accused Instrumentalities and Services by, among other reasons, requiring customers to utilize authorized accounts and secure identification to access and use the Accused Instrumentalities and Services. Pandora benefits from such control and use by, among other things, Pandora's selling of advertising and/or or subscription fees.

131. Pandora's acts of infringement have occurred within this District and elsewhere throughout the United States.

132. As a result of Pandora's infringing conduct, Bluebonnet has suffered damages. Pandora is liable to Bluebonnet in an amount that adequately compensates it for Pandora's infringement in an amount that is no less than a reasonable royalty, together with interest and costs as fixed by this Court under 25 U.S.C. § 284.

REQUEST FOR RELIEF

WHEREFORE, Bluebonnet respectfully requests that judgment be entered as follows:

A. Declaring that Pandora has directly infringed, literally and/or under the DOE, one or more claims of the Asserted Patents;

B. Declaring that the asserted claims of the Asserted Patent are valid and enforceable;

C. Awarding damages to Bluebonnet in an amount to be proven at trial, but in no event less than a reasonable royalty, for Pandora's infringement;

D. Awarding, as appropriate, expenses, costs, and disbursements incurred this action against Pandora, including prejudgment and post-judgment interest;

E. Awarding such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Bluebonnet hereby demands a trial by jury of all issues so triable.

Dated: August 12, 2020

Respectfully submitted,

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