

FILED

Sep 18 2024

CAROL L. MICHEL  
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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

Manuel Tijerino

*Plaintiff,*

versus

Spotify USA Inc.

*Defendant*

) CIVIL ACTION

) NO.

) DISTRICT JUDGE

) HON.

) MAGISTRATE JUDGE

) HON.

**24 - 2290****SECT. DMAG. 2**COMPLAINT FOR PATENT INFRINGEMENT

COMES NOW, Manuel Tijerino ("Plaintiff" or "Tijerino") a resident of Jefferson Parish Louisiana, brings this action against Defendant Spotify USA Inc. a corporation out of New York ("Defendant" or "Spotify") for infringement of U.S. Patent No. 9,146,925 ("the '925 Patent"), issued on September 29, 2015, covers Tijerino's innovative invention, "User-Defined Internet Jukebox", which allows artists to self-publish and distribute their music worldwide via an internet jukebox system.

**I. JURISDICTION AND VENUE**

This action arises under the patent laws of the United States. 35 U.S.C. § 1 et seq. This Court has jurisdiction pursuant to federal question 28 U.S.C § 1311 and any civil action arising under Act of Congress relating to patents 28 U.S.C § 1338(a) and any action asserting unfair competition U.S.C. § 1338(b). Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b), (c), and 1400(b) because Spotify USA Inc. has a substantial presence and conducts business in this district. In addition, the amount in controversy exceeds \$75,000, excluding interest and costs, in accordance with 28 U.S.C. § 1332.

## **II. FACTS**

Tijerino developed the '925 Patent to enable any artists to upload and distribute their music globally through an internet jukebox. Tijerino filed U.S. Patent Application No. 12/804,665 on July 27, 2010, and receiving the '925 Patent on September 29, 2015. Spotify launched its “Spotify for Artists” program in December 2013, which includes features similar to those covered by the '925 Patent. Despite Tijerino's letter dated July 11, 2024 inviting Spotify to license the patent, and a reminder sent on August 13, 2024, Spotify has not responded substantively, promoting this action.

## **III. PATENT INFRINGEMENT**

Spotify's “Spotify for Artist” program infringes the '925 Patent by implementing technology and methods covered by the patent without authorization. Specifically, Spotify practices each element of the claims by allowing artists to upload and distribute their music via web service, mirroring the patented invention.

## **IV. DEMAND FOR RELIEF**

Tijerino seeks the following relief:

A judgement that Spotify has infringed the '925 Patent.

An injunction to prevent further infringement.

Royalties for past infringement, calculated as five percent (5%) of Spotify's annual gross revenue. Given Spotify's average annual revenue of \$10 billion, with recent years reaching \$15.65 billion, this amount reflects a reasonable royalty based on the value of the patent.

Damages, including interest and costs.

An award up to three times the amount of damages as permitted under 35 U.S.C. § 284.

## **V. HISTORICAL BACKGROUND & CONGRESSIONAL RESEARCH**

Tijerino, creator of check1two.com since 2001, is a pioneer in creating media networks for independent artists with "user provided content" and real-time media distribution for promoting any artists, holding priority over our original patent filed in 2007, with such innovations that predate the launch of significant technological advancements like the iPod launched in 2001, and the iPhone launched in 2007.

Spotify, launched with familiar user experience like iTunes, but was different in the sense where rather than (buy download play) like iTunes who focused on selling downloads, Spotify allowed streaming via curated playlists, backed by licensing agreements from major labels. Apple later made their own streaming service Apple Music, as seen in the congressional research service report, Money for Something Music Licensing in the 21<sup>st</sup> Century, page 2 attached as exhibit A, which says,...

"In 2003, after negotiating licensing agreements with all of the major record labels, Apple Inc. launched the iTunes Music Store to provide consumers a legal option for purchasing individual songs online. The year 2012 marked the first time the recording industry earned more from retail sales of digital downloads (\$3.4 billion in 2019) than from physical media such as compact discs, cassettes, and vinyl records (\$3.1 in 2019 billion dollars). Apple had approximately a 65% market share of digital music downloads. Apple peaking in 2012, however, sales from digital downloads began to decline, as streaming services such as Spotify, which entered the U.S. market in 2011, became more popular. Facing a mounting threat to its iTunes Music Store, Apple launched its own subscription streaming music service, Apple Music, in 2015."

The congressional research report shows us a few notable things, such as the direction of how the music industry shifted and the familiar notion of similar competitive products where one company Spotify makes as music streaming service and then Apple makes their own music streaming service, Apple Music. This is natural occurrence in business that has been there in most other industries, however, in the music world, particularly with regards to media distribution, we have now arrived into the era of the, "for Artists" which is defined in our granted patent.

On 29 September 2015, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 9,146,925) entitled “User Defined Jukebox Kiosk Set Top Box”, to Manuel Tijerino. A true and correct copy of the '[925] Patent' is attached as Exhibit B.

Spotify's platform infringes our '925 Patent please see as Exhibit C'. Prior to the USPTO granting out patent, all of our claims were denied on the grounds that the concepts we presented had all ready existed; Our patent examiner mentioned it was obvious to track any statistics for jukebox usage, plays, or royalty distribution (Exhibit D), and that real-time media distribution all ready existed in traditional digital internet jukeboxes and where by uploading media to a server to update a jukebox via a distribution lists existed and updating newly connected jukeboxes via distribution lists all ready provided real-time music distribution. (Please See Exhibit E). We spent approximately 8 years working with the US patent office before winning our patent for being useful, novel, and non obvious. The specific thing which helped us win the patent was that the real-time media distribution relating to 'New Media' which empowered artists to promote themselves. We essentially created a new industry and the existing industry has shifted in our direction. The “New Media” distribution is what allowed the artists to publish their own music giving artists a chance to earn royalties when their “New Media” is played, changing the music industry as we know it today.

When Spotify launched as a streaming music service, they did it with music licenses from labels and curated content, as opposed to “user provided content”. In 2013 Spotify took a significant steps as a music distribution platform that supported artist and businesses (Please see Exhibit F). These actions, contributed to their growth and popularity as a platform. Spotify's “for Artist” first launched explaining how, Artists had to go through labels to get on the platform (Please see Exhibit G). Spotify “for Artists” provided Artists information of what was to come and kept making improvements, however. in

September 20<sup>th</sup> 2018 it was announced that Spotify now allowed artist to upload their music to the platform; whereby allowing 'New Media' distribution infringing our '925' patent (Please see Exhibit H). The things needed to offer real-time distribution of “New Media” described in our patent are essentially providing something “for Artists” so they can distribute their “new media” and make royalties when their “new media” plays somewhere, which aligns with the industry standards by the (Performance Rights Organizations) PROs. (Please see Exhibit I). Despite having knowledge of our pending patent since Java One in 2009 (Please see Exhibit J) both of us having worked with Sun Microsystems the creators of the Java programming Language, Spotify who initially described themselves as a 'virtual jukebox', launched as a streaming music service, who later became a music distribution service “for Artist” whereby infringing our '925' patent in 20 September 2018, and since then, has continued to infringe causing significant harm to the Plaintiff. According to a Google Search, Spotify's net worth is 68.85 billion as of August 30, 2024, and after taking significant steps to properly identify infringement of our '925' patent, we have sent Spotify invitation emails to license, in 11 July 2024 (Please see Exhibit K). Spotify finally replying to our follow up email reminder from 13 August 2024 stating that they acknowledge receipt of the email and the attached correspondence and are reviewing the materials provided, but have not given any further substantively response, promoting this action. As we have not heard back from Spotify since last month, we respectfully file this complaint with the Eastern District Court, confident in an efficient resolution of this matter by extending a license of our '925' patent to Spotify.

## **VI. ANTI-COMPETITIVE ALLEGATIONS**

In addition to infringing our patent, I would also like to bring up anti-competitive allegations. It has been mentioned by the creator of Spotify, that the idea for Spotify came after Napster was shut

down, which Napster despite being the world's most popular P2P file sharing service at one time, and said to have almost destroyed the music industry, was shut down by the Recording Industry Association of America (RIAA) and several major labels (Sony, Universal, Warner, BMG) in the case *A&M Records, Inc. v. Napster, Inc.*, 239 F.3d 1004 (9th Cir., 2001) and also by Metallica in *Metallica v. Napster, Inc.* where the co-founder, Sean Parker, who also happened to be the first President of Facebook and the first President of Spotify. Parker invested 15 million USD into Spotify. Parker being an influential connection between the two companies Facebook and Spotify; helping Spotify dominate the market, while our adds would get denied, constitute an anti-competitive nature. Not only was our technology copied but we were blocked from competing and deliberately targeted with malicious scams (Please See Exhibit L).

Finally, I would also like to give a simple example to understand licensing, there is a fine line between legal and illegal. Gaming and Gambling is the same thing but Gaming is legal and Gambling is illegal. What is the difference? A license. Whereby, seeking an amicable decision for a fair licensing deal so Spotify can operate legally, and as direct and proximate result of Spotify's infringement, Plaintiff has suffered and will continue to suffer monetary damages in amounts to be proven at trial but no less than a reasonable royalty.

## **VII. PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Manuel Tijerino prays for judgment against Spotify USA Inc. as follows:

1. A finding that Spotify has infringed one or more claims from the '925 Patent'.
2. An order requiring Spotify to take a license for the '925 Patent' on mutually agreeable terms, but no less than a reasonable royalty;

3. An award of damages in the form of royalties, including backpay from the time of infringement, sufficient to compensate Tijerino for Spotify's infringement, including pre-judgement and post-judgement interest.
4. A preliminary and permanent injunction preventing Spotify from further acts of infringement in the absence of a license.
5. Award treble damages as allowed by law;
6. A declaration that this case is exceptional, and an award cost, interests and attorneys' fees pursuant to 35 U.S.C 285.
7. Grant any other relief as the Court deems just and equitable.

#### **VIII. EXHIBITS**

1. EXHIBIT A - Congressional Research Report Music Industry Shifting
2. EXHIBIT B - '925 Patent
3. EXHIBIT C - Claims Chart Demonstrates Patent Infringement
4. EXHIBIT D - USPTO Previously Denying Claims Due To Obviousness
5. EXHIBIT E - USPTO Previously Denying Claims Due To Novelty
6. EXHIBIT F - New 2013 Developments In Spotify To Support Artists
7. EXHIBIT G - Artist Must Use Old Methods To Add Music To Spotify
8. EXHIBIT H - 2018 Spotify Infringes '925 Patent
9. EXHIBIT I - Pro Licensing Requirements For Digital Music Providers
10. EXHIBIT J - Java One 2009 Demo

11. EXHIBIT K- Invitation To License
12. EXHIBIT L - One Of Many Anti-Competitive Targeted Scams

Signed, September 18, 2024.

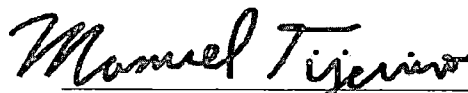
Respectfully submitted,



MANUEL TIJERINO, *Pro Se*  
2141 Leslie Street, Gretna, LA 70056  
515-803-8907  
[ManuelTijerino@Hotmail.com](mailto:ManuelTijerino@Hotmail.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on this 18<sup>th</sup> day of September, 2024, I filed the foregoing Complaint with the Clerk of Court for the United States District Court for the Eastern District of Louisiana. I further certify that I will have this Complaint served by the U.S. Marshall upon Spotify USA Inc, through its registered agent for service of process, CT Corporation System at 28 Liberty Street, New York, NY 10005.



MANUEL TIJERINO, *Pro Se*



**Stacy Pecoraro**

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**From:** systems\_unit@laed.uscourts.gov on behalf of Do Not Reply  
<do\_not\_reply@laed.uscourts.gov>  
**Sent:** Wednesday, September 18, 2024 1:47 PM  
**To:** LAEDml\_Pro Se  
**Subject:** New EDSS Filing Submitted

*A new EDSS Filing has been submitted. The filing was submitted on Wednesday, September 18, 2024 - 13:46 from IP Address 10.164.8.193*

*Submitted values are:*

*Filer's Full Name: Manuel Tijerino*

*Filer's Email Address: ManuelTijerino@Hotmail.com*

*Filer's Mailing Address (Street, Apt/Suit No., City, State, Zip): 2141 Leslie Street, Gretna, LA 70056*

*Filer's Phone Number: 515-803-8907*

*Case Number (if known):*

*Case Name: Manuel Tijerino v Spotify USA Inc.*

*Document 1 Description: Tijerino Complaint against Spotify*

*Document 2 Description: Exhibits A-B*

*Document 3 Description: Exhibits C-E*

*Document 4 Description: Exhibits F-L*

*Document 5 Description:*

*The submitted documents will arrive in your EDSS Filings bucket within 15 minutes.*

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*Filer's Email Address: ManuelTijerino@Hotmail.com*

*Filer's Mailing Address (Street, Apt/Suit No., City, State, Zip): 2141 Leslie Street, Gretna, LA 70056*

*Filer's Phone Number: 515*

*Case Number (if known):*

*Case Name: Manuel Tijerino v Spotify USA Inc.*

*Document 1 Description: Tijerino Complaint against Spotify*

*Document 2 Description:*

*Document 3 Description:*

*Document 4 Description:*

*Document 5 Description:*

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*Filer's Email Address: ManuelTijerino@Hotmail.com*

*Filer's Mailing Address (Street, Apt/Suit No., City, State, Zip): 2141 Leslie Street, Gretna, LA 70056*

*Filer's Phone Number: 515-803-8907*

*Case Number (if known):*

*Case Name: Manuel Tijerino v Spotify USA Inc.*

*Document 1 Description: Tijerino v Spotify Exhibits A-B*

*Document 2 Description: Tijerino v Spotify Exhibits C-E*

*Document 3 Description:*

*Document 4 Description:*

*Document 5 Description:*

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*Filer's Mailing Address (Street, Apt/Suit No., City, State, Zip): 2141 Leslie Street, Gretna, LA 70056*

*Filer's Phone Number: 515-803-8907*

*Case Number (if known):*

*Case Name: Manuel Tijerino v Spotify USA Inc.*

*Document 1 Description: Tijerino v Spotify Exhibit F*

*Document 2 Description:*

*Document 3 Description:*

*Document 4 Description:*

*Document 5 Description:*

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*Filer's Email Address: ManuelTijerino@Hotmail.com*

*Filer's Mailing Address (Street, Apt/Suit No., City, State, Zip): 2141 Leslie Street, Gretna, LA 70056*

*Filer's Phone Number: 515-803-8907*

*Case Number (if known):*

*Case Name: Manuel Tijerino v Spotify USA Inc.*

*Document 1 Description: Tijerino v Spotify Exhibit F*

*Document 2 Description:*

*Document 3 Description:*

*Document 4 Description:*

*Document 5 Description:*

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*Filer's Email Address: ManuelTijerino@Hotmail.com*

*Filer's Mailing Address (Street, Apt/Suit No., City, State, Zip): 2141 Leslie Street, Gretna, LA 70056*

*Filer's Phone Number: 515-803-8907*

*Case Number (if known):*

*Case Name: Manuel Tijerino v Spotify USA Inc.*

*Document 1 Description: Tijerino v Spotify Exhibit G*

*Document 2 Description:*

*Document 3 Description:*

*Document 4 Description:*

*Document 5 Description:*

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**From:** systems\_unit@laed.uscourts.gov on behalf of Do Not Reply  
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*A new EDSS Filing has been submitted. The filing was submitted on Wednesday, September 18, 2024 - 14:48 from IP Address 10.164.8.193*

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*Filer's Email Address: ManuelTijerino@Hotmail.com*

*Filer's Mailing Address (Street, Apt/Suit No., City, State, Zip): 2141 Leslie Street, Gretna, LA 70056*

*Filer's Phone Number: 515-803-8907*

*Case Number (if known):*

*Case Name: Manuel Tijerino v Spotify USA Inc.*

*Document 1 Description: Tijerino v Spotify Exhibit I*

*Document 2 Description: Tijerino v Spotify Exhibit J*

*Document 3 Description:*

*Document 4 Description:*

*Document 5 Description:*

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**From:** systems\_unit@laed.uscourts.gov on behalf of Do Not Reply  
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*A new EDSS Filing has been submitted. The filing was submitted on Wednesday, September 18, 2024 - 14:50 from IP Address 10.164.8.193*

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*Filer's Email Address: ManuelTijerino@Hotmail.com*

*Filer's Mailing Address (Street, Apt/Suit No., City, State, Zip): 2141 Leslie Street, Gretna, LA 70056*

*Filer's Phone Number: 515-803-8907*

*Case Number (if known):*

*Case Name: Manuel Tijerino v Spotify USA Inc.*

*Document 1 Description: Tijerino v Spotify Exhibit K*

*Document 2 Description: Tijerino v Spotify Exhibit L*

*Document 3 Description: Tijerino v Spotify Civil Cover*

*Document 4 Description: Tijerino v Spotify Summons*

*Document 5 Description: Tijerino v Spotify Pauperis Form*

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