

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

MANUEL TIJERINO,

Plaintiff,

v.

SPOTIFY USA INC.,

Defendant.

CIVIL ACTION NO.

2:24-cv-02290-ILRL-DPC

SECTION “B” (3)

JUDGE IVAN L.R. LEMELLE

MAGISTRATE JUDGE DONNA
PHILLIPS CURRAULT

DEFENDANT SPOTIFY USA INC.’S MOTION TO DISMISS

NOW INTO COURT, through undersigned counsel, comes Defendant, Spotify USA Inc. (“Spotify”), and respectfully moves this Honorable Court to dismiss Plaintiff Manuel Tijerino’s Complaint for improper venue under Federal Rule of Civil Procedure 12(b)(3) and 28 U.S.C. § 1406(a), and for failure to state a claim upon which relief can be granted under Rule 12(b)(6).

For reasons more thoroughly explained in Spotify’s accompanying Memorandum in Support, Plaintiff’s complaint can be dismissed for two separate reasons. *First*, Plaintiff’s claim for patent infringement was filed in an improper venue because Spotify neither resides in this judicial district, nor maintains a regular and established place of business in this district. *See* 28 U.S.C. § 1400(b). Accordingly, the Complaint should be dismissed or, in the alternative, transferred to a proper venue under Rule 12(b)(3) and § 1406(a).

Second, even construing *pro se* Plaintiff’s Complaint liberally, Plaintiff fails to adequately allege that Spotify infringes his patent (U.S. Patent No. 9,146,925) directed to a computer-implemented method for artists to distribute their music in public venues using jukeboxes because the Complaint fails to plausibly “allege facts showing that an accused product contains each and every limitation or element of at least one patented claim.” *Wright’s Well Control Servs., LLC v.*

Oceaneering Int'l, Inc., No. 15-1720, 2017 WL 568781, at *5 (E.D. La. Feb. 13, 2017); *see also De La Vega v. Microsoft Corp.*, No. W-19-CV-612, 2020 WL 3528411, at *6–7 (W.D. Tex. Feb. 11, 2020) (granting motion to dismiss patent infringement claims because the complaint was “devoid of [factual] allegations that would support an inference that [defendant] performs the [required claim] steps”). Accordingly, Plaintiff’s Complaint fails to plausibly allege that Spotify has infringed Plaintiff’s patent, and the Complaint should be dismissed under Rule 12(b)(6).

WHEREFORE, Spotify respectfully requests that the Court grant its motion to dismiss Plaintiff’s Complaint for improper venue and for failure to state a claim for relief with prejudice.

DATED: January 14, 2025

Respectfully submitted,

PHELPS DUNBAR LLP

BY: /s/ David L. Patrón

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NOTICE OF SUBMISSION

PLEASE TAKE NOTICE that Defendant Spotify USA Inc., will bring for submission their Motion to Dismiss for improper venue and failure to state a claim before the Honorable Ivan L.R. Lemelle, United States District Judge, Eastern District of Louisiana, 500 Poydras Street, New Orleans, Louisiana 70130, on the 5th day of February, 2025.

DATED: January 14, 2025

Respectfully submitted,

PHELPS DUNBAR LLP

BY: /s/ David L. Patrón

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DEFENDANT SPOTIFY USA INC.’S MEMORANDUM
IN SUPPORT OF ITS MOTION TO DISMISS

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I. INTRODUCTION

Defendant Spotify USA Inc. respectfully moves to dismiss Plaintiff Manuel Tijerino's Complaint for improper venue under Federal Rule of Civil Procedure 12(b)(3) and 28 U.S.C. § 1406(a), and for failure to state a claim upon which relief can be granted under Rule 12(b)(6).

First, as a threshold matter, Plaintiff's complaint for patent infringement was filed in an improper venue because Spotify neither resides in this judicial district, nor maintains a regular and established place of business in this district. For this reason alone, the Complaint should be dismissed or, in the alternative, transferred to a proper venue under Rule 12(b)(3) and § 1406(a).

Second, Plaintiff alleges that Spotify infringes a patent directed to a computer-implemented method for artists to distribute their music in public venues using jukeboxes. All claims of the asserted patent require showing that Spotify performs steps relating to automatically calculating amounts earned by the venue where the jukebox is located (the Automatic Calculation Limitations). However, Plaintiff's Complaint fails to plausibly allege that Spotify performs these limitations, and should be dismissed under Rule 12(b)(6).

II. ARGUMENT

A. The Complaint Should be Dismissed for Improper Venue.

Under the venue statute that exclusively governs patent infringement actions, a patent infringement action may only be brought in the judicial district where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business. Because Spotify resides in Delaware (where it is incorporated) and does not have a regular and established place of business in the Eastern District of Louisiana, venue is not proper in this judicial district. Accordingly, Spotify requests that the Complaint be dismissed, or else transferred to the Southern District of New York, where Spotify has its principal place of business. Folsom Decl. ¶4.

1. Legal Standard

28 U.S.C. § 1400(b) “is the sole and exclusive provision controlling venue in patent infringement actions, and . . . is not to be supplemented by . . . § 1391(c).” *TC Heartland LLC v. Kraft Foods Group Brands LLC*, 581 U.S. 258, 266 (2017). Under that provision, venue is proper only in a judicial district where the defendant either (i) “resides,” or (ii) “has committed acts of infringement and has a regular and established place of business.” 28 U.S.C. § 1400(b). Congress enacted Section 1400(b) as a “restrictive measure” that “define[s] the exact limits of venue in patent infringement suits.” *In re Cray Inc.*, 871 F.3d 1355, 1361 (Fed. Cir. 2017).

In patent infringement cases, “[t]he plaintiff has the burden of establishing proper venue under 28 U.S.C. § 1400(b).” *Andra Grp., LP v. Victoria’s Secret Stores, L.L.C.*, 6 F.4th 1283, 1287 (Fed. Cir. 2021). “Whether venue is appropriate in a patent infringement action is unique to patent law and therefore Federal Circuit law applies.” *In re Volkswagen Grp. of Am., Inc.*, 28 F.4th 1203, 1207 (Fed. Cir. 2022). When considering a motion for improper venue under Rule 12(b)(3), “the court is permitted to look at evidence in the record beyond simply those facts alleged in the complaint and its proper attachments.” *Ambraco, Inc. v. Bossclip B.V.*, 570 F.3d 233, 238 (5th Cir. 2009). Unsupported allegations that merely parrot the language of Section 1400(b) “will not suffice to prevent a motion to dismiss.” *Westech Aerosol Corp. v. 3M Co.*, 927 F.3d 1378, 1381–82 (Fed. Cir. 2019); *Taylor v. Books A Million, Inc.*, 296 F.3d 376, 378 (5th Cir. 2002).

2. Spotify Does Not Reside in the Eastern District of Louisiana.

Under the first prong of Section 1400(b), a “domestic corporation ‘resides’ only in its State of incorporation for purposes of the patent venue statute.” *Andra Grp.*, 6 F.4th at 1287 (quoting *TC Heartland*, 581 U.S. at 262). Spotify USA Inc. is incorporated in the State of Delaware, and accordingly resides in Delaware. Folsom Decl. ¶13. Because Spotify does not reside in the Eastern

District of Louisiana, the first prong of Section 1400(b) does not provide a basis for venue in this judicial district.

3. Spotify Does Not Have a Regular and Established Place of Business in the Eastern District of Louisiana.

Under the second prong of Section 1400(b), venue is only proper in a judicial district where the defendant has a regular and established place of business. To establish that a defendant has a regular and established place of business in a judicial district, ““(1) there must be a physical place in the district; (2) it must be a regular and established place of business; and (3) it must be the place of the defendant.”” *Andra Grp.*, 6 F.4th at 1287 (quoting *In re Cray Inc.*, 871 F.3d at 1360). “[A] ‘regular and established place of business’ requires the regular, physical presence of an employee or other agent of the defendant conducting the defendant’s business at the alleged ‘place of business.’” *Andra Grp.*, 6 F.4th at 1287 (quoting *In re Google LLC*, 949 F.3d 1338, 1345 (Fed. Cir. 2020)). This Court must “consider whether these requirements are met with the understanding that the Supreme Court has repeatedly cautioned against a broad reading of the patent venue statute.” *In re Volkswagen Grp.*, 28 F.4th at 1208; *In re Google*, 949 F.3d at 1346. “If any [of these] statutory requirement[s] [are] not satisfied, venue is improper under § 1400(b).” *In re Volkswagen*, 28 F.4th at 1208 (alterations in original).

Spotify does not have a regular and established place of business in the Eastern District of Louisiana. Folsom Decl. ¶5. Spotify does not have an office in Louisiana. *Id.* Nor does Spotify own or rent any other real estate in Louisiana from which it conducts its business. Folsom Decl. ¶5. Plaintiff’s conclusory allegation that venue is proper in this district because “Spotify USA Inc. has a substantial presence and conducts business in this district” (Compl. (Rec. Doc. 1) at 1) is simply wrong, and cannot overcome Spotify’s evidence to the contrary.

4. The Court Should Dismiss the Complaint, or Transfer the Case to the Southern District of New York.

28 U.S.C. § 1406 provides that when a case is filed in an improper venue, that the district court shall dismiss the complaint or, “if it be in the interest of justice, transfer such case to any district . . . in which it could have been brought.” Because venue for this patent infringement case does not lie in this judicial district, the Court should dismiss the Complaint. However, if the Court believes that it is in the interest of justice to transfer this case in lieu of dismissal, Spotify respectfully submits that this case should be transferred to the Southern District of New York, where it has its principal place of business and where this case could have been brought.

B. The Complaint Should be Dismissed Because It Fails to Plausibly Plead Infringement.

The Complaint does not state a claim for patent infringement because it fails to plausibly allege that Spotify performs the Automatic Calculation Limitations. Because the Automatic Calculation Limitations are required by every claim of the ’925 patent, the failure to plausibly allege infringement of the those limitations warrants dismissing the Complaint under Rule 12(b)(6).

1. Legal Standard

“To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “Although a complaint does not need detailed factual allegations, the allegations must be enough to raise a right to relief above the speculative level.” *Firefighters’ Ret. Sys. v. Grant Thornton, L.L.P.*, 894 F.3d 665, 669 (5th Cir. 2018). Additionally, courts should “make all inferences in a manner favorable to the plaintiff, ‘but plaintiffs must allege facts that support the elements of the cause of action in order to make out a valid claim.’” *Wilson v. Birnberg*, 667 F.3d 591, 595 (5th Cir. 2012) (quoting

City of Clinton v. Pilgrim's Pride Corp., 632 F.3d 148, 152–53 (5th Cir. 2010)). Thus, to plead patent infringement, “[t]he complaint must place the potential infringer on notice of what activity is being accused of infringement.” *Nalco Co. v. Chem-Mod, LLC*, 883 F.3d 1337, 1350 (Fed. Cir. 2018).

“To establish infringement a party must show that the accused device contains . . . every limitation of the claimed invention.” *Advanced Display Sys. v. Kent State Univ.*, 212 F.3d 1272, 1287 (Fed. Cir. 2000). In a patent case, the complaint must plausibly “allege facts showing that an accused product contains each and every limitation or element of at least one patented claim.” *Wright's Well Control Servs., LLC v. Oceaneering Int'l, Inc.*, No. 15-1720, 2017 WL 568781, at *5 (E.D. La. Feb. 13, 2017); *see also De La Vega v. Microsoft Corp.*, No. W-19-CV-612, 2020 WL 3528411, at *6–7 (W.D. Tex. Feb. 11, 2020) (granting motion to dismiss patent infringement claims because the complaint was “devoid of [factual] allegations that would support an inference that [defendant] performs the [required claim] steps”). Importantly, the complaint must include sufficient facts to plausibly allege that each element of the patent claim is present in the accused system. *De La Vega*, 2020 WL 3528411 at *6–7. “[A] plaintiff cannot assert a plausible claim for infringement under the *Iqbal/Twombly* standard by reciting the claim elements and merely concluding that the accused product has those elements.” *Bot M8 LLC v. Sony Corp. of Am.*, 4 F.4th 1342, 1353 (Fed. Cir. 2021).

2. All Claims of the '925 Patent Require the Automatic Calculation Limitations.

The Complaint alleges that Spotify infringes U.S. Patent No. 9,146,925. The '925 patent is directed to a computer-implemented method for artists to distribute their music in public venues using jukeboxes. *See* '925 pat. (Rec. Doc. 1-3), 9:66–10:2 (“[a] computer implemented method for real time music distribution of new media for allowing an artist to control availability of the new media for playback in public venues via a jukebox”) (claim 1), 10:58–63 (claim 3). The patent

describes placing a jukebox in a venue. *Id.*, 8:47–49. An example of a venue is given in Figure 5.1, which depicts a venue account webpage for a bar named “Cheap Shots.” *Id.*, Fig. 5.1, 3:44 (“FIG. 5.1 is a venue account page.”), 8:47–49. The patent discloses that the jukebox may be owned by a website provider or the “venue can also purchase [the] jukebox outright or rent-to-own[.]” *Id.*, 8:61–67. The patent further describes how revenue from the jukebox is split among various entities, including the artists, the venue, and the website provider. *Id.*, 8:63–9:16. For example, “20% goes towards paying royalties to the musicians and the 80% left is split 50/50 between the venue and the website provider.” *Id.*, 8:63–67. The example is characterized as “in line with the industry,” meaning “this is how other jukeboxes split the earnings.” *Id.*, 8:67–9:1.

Consistent with the patent’s disclosure, independent claim 1 recites a computer-implemented method that includes a step that requires “automatically calculating, by the processor, amounts earned by an artist and a venue playing the new media.” ’925 pat., 10:43–45. Claim 3 is the only other independent claim in the patent, and it recites a computer-readable media embodying program instructions for execution by a computer. Claim 3 identically requires “automatically calculating, by the processor, amounts earned by an artist and a venue playing the new media.” Because both independent claims recite this same limitation, to prove a claim of infringement for the ’925 patent, Plaintiff must show that the alleged infringer either performs the claimed computer-implemented method, including by “automatically calculating . . . amounts earned by . . . a venue playing the new media” or that the alleged infringer provides software on a computer-readable media that performs the same steps (the “Automatic Calculation Limitations”).

3. The Complaint Fails to Plausibly Allege that Spotify Performs the Automatic Calculation Limitations.

The Complaint does not plausibly allege, nor otherwise explain, how Plaintiff believes that Spotify performs the Automatic Calculation Limitations. Instead, the Complaint refers the reader

to Exhibit C. Rec. Doc. 1 at 4 (“Spotify’s platform infringes our ‘925 Patent please see as Exhibit C[.]”). However, Exhibit C to the Complaint also fails to plausibly allege that Spotify performs the Automatic Calculation Limitations.

Pages 24 and 25 of Exhibit C relate to the Automatic Calculation Limitations because they reproduce the relevant limitation in claim 1. Ex. C (Rec. Doc. 1-4) at 24–25 (claim 1’s recitation of “automatically calculating, by the processor, amounts earned by an artist and a venue playing the new media” reproduced in purple). On those pages, Plaintiff reproduces screenshots from various websites, but provides no explanation of how the reproduced screenshots plausibly suggest that Spotify automatically calculates amounts earned by a venue playing the new media. *Id.* Simply reproducing screenshots, without explanation of how those screenshots demonstrate that a claim limitation is satisfied, is not enough to avoid dismissal under Rule 12(b)(6). The Western District of Texas decision in *De La Vega* illustrates this point. There, the court dismissed the plaintiff’s patent infringement claim with prejudice where the plaintiff “only presented three screenshots of evidence without explaining how that evidence shows that [the defendant] (and/or a third-party) performs the [claim step].” 2020 WL 3528411, at *6.

At most, the screenshots relate to calculating streaming royalty payments to music rightsholders. Ex. C. (Rec. Doc. 1-4) at 24 (“We distribute the net revenue from Premium subscription fees and ads to rightsholders.”), 25 (“[B]ut exactly when and how much artists get paid depends on their agreements with their record label or distributor. Once we pay rightsholders according to their streamshare, the labels and distributors . . . pay artists according to their individual agreements.”). But even if the screenshots can be construed to allege that Spotify calculates payments to artists, that is not enough to plausibly allege infringement because the Automatic Calculation Limitations require automatically calculating earnings for both an artist and

a venue. *Supra*, Section III.B.2 (explaining the Automatic Calculation Limitations). The failure to plausibly allege that Spotify automatically calculates earnings for a venue means that the Automatic Calculation Limitations are not satisfied, and therefore the Court should dismiss the Complaint.

C. Plaintiff's *Pro Se* Status Does Not Excuse the Factual Deficiencies In the Complaint, Which Must Adhere to Federal Pleading Requirements.

Plaintiff's *pro se* status—and liberal construction of his Complaint—does not prevent the Court from dismissing this Complaint. Though Plaintiff's Complaint should receive liberal construction given his status as a *pro se* plaintiff, “regardless of whether the plaintiff is proceeding *pro se* or is represented by counsel, conclusory allegations or legal conclusions masquerading as factual conclusions will not suffice to prevent a motion to dismiss.” *Taylor v. Books A Million, Inc.*, 296 F.3d 376 (5th Cir. 2002) (citation omitted). Here, even after construing Plaintiff's Complaint liberally, the Complaint fails to demonstrate venue is proper in this judicial district, and fails to plausibly plead patent infringement by Spotify.

III. CONCLUSION

For the foregoing reasons, Spotify respectfully requests that the Court grant its motion to dismiss Plaintiff's Complaint for improper venue and for failure to state a claim for relief with prejudice.

DATED: January 14, 2025

Respectfully submitted,

PHELPS DUNBAR LLP

BY: /s/ David L. Patrón

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JUDGE IVAN L.R. LEMELLE

**MAGISTRATE JUDGE DONNA
PHILLIPS CURRAULT**

DECLARATION OF MATTHEW FOLSOM

I, Matthew Folsom, declare as follows:

1. I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness, could and would competently do so under oath.

2. I am employed by Spotify USA Inc. ("Spotify USA") in the capacity of Head of Real Estate for Spotify USA.

3. Spotify USA is incorporated in the State of Delaware.

4. Spotify USA has its principal place of business in New York City. The New York City office is the largest office in the United States.

5. Spotify USA does not have an office in Louisiana, does not have any other regular and established place of business in Louisiana, and does not own nor lease any real estate in Louisiana.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 1/13/2025 at Shawnee, Kansas.

DocuSigned by:
Matthew Folsom
1B4383AF8B9E46D
Matthew Folsom

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

MANUEL TIJERINO,

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Civil Action No.

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Section “B” (3)

Judge Ivan L.R. Lemelle

Magistrate Judge Donna Phillips Currault

DEFENDANT SPOTIFY USA INC.’S REPLY MEMORANDUM
IN SUPPORT OF ITS MOTION TO DISMISS

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I. INTRODUCTION

This case is ripe for resolution on the pleadings. As a threshold matter, Plaintiff Manuel Tijerino has not established that patent venue for this infringement case against Spotify USA Inc. (“Spotify”) is proper in this judicial district, where Spotify neither resides nor has a regular or established place of business. Therefore, this case should either be dismissed for improper patent venue, or else transferred to the Southern District of New York. In addition, the Court should find that neither the Complaint (Rec. Doc. 1 (“Complaint” or “Cmplt.”) nor the proposed Amended Complaint¹ (Rec. Doc. 19 (“Amended Complaint”)) plausibly alleges that Spotify performs the Automatic Calculation Limitations: under any reasonable definition of the claim term “venue,” Spotify does not pay “venues” as required by the asserted claims. For that further reason, the Court should dismiss this case with prejudice.

II. ARGUMENT

A. Plaintiff Has Not Established Patent Venue in This Judicial District.

1. Spotify does not reside in this district.

A patent infringement lawsuit may be brought only in the judicial district where the defendant resides or where the defendant has a regular and established place of business. 28 U.S.C. § 1400(b); Rec. Doc. 13-2 (“Moving Brief” or “Br.”) at 3. As to the first prong, Tijerino concedes that Spotify does not reside in Louisiana or the Eastern District of Louisiana. (“Opposition” or “Opp.”) at 12; *see also* Rec. Doc. 13-3 (“Folsom Decl.”) at ¶3.

¹ Spotify timely filed its motion to dismiss the Complaint for improper venue under Rule 12(b)(3) and for failure to state a claim under Rule 12(b)(6). Rec. Doc. 13. Tijerino responded by filing a motion for leave to amend the complaint (Rec. Doc. 19), and Spotify filed a notice of non-opposition to Tijerino’s motion for leave to amend the complaint (Rec. Doc. 21). During the February 4, 2025 scheduling conference, the Court ordered Tijerino to file an opposition to Spotify’s motion to dismiss, with a February 18, 2025 submission date for the motion.

2. Spotify does not maintain a regular and established place of business in this district.

As to the second prong, neither the conclusory allegation in the Complaint nor the exhibits attached to the Opposition (which merely show that Spotify has remote employees, one of whom resides in Louisiana) establish that Spotify has a regular and established place of business in the Eastern District of Louisiana. Br. at 5; Folsom Decl. at ¶5.

As to the Complaint, the Court cannot accept its conclusory allegation that Spotify “has a substantial presence and conducts business in this judicial district” (Cmplt. at 1) as true. Folsom Decl. at ¶5; *see Ambraco, Inc. v. Bossclip B.V.*, 570 F.3d 233 (5th Cir. 2009) (Under Fed. R. Civ. P 12(b)(3), “the court is permitted to look at evidence in the record beyond simply those facts alleged in the complaint and its proper attachments.”) (quotations omitted). The declaration testimony provided by Spotify’s head of real estate stands unrebutted and confirms that Spotify does not maintain a physical office in Louisiana, nor any other regular and established place of business in Louisiana. Folsom Decl. at ¶5.

Even accepting the allegation as true for purposes of this motion, however, it still fails to satisfy the strict requirements for patent venue, which require the physical presence of Spotify in this judicial district. 28 U.S.C. § 1400(b). As the Federal Circuit explained in *Cray*, the patent venue statute requires that: “(1) there must be a physical place in the district; (2) it must be a regular and established place of business; and (3) it must be the place of the defendant.” *In re Cray*, 871 F.3d 1355, 1360 (Fed. Cir. 2017); *see Andra Grp., LP v. Victoria’s Secret Stores, L.L.C.*, 6 F.4th 1283, 1287 (Fed. Cir. 2021) (“[A] ‘regular and established place of business’ requires the regular, physical presence of an employee or other agent of the defendant conducting the defendant’s business at the alleged ‘place of business.’”) (quoting *In re Google LLC*, 949 F.3d 1338, 1345 (Fed. Cir. 2020)).

i. The Opposition relies on inapplicable facts and distinguishable law.

Similarly, the Opposition and its attached exhibits fail to establish Spotify's presence in this judicial district. As to the facts, first, Tijerino argues that "business-focused revenue generation, Louisiana-based employees, company-provided resources, and job recruitment efforts establish[] that Spotify maintains a regular place of business in Louisiana." Opp. at 18. But that does not establish any physical presence or place of Spotify in the district as required for patent venue. See Folsom Decl. at ¶5; *Cray*, 871 F.3d at 1360.

Second, Tijerino points to a remote employee in Louisiana and Spotify's policy of providing furniture and IT equipment for use by remote employees. Opp at 15. But these facts also fail to establish the remote employee's physical presence in Louisiana as "the place of the defendant," *i.e.*, Spotify. Rather, Spotify's remote work arrangements are analogous to those that the Federal Circuit in *Cray* found insufficient to establish a place of business and thus patent venue. See *Cray*, 871 F.3d at 1364–65 (improper venue in judicial district where a remote employee resided where the remote employee's home was not "the place of the defendant" because there was no evidence that the defendant owns, leases or rents any portion of the employee's home, that the defendant had selected the home's location, stored inventory or conducted demonstrations at the home, or conditioned the employee's continuing employment on maintaining a place in the district); Declaration of Lindsey Goring, ¶¶7–12 (Spotify does not: (1) own, lease, or rent any portion of a remote employee's home; (2) identify a remote employee's home as its own place of business; (3) store materials or equipment at their homes other than that what is typical in a home office (e.g., a laptop and accessories), (4) expect or require remote employees to engage in in-person interactions with customers or business partners in their homes; or (5) exercise control over a remote employee's living arrangements or use of their home office).

Finally, Tijerino points to a web-scraped job posting on ZipRecruiter’s website as evidence that Spotify seeks to “expand its workforce in Louisiana.” Opp. at 15 (citing Ex. C to the Opposition). However, Spotify does not work with ZipRecruiter and did not create the job posting on the ZipRecruiter website. Goring Decl. ¶¶4–5. Spotify’s true and accurate job posting shows that Spotify is not soliciting employees from Louisiana or any other specific state, because there is no requirement for the applicant to be located in any particular state. Goring Decl. ¶6, Attachment A. Accordingly, none of the newly introduced facts in the Opposition change the fact that Spotify does not maintain its own physical presence in this judicial district.

As to the law, all of the cases cited in the Opposition are distinguishable and inapplicable. Opp. at 14–18. All of the cases involve circumstances in which the defendant sought employees to work in the judicial district, and the employees stored and maintained the defendant’s products in their homes as part of their employment. *See RegenLab USA LLC v. Estar Techs. Ltd.*, 335 F.Supp.3d 526, 552 (S.D.N.Y. 2018) (defendant publicly solicited salespeople to cover the district, and preferred that the salespeople live in their assigned district; salespeople possessed the defendant’s products in their homes, which were used as sales kits for performing demonstrations in customer’s homes in the district); *In re Monolithic Power Sys., Inc.*, 50 F.4th 157, 160 (Fed. Cir. 2022) (defendant had a “history of soliciting employees to work in the [district] to support Monolithic’s local OEM customers in that district and the extent and type of laboratory equipment and product maintained in the homes of those employees”, provided equipment “not typically found in a generic home office,” including “oscilloscopes, four to five power supplies, two electric loads, a logic analyzer, a soldering iron, a multimeter, a function generator, three to five samples of microcontrollers, MOSFETs, five op-amps, ten to fifteen comparators, twenty inductors, and fifty sample demonstration boards,” the employee performed tests for in-district customers using

the equipment, and there was evidence that the employee’s location in the district was material to the defendant); *In re Cordis Corp.*, 769 F.2d 733, 735–36 (Fed. Cir. 1985) (defendant’s salespeople made sales calls to doctors and hospitals in the district, acted as technical consultants during surgeries, and maintained an inventory of cardiac pacemakers in their homes).²

In contrast, it is well-established in the Fifth Circuit that remote work arrangements like Spotify’s (*See supra* p. 3; Goring Decl. ¶¶7–12) do not rise to the level of constituting a regular and established place of business in this district. *See GreatGigz Sols., LLC v. Maplebear Inc.*, No. W-20-CV-00737, 2021 WL 4691145, at *2–3 (W.D. Tex. Oct. 6, 2021) (remote employees’ home offices did not qualify as regular and established places of business, noting the absence of several key factors including: (1) no reimbursement of housing cost, (2) lack of control over living arrangements, and (3) minimal business activities); *Personal Audio, LLC v. Google, Inc.*, 280 F. Supp. 3d 922, 936 (E.D. Tex. 2017) (distinguishing *Cordis*, finding that six remote employees’ homes did not constitute Google’s place of businesses because (1) the employees’ homes were not used for storing business materials/products; (2) the homes were not under Google’s control; and (3) Google did not hold out the homes as places of business); *see also Galderma Labs., L.P. v. Teva Pharm. USA, Inc.*, 290 F. Supp. 3d 599, 613 (N.D. Tex. 2017) (remote employees’ homes were insufficient to establish a regular and established place of business); *Adnexus Inc., LLC v. LinkedIn Corp.*, No. 6:23-CV-0151, 2023 U.S. Dist. LEXIS 177778, at *8-10 (W.D. Tex. Oct. 3, 2023) (employee’s homes were not places of business because the employer did not own, lease or reimburse the housing and did not require the employees to store inventories, promotional materials, or equipment).

² *Cordis* is further distinguishable as *Cordis* did not “evaluate [patent] venue in light of the statutory language of § 1400(b).” *Cray*, 871 F.3d at 1359.

Finally, Tijerino’s personal jurisdiction argument – that patent venue in this judicial district is proper because Spotify is subject to personal jurisdiction under Louisiana’s long-arm statute – is incorrect. Proposed Amended Complaint (Rec. Doc. 19-1) at 1–3. Patent venue is not established by a showing of personal jurisdiction. Indeed, the Federal Circuit has cautioned courts against “conflat[ing] showings that may be sufficient for other purposes, *e.g.*, personal jurisdiction or the general venue statute, with the necessary showing to establish proper venue in patent cases.” *Cray*, 871 F.3d at 1361 (observing that “the regular and established place of business standard requires more than the minimum contacts necessary for establishing personal jurisdiction”) (quotations omitted).

3. The Complaint Should Be Dismissed For Improper Venue or Transferred to the Southern District of New York.

Because patent venue is not proper in this judicial district, 28 U.S.C. §1406(a) requires that this Court either dismiss or transfer this case to a district to which it could have been brought, if transfer is in the interest of justice. Spotify maintains its principal place of business, which is indisputably a regular and established place of business, in the Southern District of New York. Folsom Decl. at ¶4. Spotify has not contested patent venue in that district and will not in this case. *See Err Content IP, LLC v. Spotify USA, Inc.*, Case No. 1-24-cv-09530 (S.D.N.Y.) (complaint filed on Dec. 13, 2024); *Guvera IP Pty Ltd. v. Spotify USA, Inc.*, Case No. 1:21-cv-04544 (S.D.N.Y.) (complaint filed on May 20, 2021); *Mobile Transformation LLC v. Spotify USA, Inc.*, Case No. 1:13-cv-03598 (S.D.N.Y.) (complaint filed May 29, 2013). Moreover, it would be in the interest of justice that this case be transferred to S.D.N.Y. because it would avoid the need for Tijerino to refile his lawsuit, and it is more likely that witnesses and sources of proof are located in that district.

Accordingly, Spotify requests that the Court either dismiss this case for improper patent venue or transfer this case to S.D.N.Y. under Section 1406(a).

B. The Complaint and Proposed Amended Complaint Fail to Plausibly Allege That Spotify Performs Payment of Venues as Required by the Automatic Calculation Limitations.

The Complaint should also be dismissed on Fed. R. Civ. P. 12(b)(6) grounds because it fails to plausibly allege that Spotify automatically calculates amounts earned by an artist and a venue playing the music as required by the Automatic Calculation Limitations.³ Specifically, Spotify does not calculate and pay music royalties to “venues” where the music is performed, as the patent claim and plain meaning of the word (*e.g.*, bars, cafes, concert halls) require.

Recognizing this, Tijerino nonsensically rewrites the word “venue” – where the music is played – to include Performance Rights Organizations (“PROs”) (like BMI and ASCAP, organizations that Tijerino admits only pay artists and rightsholders, not serve as “venues”), and then Tijerino alleges Spotify’s supposed calculation and payment to PROs is a calculation and payment to a “venue.” Amended Complaint at 30–32. This rewrite is entirely inconsistent with not only Tijerino’s patent, but also the plain meaning of the word “venue.” Tijerino’s implausible infringement claim thus fails as a matter of law.

There is no dispute that the independent claims of the ’925 patent (claims 1 and 3) recite the same Automatic Calculation Limitations: “automatically calculating, by the processor, amounts earned by an artist and a venue playing the new media.” Br. at 7–8 (emphasis added). Tijerino must plausibly allege that Spotify performs each and every limitation of the asserted patent claims. *See Wright’s Well Control Servs., LLC v. Oceaneering Int’l, Inc.*, No. 15-1720, 2017 WL 568781, at *5 (E.D. La. Feb. 13, 2017) (explaining that the complaint must plausibly “allege facts showing that an accused product contains each and every limitation or element of at

³ If the Court decides to transfer this case to S.D.N.Y. instead of dismissing the case for improper venue, the Court has the option of defer ruling on the Rule 12(b)(6) portion of Spotify’s Motion so that it may be decided by the transferee court.

least one patented claim.”); Br. at 6–7 (describing legal standard). The Automatic Calculation Limitations require automatically calculating two separate amounts earned: (1) the amount earned by the artist, and (2) the amount earned by a venue playing the new media.

As explained in the Motion, the Complaint’s allegation that Spotify pays “venues” is baseless. Br. at 8–10. The Opposition repeatedly cites to material first filed with the Amended Complaint, but its length cannot cure the basic deficiency of the Complaint: Spotify doesn’t pay “venues.” See Opp. at 48–51 (referencing Exhibit M to the proposed Amended Complaint).

1. The Patent Makes Clear a Venue (where music is played) is not a Rights Organization (which pays rightsholders).

Tijerino’s revised theory contorts the Automatic Calculation Limitation in an impossible way: Tijerino claims that calculating and paying a “venue” where the music is played is the same as calculating streaming royalties owed to PROs on a territorial basis (*e.g.*, U.S., Canada, Germany, etc.). See Amended Complaint at 30–32; Opp. at 48–51.

A detailed claim construction determination is unnecessary to determine what “venue” means: Tijerino’s novel interpretation is inconsistent with any reasonable definition of venue, including the plain language of the patent itself.

First, as Tijerino admits, PROs don’t pay venues – they pay artists and rightsholders responsible for writing the music. Amended Complaint at 30. They are “performance” rights organizations, not “venue” rights organizations.

Second, there is no plausible claim construction of the term “venue” that would include PROs or their territories. The ’925 patent specifically distinguishes “venues” and “artists” from rights associations as different parties, in a way inconsistent with Tijerino’s attempted rewrite of the claim in his Amended Complaint:

Every party meaning the venue, the artists, the digital rights associations, and check1two is responsible for paying their own taxes.

'925 pat. (Rec. Doc. 1-3), 9:39–41. Even further, the specification makes clear a venue is a location with playback capabilities – where the invention avoids “ruining the speaker system at the venue.” *Id.* at 7:59–60.

Similarly, while the claims require payment to the artist and venue, the patent describes other parties that could be paid but were not claimed, including digital rights organizations and the inventor:

At any time the venue can see what the machine has earned. Earnings are shared between the artists, venues, digital rights associations and the inventor if the preferred method is used.

Id. at 8:58–61. If there were any doubt, Tijerino excludes third parties like PROs from collecting royalties as part of the invention:

Notice there was no 3rd party involved in collecting royalties from the machine, paying royalties to the venue or paying royalties to the artist, it is all automated by the self-maintained, service-oriented architecture (SOA), cloud based, open, Web 2.0 system.

Id. at 9:60–64.⁴ Tijerino decided to claim calculating and paying “artists” and “venues,” not artists and rights associations (or PROs).

These examples show the core flaw with Tijerino’s novel theory that its dozens of pages cannot overcome: he cannot rewrite the claim term “venue” – where the music is played – to include a PRO that pays rightsholders who wrote the music. Tijerino decided to require automatic

⁴ While not necessary to dismiss this case, Spotify notes that even if it calculated streaming royalties owed to PROs on a territorial basis, that still would not satisfy the Automatic Calculation Limitations: PROs pay royalties to composers and songwriters who wrote the music, not the artist performing at the venue. Thus it is never an “amount earned...by a venue playing the new media.”

calculation and payment to “venues” in his claims, and cannot change that to mean another party retroactively.

Thus, both the Complaint and the proposed Amended Complaint fail to plausibly allege that Spotify meets the “venue” part of the Automatic Calculation Limitation, and Spotify requests that the Plaintiff’s claims be dismissed with prejudice for failure to state a claim.

III. CONCLUSION

For the foregoing reasons, Spotify respectfully requests that the Court (a) dismiss this case for improper venue pursuant to 28 U.S.C. § 1400(b), or in the alternative, transfer this case to the Southern District of New York pursuant to 28 U.S.C. § 1406(a), and (b) dismiss this case with prejudice pursuant to Fed. R. Civ. P. 12(b)(6).

[SIGNATURE PAGE FOLLOWS NEXT]

Respectfully submitted,

PHELPS DUNBAR LLP

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**ATTORNEYS FOR DEFENDANT
SPOTIFY USA INC.**

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 14th day of February 2025 served a copy of the foregoing Reply Memorandum in Support of the Motion to Dismiss on counsel for all parties to this proceeding via e-mail, and on Plaintiff via certified U.S. mail and e-mail.

/s/ David L. Patrón

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

MANUEL TIJERINO,

Plaintiff,

v.

SPOTIFY USA INC.,

Defendant.

CIVIL ACTION NO.

2:24-cv-02290-ILRL-DPC

SECTION “B” (3)

JUDGE IVAN L.R. LEMELLE

**MAGISTRATE JUDGE DONNA
PHILLIPS CURRAULT**

DECLARATION OF LINDSEY GORING
IN SUPPORT OF DEFENDANT’S MOTION TO DISMISS

I, Lindsey Goring, declare as follows:

1. I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness, could and would competently do so under oath.

2. I am employed by Spotify USA Inc. (“Spotify”) in the capacity of Senior Global HR Program Manager.

3. I am familiar with how Spotify posts job openings.

4. I have been shown a document that is marked “Exhibit-C: Spotify Post Job Openings in Louisiana.” This document appears to come from a website named ZipRecruiter. Spotify does not work with ZipRecruiter and did not create the job post on ZipRecruiter.

5. I believe that ZipRecruiter likely created its version of the job opening based on a real job opening that was posted by Spotify at <https://jobs.lever.co/spotify/9bf6a1a8-0d55-47b9-aea0-abfe3fffc84a>. **Attachment A** is a true and correct copy of Spotify’s job posting for the “Lead Workforce Planning Analyst, Customer Service.”

6. As shown in Attachment A, the position is a remote position, open to applicants located anywhere within the United States. There is no requirement for the applicant to be located in Louisiana or any other particular state.

7. I am familiar with Spotify's arrangements for remote employees in the United States.

8. Spotify does not own, lease or rent any portion of a remote employee's home.

9. Spotify does not exercise control over a remote employee's living arrangements or the use of their home office.

10. Spotify does not expect or require remote employees to engage in in-person interactions with Spotify's customers or business partners physically in their home.

11. Spotify does not advertise or list a remote employee's home as one of Spotify's places of business.

12. Spotify does not require remote employees to store Spotify's materials or equipment in their home, other than the standard equipment typically used in a home office, such as a laptop and computer accessories.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on February 13, 2025 at New York, New York.

DocuSigned by:
Lindsey Goring
9547050F8DED42F...

Lindsey Goring

ATTACHMENT A



Lead Workforce Planning Analyst, Customer Service

United States Of America (Home Mix)

Customer Service – Customer Service / Permanent / Remote

We are looking for a Lead Workforce Planning Analyst to join Spotify's Customer Service (CS) team. You will report to the Associate Director of Workforce Management, and will work with Spotify colleagues as well as our vendor partners from around the world to manage invoicing, budget models, and financial reporting for CS.

Customer Service is a globally distributed team that advocates relentlessly for Spotify's customers, artists, authors and creators. Your work will ensure that CS is scaling effectively to meet demand while maintaining alignment with Spotify's overall financial goals.

What You'll Do

- Build and maintain models to predict monthly spend for CS variable expenses, and partner with finance to track and reconcile these expenses for financial reporting in monthly, quarterly and annual cycles.
- Normalize vendor invoices and maintain these records in a database for the purpose of analysis.
- Summarize expected vs actual spend into meaningful reports for CS leadership, and prepare other ad-hoc reports as needed.

- Gain a deep understanding of the full service delivery cycle (forecasting, workforce planning, operations) so that you can effectively model its complexity.
- Create monthly purchase orders for CS vendors and approve vendor invoices.
- Size the financial impact of new CS initiatives.
- Work closely with internal stakeholders to understand changes to our vendor contracts, and ensure these changes are reflected in the financial models.

Who You Are

- 5+ years of professional experience in a similar role with a focus on accounting or finance. Domain experience within a service delivery environment, business process outsourcer, or customer service department is a plus.
- A spreadsheet master. You are as comfortable in Google Sheets as you are in Microsoft Excel, and writing a series of nested IF statements or a custom number format does not phase you.
- Detail-oriented with a focus on accuracy.
- A great communicator in all respects (written, verbal, or with data).
- Comfortable working with a globally distributed team, with occasional international travel.
- Intellectually curious. You will need to understand many CS functions outside of your own in order to do your job effectively.
- Goal-oriented and motivated, with a strong sense of personal accountability.
- Comfort with data visualization tools like Tableau or Looker Studio is a plus.

Where You'll Be

- We offer you the flexibility to work where you work best! For this role, you can be within the United States as long as we have a work location.
- This team operates within the Eastern Time Zone time zone for collaboration.

The United States base range for this position is \$77,223-\$110,319 plus equity. The benefits available for this position include health insurance, six month paid parental leave, 401(k) retirement plan, 23 paid days off, 13 paid flexible holidays.

[Spotify Home Page](#)

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

Manuel Tijerino	)	CIVIL ACTION NO
Plaintiff,	)	
	)	2:24-cv-02290-ILRL-DPC
	)	SECTION "B" (3)
	)	
Versus	)	DISTRICT JUDGE
	)	HON. JUDGE IVAN L.R.LEMELLE
	)	
Spotify USA Inc. ET, AL.	)	MAGISTRATE JUDGE
	)	HON. MAGISTRATE JUDGE DONNA
	)	PHILLIPS CURRAULT
	)	
	)	

OPPOSITION TO DEFENDANT'S MOTION TO DISMISS

COMES NOW, MANUEL TIJERNO Pro Se Plaintiff opposing the defendants motion to dismiss, and if the court finds any merit in the defendant's arguments, Plaintiff respectfully request leave to amend my complaint.

I. Introduction

U.S. Patent No. 9,146,925 was filed in Louisiana and granted by the USPTO in 2015 and is currently active and enforceable. (Doc-Rec 1-3).

Under 35 U.S.C. § 271 Plaintiffs patent is actively being infringed by Defendants Spotify's Spotify for Artist Platform because they made it, use it and imported it without a license. On or about 2013 Defendants announced their Spotify for Artist Platform (Doc-Rec 1-5 Exhibit F) and on 20 September 2018 they successfully achieving

infringement of the '925 patent, when they announced that Spotify for Artists allowed uploads (Doc-Rec 1-5 Exhibit H). Although defendants built, use and imported their Spotify for Artists platform, they are still infringing on the '925 patent by allowing new media distribution described in the Plaintiffs '925 patent.

Infringement was verified by the patent attorneys that help Plaintiff win the Patent and the Defendants were sent an invitation to license notification which they still have not responded to. (Doc-Rec 1-6 Exhibit K).

As such Plaintiff has lost licensing royalties of \$1,000,000.00 a day for 315 day, totaling \$315,000,000.00 U.S. dollars along with the additional demonstrated multipliers for willful infringement as demonstrated in the Amendment Complaint. (Doc-Rec 19-1).

The direct infringement occurred between 20 Sep 2018 to 31 July 2019 totaling 315 days, the continued direct infringement occurs today through the doctrine of equivalence because the defendants allege in their responsive pleadings, they no longer allow direct uploads but Defendant still achieve the similar results of new media distribution maintaining market dominance. (Doc-Rec 1-2) without a license from Plaintiff.

II. Reason For Opposition

Defendant requested the court to move the case to NY or dismiss due to lack of proper venue and failure to plausibly allege that Spotify infringes each and every

element of at least 1 independent claim of Plaintiff patent (U.S. Patent No. 9,146,925) requesting a more thorough detailed explanation of how the defendants's products or actions directly infringed each step of the patented independent claims 1 and 3, as detailed in our claims chart.

Plaintiff amended his complaint (Doc-Rec19-1), plausibly alleging how each and every element of the claims 1 and 3 were infringed, which took the complaint from 9 pages to 63 pages in two weeks from the plaintiffs motion on Jan 14 2025, and by doing so Plaintiff learned some very interesting things about the '925 patent and the infringed elements.

The '925 patent compared itself closely to the prior art which was internet jukeboxes giving an abstract overview, diagrams and explanations of a bar version of a jukebox placed in establishments, however the abstract idea does not limit the scope of the patent, the scope of the patent protection is defined by the patent claims. The independent claims 1 and 3 supported in the detailed description specifically describe the process that occurs in the underlying system, the **server** (processor) , and not a specific a particular type of jukebox device. The patent detail description supports how other clients can be written with other types of programming languages to support other language specific devices but can still use the **underlying system**. The underlying system in the patent more specifically independent claims 1 and 3 elements disclose how the computer implemented method (server) provides user interfaces (ui) to interact, join,

create an account, log in, an ui to upload the new media to the system, all these are provided by the system (server), continuing to describe how the **server** receives, processes, stores and enabling the new media metadata to become accessible through API, and continue to describe how the server receives, processes and responds to request for the “new media”. The independent claims 1 and 3 describe how the system, automatically identifying, analyzing, and calculating, meaning all these tasks are automated on the **server**, therefore the patent claims 1 and 3 describe the **server** process, and more precisely the independent claims 1 and 3, the ones being infringed by the defendant, are on the **server**, and those claims determine whether or not the patent is being infringed. The independent claims describe how the **server** receives, processes, and responds to the request for the new media. Plaintiff wanted to clear this up to help the defendant understand the automatic calculations “limitation” is on the server and for music use reporting which are territorial licenses. (Doc-Rec 1-5 EXHIBIT I).

III. Answers To Defendants Arguments

First defendant asked to Dismiss improper venue under Federal Rule of Civil Procedure 12(b)(3) and 28 U.S.C. § 1406(a), and for failure to state a claim upon which relief can be granted under Rule 12(b)(6). Complaint should be dismissed or, in the alternative, transferred to a proper venue under Rule 12(b)(3) and § 1406(a).

The Defendant argued in order to win venue, plaintiff must prove the following:
Spotify Does Not Have a Regular and Established Place of Business in the Eastern

District of Louisiana 1400(b)(2) Plaintiff need to demonstrate (1) physical place in the district: regular, physical presence of an employee or agent of the defendant conduction business at the alleged place of business. (2) must be a regular and established place (3) it must be a place for the defendant. And we definitely prove it below.

Second Defendant states, Plaintiff's Complaint fails to plausibly allege that Spotify performs these (the Automatic Calculation Limitations) limitations, and should be dismissed under Rule 12(b)(6).

Plaintiff, argues that the Defendant is very confused about the meaning of venue in the automatic calculation limitation, first a venue is a territory since PRO licenses are territorial, so we automatically calculate (tally), money earned(royalties) by and artist(what) and a venue(territory) playing the new media. Defendant needs to include the entire sentence **and a venue playing the new media**. Not just **and a venue**. We demonstrate the licenses are Territorial, they themselves describe it on their site on the claims chart. And they performed the Automatic Calculation Limitation step of claim1 and 3 when they were infringing allowing artist to directly upload to their site. Additionally music use reporting is so artists earn royalties. So that's why I called it money earned(royalties). And no one knows what an artists gets paid by the PROs. The purple thing in the diagram has to do with how the defendant's business partners distributors now perform the automatic calculations, and report to Spottily and Spottily pays the artists, still based on venue(territory) they describe it on the claims chart.

Pages 24 and 25 of Exhibit C relate to the Automatic Calculation Limitations because they reproduce the relevant limitation in claim 1. Ex. C (Rec. Doc. 1-4) at 24–25 (claim 1’s recitation of “automatically calculating, by the processor, amounts earned by an artist and a venue playing the new media” reproduced in purple)

To answer defendants, question about when they directly infringed when they bypass distributors in 2018, it was announced that they would perform the automatic calculation step, back then they were directly infringing, now their partners distributors, perform the automatic calculation step, and report to Spotify what played where, so they still pay based on territory, what played where, (Rec. Doc. 1-4 Page 25) we see that Publishing Royalties are described as being based on the territory of usage, on (Rec. Doc. 1-4 Page 24) defendant describe as tally stream share based on country(territory), and market(territory) and give an example of Mexico(territory). Considering we say what plays where, it can still be considered direct infringement, since we also describe paying artists or through the doctrine of equivalence it's still equivalent, because the automatic calculation is still being performed by the distributors, but never the less, the patent claim element is still being infringed.

[B]ut exactly when and how much artists get paid depends on their agreements with their record label or distributor. Once we pay rightsholders according to their streamshare, the labels and distributors . . . pay artists according

to their individual agreements.

I think defendant was just confused about the (amounts earned(royalties)) terminology. (Rec. Doc. 1-4 Page 25) we see defendant understands what royalties are Publishing **Royalties**). And correct no one know what artists get paid by PROs Plaintiff just believed defendant was a little confused about the terminology. When we do music use reporting is so artists make royalties, calculating mean tallying, automatically means programmatically as opposed to manual, what played where, for music use reporting.

But even if the screenshots can be construed to allege that Spotify calculates payments to artists, that is not enough to plausibly allege infringement because the Automatic Calculation Limitations require automatically calculating earnings for both an artist and a venue venue means that the Automatic Calculation Limitations are not satisfied, and therefore the Court should dismiss the Complaint.

automatically(programmatically) calculating, by the processor, **(amounts earned)royalties**) by an (artists(what)) and a (venue(territory)) playing the new media.

When we do music use reporting is so artists make royalties, calculating mean tallying, automatically means programmatically as opposed to manual, what played where, for music use reporting. (Rec. Doc. 1-4 Page 24) defendant describe as tally stream share based on country(territory), and market(territory) and give an example of Mexico(territory). Plaintiff believed defendant knows the how Pro licensing is territorial

and was just confused about the terminology of the world venue(territory).

***Taylor v. Books A Million, Inc.*, 296 F.3d 376 (5th Cir. 2002) (citation omitted). Here, even after construing Plaintiff’s Complaint liberally, the Complaint fails to demonstrate venue is proper in this judicial district, and fails to plausibly plead patent infringement by Spotify.**

We plausibly plea venue properly here, and I am pro se so just learning, and not an pro. Also I plausibly plea here, and Plaintiff can ask for leave to amend complaint, I been really busy answering this complaint, Plaintiff did not expect plaintiff to do a one sided motion to dismiss without notifying.

Thus, to plead patent infringement, “[t]he complaint must place the potential infringer on notice of what activity is being accused of infringement. To establish infringement a party must show that the accused device contains . . . every limitation of the claimed invention. allege facts showing that an accused product contains each and every limitation or element of at least one patented claim. Importantly, the complaint must include sufficient facts to plausibly allege that each element of the patent claim is present in the accused system plaintiff cannot assert a plausible claim for infringement under the *Iqbal/Twombly* standard by reciting the claim elements and merely concluding that the accused product has those elements.

The Introduction is the notice, and Plaintiff believed Defendant is infringing every

element of claims 1 and 3 and Plaintiff will ask for a motion to leave to Ammend if we need to update the Complaint.

More of these things are plausibility alleged below in other sections, and the automatic calculation limitation and explained below with factual exhibits. I give and example about **XIII. Rebuttal of “Jukebox-Only” in Venue (Cheap Shots) Interpretation** cheap shots and the bar version of the jukebox is explained and the claims are plausibly alleged.

III. Automatic Calculation Rebuttal and Plausible Allegations

The Defendant pointing towards a jukebox in public venues and automatic calculation “limitation”, but the independent elements claim 1 and 3 describe element the automatic calculation step of claim 1 and 3, the defendants themselves all ready correctly described the calculation step that happens on the server for us. “At most, the screenshots relate to calculating streaming royalty payments to music right holders”. The automation(automatic calculation of tallying, counting, summing up, tracking, however is described or interpreted) is for PRO licensing, for music use reporting so that artists get compensated properly in the different venue(territories) where the music is played, consumed, (performed). The calculations are automatic as opposed to manual which in this context would be impractical. PRO licensing are territorial as demonstrated in exhibits from out complaint (Exhibit I from Doc-Rec 1-5 filed on 09/18/24 page 9 of 13)

which came from Plaintiffs own ASCAP/BMI PRO web licenses which is the kind license you need for a streaming server. Plaintiff provides plausible allegation of the Defendant's Automatic Calculation "Limitation" below, in the XIII. Plausible Allegations section. Plausibly Alleging, (Doc-Rec 19 Exhibit M) directly demonstrates that when Spotify announced on 20 Sep 2018 (Doc-Rec 19 Exhibit M) "**Spotify to Allow Indie Artists to Upload Music Directly, Bypassing Distributors**", Demonstrates, that through payment-processing provider Stripe, Spotify will facilitate royalty payments, which will be accounted each month, In an email, a rep for Spotify clarified that **artists who directly upload their music will receiver 50 percent of Spotify's net revenue** (the service will also account to publishers and **collection societies**) and will keep 100 percent of royalties on that music. To music use report to the PROs the service would have to do the (automatic calculation). As per the PRO licensing requirements (Doc-Rec 1-5 Licensee Platform) is the server(service) that server the media is the one that tallies what played where, (Automatic Calculation "Limitation"), so when Spotify allowed direct uploads in 20 September 2018 they described (the service will also account to publishers and **collection societies**) as such their service performed the ("Automatic Calculation "Limitation"). In (Doc-Rec 1-4 Getting music on Spotify) Defendant demonstrates "Distributors also handle music licensing, distribution, and pay streaming royalties. Work with a distributor to get music on Spotify". This demonstrates that according to Spotify, distributors handle uploads,

and do the (“Automatic Calculation “Limitation”) and that Spotify has integration with distributors, distributors distribute to Spotify, and that's how you get music on Spotify, achieving similar results (“Automatic Calculation Limitation”), through Doctrine of Equivalence and Continued Direct Infringement.

IV. Plausible Allegations

In the amendment pleadings Pro Se Plaintiff, provided more than enough factual details to make the allegations of patent infringement plausible, rather than merely possible or speculative while using the original claims chart, and addressing the defendant's contested points, however Plaintiff provides a better **Twombly/Iqbal** breakdown in this filing that reflects the independent claims diagram in a drawing. (Exhibit I) and plausible allegation as compared to the infringing product.

V. Request to Stay

Plaintiff respectfully opposes Defendants' request to transfer this case, as venue is proper in the Eastern District of Louisiana under **28 U.S.C. § 1400(b)**. Defendants' motion is **not based on inconvenience** or the **court's ability to adjudicate the matter**, but rather a tactical attempt to avoid litigation in a district where **infringement occurred, business operations exist, and the Plaintiff resides**. Plaintiff respectfully moves his Honorable court to enter this timely response considering the implication for justice.

VI. Legal Justification For Allowing This Motion

The Plaintiff diligently expanded his complaint from 9 pages to 63 pages withing a two-week period, as documented in (Doc Rec-19). The Defendants did not oppose to amend the complaint, as noted in (Doc Rec-21) however the Plaintiff will ask for leave to amended his complaint to clarify the scope of his amended complaint from these responsive pleadings. The court order, referenced in (Doc Rec 20) granted the Pro Se Plaintiff the opportunity to file these responsive pleadings by February 11, 2025. The order on the record signed by the Judge created the law for allowing these responsive pleading.

VII. Defendants Arguments For Venue

Defendant stated that because Spotify resides in Delaware (where it is incorporated) and does not have a **regular and established place of business** in the Eastern District of Louisiana, and defendant states venue is not proper in this judicial district, and asked for the complaint to be dismissed or else transferred to the Southern District of New York, where Spotify has its principal place of business, an cites Matthew Folsoms declaration, that the largest office is in New York City. Plaintiff agrees that Spotify is a foreign corporation in New York from Delaware and defendants have a right to arguing points to 28 U.S.C § 1400 (b)(1), however Plaintiff argues, demonstrates, and proves in these pleadings that venue as pertains to 28 U.S.C § 1400

(b)(2) for **acts of infringement** and **regular and established place of business**.

IX. Arguments For Forum

Forum is different than venue in the sense of are patent cases heard in the federal or state courts. Patent matters are heard in the federal forum. Before venue can be established forum has to be established. Since the system of federal courts are the proper forum for patent litigation matters forum has been established and we can move to venue.

X. Legal Arguments for Venue in Louisiana Under 28 U.S.C. 1440 (b)

Under 28 U.S.C 1400 (b), a patent infringement suit may be brought in a district where the defendant (1) resides or (2) has committed acts of infringement and **has a regular and established place of business**. While Spotify is incorporated in Delaware, the company has demonstrated a continuous and systematic business presence in Louisiana, establishing venue in the state.

Spotify Actively Conducts Business in Louisiana Through Spotify for Artists

Spotify's Spotify for Artist platform, which is central to this lawsuit claims 1 and 3, is explicitly a business-focused service, not a consumer product. The September 1, 2021, Spotify for Artists terms and Conditions (Exhibit A) states.

“Spotify for Artist is made available only to users in the music industry for business purposes and is not open to 'consumers' as contemplated in applicable consumer protection laws, or anyone acting for personal, family or household purposes.”

This language confirms that Spotify for Artists is a commercial service, making Spotify's business presence in Louisiana highly relevant for venue.

Moreover, rebutting defendants arguments that Spotify does not allow direct uploads or pay artists, as it was announced on Sep 20, 2018, Spotify allowing direct uploads and splitting revenue 50/50 with artist (Doc-Rec 19-2 Exhibit M filed on 1/28/25), which is what promoted this timely action of **direct infringement** while Plaintiff patent was and remains active.

Any Louisiana-based artist who used Spotify's platform during this time generated direct revenue for Spotify from within the state. Courts have found that consistent, structure revenue-generating transactions withing a district contribute to establishing venue. This aligns with cases such as Cordis Corp. v. Medtronic, Inc. (Fed. Cir. 1985) and RegenLab USA LLC v. Estar Technologies Ltd., 335 F. Supp. 3D 525 (S.D.N.Y. 2018), which found venue proper when a company engaged in continuous, structure business activities within a district even without a formal office.

Spotify Employs Louisiana-Based Workers, Demonstrating an Ongoing Business Presence

A full-time Spotify employee, the Associate Manager, Content Operations (Audiobooks), has been based in New Orleans, Louisiana, since June 2022 (for over two years and eight months).(Exhibit B included here in with these pleadings). This demonstrates that Spotify has the capability and willingness to employ staff in Louisiana to conduct core business operations.

Additionally, Spotify has previously posted job openings in Louisiana for a Lead Workforce Planning Analyst in Spotify for Artist's Customer Service team. (Exhibit C). This position would scale customer service operations and manage financial planning, demonstrating that Spotify is expand its workforce in Louisiana to support its infringing “Spotify for Artist” platform.

Spotify provides employees with company-owned equipment. (Exhibit D) Described by defendant, “At Spotify, you can choose to work where you work best **whether that's at home, at the office**, or at times, somewhere else entirely... How it works, It's simple. **Choose to work** where you work best, whether that's mostly **at the office, or at home**... Will Spotify support me with **equipment** if I choose Home mix? Of course. If you choose this **work mode**, we'll set you up with **furniture and IT equipment so your home working space** is both comfortable and safe. As **everyone is likely to work from home** on some days, we also provide a Work From Anywhere monthly allowance for all Spotifiers. regardless of work mode.”

The Monolithic case (2022) below supports venue when a company:

1. Has employees in the district conducting business operations.
2. Provides employees with company-owned equipment.
3. Solicits employment in the district to support key business functions.

Spotify meets all of these criteria. The Audiobooks employee in Louisiana further supports this argument, as Spotify has demonstrated its ability to hire remote employees who perform business-critical functions from anywhere. This shows that Spotify actively chooses to conduct operations in Louisiana rather than merely allowing incidental remote work.

Spotify Provides Company-Owned Equipment & Infrastructure to Louisiana-Based Employees

Another factor supporting venue is that Spotify provides its employees with work-from home equipment, including furniture and technology. Courts have previously held that when a company supplies employees with tools and integrates them into business operations, it strengthens the argument for a “regular and established place of business.”

In *Monolithic*, the court found venue proper because:

The company provided employees with lab equipment and materials in the district.

The employees were conducting key business functions for the company from their homes.

The company solicited employment in the district to support operations.

Spotify's actions in Louisiana mirror these circumstances, further differentiating this case from *In re Cray Inc.*, 871 F.3d 1334 (Fed. Cir. 2017), where venue was rejected because the employer did not provide employees with equipment or control their location, however soliciting employment in the state is supported by Monolithic even if the remote employment can be performed from anywhere.

Significant Revenue in Louisiana

The Louisiana Legislature approved applying a higher tax to streaming services like Spotify currently set at 5% is a good indicator of substantial revenue from Louisiana users. (Exhibit E).

Spotify's Business Operations in Louisiana Are Sufficient to Establish Venue

Spotify has demonstrated a long-term business presence in Louisiana through multiple avenues:

Employing at least one full-time Louisiana-based worker who performs core operational duties.

Posting job listings to recruit Louisiana-based employees for customer service roles tied to Spotify for Artists.

Generating revenue from Louisiana-based artists who directly uploaded content and engaged in business transactions with Spotify.

Generating revenue from Louisiana-based consumers.

Providing company-owned equipment to Louisiana-based employees, integrating them into Spotify's operations.

Each of these factors aligns with legal precedents where courts found venue proper under 1400(b). The combination of business-focused revenue generation, Louisiana-based employees, company-provided resources, and job recruitment efforts establishes that Spotify maintains a regular and established place of business in Louisiana.

Therefore, Under Monolithic, RegenLab, Cordis, and similar cases, courts have consistently found venue proper when a company:

Employs workers in the district who perform business functions.

Provides those employees with work-related equipment.

Engages in ongoing business transactions with the district.

Actively recruits and hires employees in the district.

Spotify meets all of these conditions. Its business operations in Louisiana, including employment, revenue-sharing with artists, and the provision of work equipment, are sufficient to establish venue under 28 U.S.C 1400(b).

XI. Legal Analysis Conducted for Establishing Venue

The fact that Spotify has employees, provides equipment, generates revenue, and is has been actively hiring in Lousiana for a Lead Workforce Planning Analyst, Customer Service in Mix Louisiana on Zip Recruiter, the role describes, reporting to the

Associate Director of Workforce Management, and working with Spotify colleagues as well as their vendor partners from around the world to manage invoicing budget models, and financial and reporting for CS. The Spotify for Artists Terms mentions CS. Customer Service is a globally distributed team that advocates relentlessly for **Spotify's customers, artists, and creators (Spotify for Artist)**. This job will ensure that CS is scaling effectively to meet demand while maintaining alignment with **Spotify's overall financial goals**. Role entails build and maintain models to predict monthly spend for CS variable expenses. Normalize vendor invoices, create monthly purchase orders for CS vendors and approve vendor invoices, and understand vendor contracts. This and the reasons above demonstrates significant business activity in the state, and monetary transactions, accordingly establishing venue, **“even if the job is remote and can be performed from anywhere”**.

IN RE: MONOLITHIC POWER SYSTEMS, INC.

On Petition for Writ of Mandamus to the United States District Court for the Western District of Texas in No. 6:21-cv-00655-ADA, Hon. Judge Alan D. Albright. Case:22-153 Document:Page:3 Filed 09/30/2022. Defendant Monolithic moved to dismiss or transfer for lack of venue under 28 U.S.C 1406(a) and Federal Rule of Civil Procedure 12(b)(3), arguing that, as a Delaware corporation, does not “reside” in the Western District within the meaning of 28 U.S.C 1400(b); that it does not own or lease any property in that district; and that the homes of four full time remote employees in the

Western District identified in the complaint to support venue do not constitute “**a regular and established place of business**” of Monolithic. Monolithic alternatively moved to transfer under 28 U.S.C. 1404(a) to the Northern District of California. The district denied both request. The courts first **rejected** Monolithic's **improper venue challenge**, finding Monolithic viewed maintaining a business presence in the Western District as important, as evidence by a history of **soliciting employment in Austin to support local OEM customers even if none of its Western District employees were required to reside there**. The court also found significant that Monolithic provided certain employees in the Western District with **lab equipment or products to be used in or distributed from their homes as part of their responsibilities**. Based on those finding, the court concluded that the circumstances surrounding venue here were distinguished from *In re Cray Inc*, 871 F.3d 1334 (Fed. Cir. 2017), and more similar to circumstances that another district court in *RegenLab USA LLC v. Estar Technologies Ltd.*, 335 F. Supp. 3D 525 (S.D.N.Y. 2018), found sufficient to support venue.

Having concluded that venue over Monolithic in the Western District was proper, the court the analyzed whether the convenience of parties and witnesses and the interest of justice weighed in favor of transfer, following the multi-factor approach adopted by the United States Court of Appeals for the Fifth Circuit *In re Volkswagen of America, Inc.*, 545 F.3d 304, 310 (5th Cir. 2008) (en banc). After considering those factors, the court determined that Monolithic had **failed to demonstrate** that the Northern District

of California was clearly more convenient than the Western District and thus **denied transfer**.

XII. Rebuttal of “Jukebox-Only” Interpretation

The defendant's attempt to narrow the interpretation of the patent to a “jukebox in public venues” overlooks the broader applicability of automatic calculations coming from a streaming server and our supporting claim 14 where a jukebox can mean any device. The patent clearly accounts for public performance in diverse venues and supports a variety of artist, whether or not they are part of traditional PRO's.

XIII. Rebuttal of “Jukebox-Only” in Venue (Cheap Shots) Interpretation

Plaintiff having described the existing process of which our local in town jukebox distributor lucky coin described to us was for the bar version of the jukebox, where they place a touch-tunes jukebox in a bar for free and collect 20% of the the top because bar version of jukeboxes require additional licensing (Spotify For Business) type, and split the rest 50/50 with them and the bar owner, because the benefit for a bar owner “Cheap Shots.” *Id.*, Fig. 5.1, 3:44 (“FIG. 5.1 is a venue account page).” is to make something for putting their machine in the bar. This explanation of 50/50 money split was for a bar version, of the jukebox, which had a bill acceptor also presented some overhead of having to collecting money from the machine by a jukebox operator or an armored vehicle would have cost a fortune so an idea inside the idea described was to have the

machine report what it earned and not have to send someone out to collect the money, as described “This also solves the overhead involved in having to send someone to go into the bars to collect the money each time the bill acceptor fills up”; The patent explains the bar version and preferred method of the jukebox for bars as described from lucky coin, but as time passed and the smart phones started coming out such as the iPhone Plaintiff saw the direction in which things were moving and started supporting many other versions of the jukebox not just bar or web version, but also a cell phone version, and described in the patent android and iPhones and televisions, computers, and really any device following the concept of Java slogan, write once run anywhere. Plaintiff being a Java developer knowing about the concept of write once run anywhere being the Java slogan which means Java code runs across multiple devices, any person reasonable in the art of Java Web Programming would be agree that a bar version would not be the only intended use. Our supporting claim 14 specifically supports this. Additionally Plaintiff rebuts the idea that the invention is only for a bar version of the jukebox, and Defendants themselves supporting multiple devices (Doc Rec 1-4 Page 5), and any reasonable person in the art would find it reasonable that the plaintiff also realized this as well and that is why it is supported in the detailed description and specifies in the patent supporting claim 14.

XII. Rebuttal of Royalty Payment Interpretation

Additionally, Plaintiff being a digital platform well over a decade is well aware that

when digital platforms report to PROs like ASCAP no one knows what artist are making. Global Music Rights being the newest player in PROs space in USA dealing partial licensing is more exclusively represents artists such as Drake to Switch to them and offering different rates based on their exclusive contracts to switch PROs. Also since anyone with original music can register on ASCAP it can be one individual or a group of 80 to 100 from a philharmonic symphony where each member individual musician registered on ASCAP on one track. Or anyone can become a record studio, record a band and creates a record deal contract and say you want 10% of their royalties in exchange for a free recording. Not one know what kinds of deals anyone has. And royalties are based on number of plays across what is reported on all different listening mediums. As such how royalties are distributed withing the PROs is beyond the scope of

XIII. Plausible Allegations

Standard for Properly Breaking Down a Claim for Infringement

To plausibly allege infringement, Plaintiff must show that each and every element of at least one independent claim is present in the accused product or method present, either literally or under the doctrine of equivalents.

Claim 1 and 3 are identical: One is the spirit and the other the embodiment, we plausibly allege claim 1.

Claim 1. A computer implemented method(CH-5 demonstrates Spotify for Artist) **for**

real time music distributions of new media(CH-5 demonstrates “And for releases, watch your stats move in real-time”) **for allowing artist to control availability of** ((CH-5 Artist control their media through Spotify for Artists) **the new media new media for playback** (CH-5 Spotify release date) in public venues via a jukebox.

Note: Claims Chart from out original complaint (Doc 1-4) (Exhibit C); refereed herein as “CH” with the page number as a numeric value. Therefore (CH-1) means the (claims chart page 1);

Plausibility Under Twombly/Iqbal - A computer implemented method for real time music distribution of new media for allowing an artist to control availability of the new media for playback in public venues via a jukebox:

1. Clear factual support: CH-9 directly demonstrates that Spotify for artist, is a computer implemented method (CH-4), with realtime music distribution of new media capabilities (CH-5 when you pitch, CH-13 when you release), allowing artist to control the availability of new media(CH-8 when they release, or pitch), demonstrating for playback in public venues (CH-8 social media is a public venue), via a jukebox(CH-5 such as web jukebox).
2. More than speculative: The Spotify for Artist platform is publicly known and integral for real-time media distribution of new media, making the claim factually plausible.
3. Direct infringement: Spotify for Artist acts as gateway for Artists, fulfilling the “A

computer implemented method for real time music distribution of new media for allowing an artist to control availability of the new media for playback in public venues via a jukebox” claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
A computer implemented method for real time music distribution of new media for allowing an artist to control availability of the new media for playback in public venues via a jukebox	CH-4 demonstrates Spotify for Artists is a computer implemented method. CH-5 demonstrates Real time music distribution when you pitch your song. CH-13 demonstrates Real time music distribution when your release goes live. CH-8 demonstrates Spotify allowing and artists to control when they can pitch a release. CH-8 demonstrates sharing to to social media platforms. CH-5 demonstrates many supported devices such as a (web jukebox).
A computer implemented method	CH-4 demonstrates Spotify for Artists is a computer implemented method.
For real time music distribution of new media	CH-5 demonstrates Real time music distribution when you pitch your song. CH-13 demonstrates Real time music distribution when your release goes live.
For allowing an artist to control availability of the new media for	CH-8 demonstrates Spotify allowing and artists to control when they can pitch a release.
playback in public venues	CH-8 demonstrates sharing to to social media platforms
via a jukebox	CH-5 demonstrates many supported devices such as a (web jukebox)
Infringement Analysis	CH-4 demonstrates Spotify for Artists is a computer implemented method. CH-5 demonstrates Real time

	music distribution when you pitch your song. CH-13 demonstrates Real time music distribution when your release goes live. CH-8 demonstrates Spotify allowing and artists to control when they can pitch a release. CH-8 demonstrates sharing to social media platforms. CH-5 demonstrates many supported devices such as a (web jukebox). The Spotify for Artist platform infringes all of the parts of this element of the claim by demonstrating it is a computer implemented method (CH-4), demonstrating realtime music distribution of new media(CH-5 when you pitch, CH-13 when you release), allowing artist to control the availability of new media(CH-8 a release), for playback in public venues (CH-8 social media), via a jukebox(CH-5 a web jukebox)
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1. Plausibility Under Twombly/Iqbal - providing, by a processor, a user interface to interact with a system;

1. Clear factual support: CH-9 directly demonstrates that Spotify provides a user interface to interact with their system.
2. More than speculative: The interface to interact feature is publicly known and integral to Spotify for Artist, making the claim factually plausible.
3. Direct infringement: The UI acts as the user's gateway to the system, fulfilling the “providing, by a processor, a user interface to interact with a system;” claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
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Providing, by a processor, a user interface to interact with a system;	CH-9 demonstrates Spotify providing a user interface to interact with their for Artist system for authoring new media.
Providing	CH-9 demonstrates Defendant the action of providing something (in this case, a for Artist user interface)
By a processor	CH-9 demonstrates Defendant system having a processor, the processor provided a user interface, the system becomes accessible.
A user interface to interact with a system	CH-9 demonstrates Defendant processor provides this fundamental step which serves as the gateway for users to engage and interaction with a system essential for ensuring that users can easily create, control and manage the account.
Infringement Analysis	The user interface acts as a bridge between the user and the system's capabilities, making the overall process user-friendly and accessible. This element of the claim is infringed because CH-9 demonstrates the Defendants provides a user interface to interact with the system.

2. Plausibility Under Twombly/Iqbal – providing, by the processor, a user interface to add the user to the system;

1. Clear factual support: CH-10 directly demonstrates that Spotify provides a user interface to add a user to the system.
2. More than speculative: The add user feature is publicly known and integral to Spotify for Artist, making the claim factually plausible.
3. Direct infringement: The UI acts as the user's gateway to add a user to the system, fulfilling the “**providing, by the processor, a user interface to add the user to the system**” claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
Providing, by the processor, a user interface to add the user to the system.	CH-10 demonstrates Defendant providing a user interface to add a user to their system. (Spotify signup Page)
Providing	CH-10 demonstrates Defendant, Action of providing something (in this case, a sign up user interface)
By the processor	CH-10 demonstrates Defendant, By having the processor provide a user interface, the system becomes personalized.
A user interface to add the new user to the system	CH-10 demonstrates Defendant provides This fundamental step establishes the user's identity and permissions within the system, and is essential for ensuring that users can easily create a user account
Infringement Analysis	The user interface to add the user to the system, by the processor enables creating a user account. This element of the claim is infringed because CH-10 demonstrates the Defendants provides a user interface to add the user to the system.

3. Plausibility Under Twombly/Iqbal – providing, by the processor, a user interface to create an account;

1. Clear factual support: CH-9 directly demonstrates that Spotify provides a user interface to create an account(+Add Artists Button).
2. More than speculative: The create account feature is publicly known and integral to Spotify for Artist, making the claim factually plausible.
3. Direct infringement: The UI acts as the user's gateway to create an account, fulfilling the “**providing a user interface to create an account**” claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
Providing, by the processor, a	CH-9 demonstrates Spotify providing a user interface

user interface to create an account.	CH-9 demonstrates Defendant interface to create an account (+Add Artists Button).
Providing	CH-9 demonstrates Defendant Action of providing something (in this case, a user interface)
By the processor	CH-9 demonstrates Defendant By having the processor provide a user interface, the system establishes account identity.
A user interface to create an account	CH-9 demonstrates Defendant provide This fundamental step establishes the user's identity and withing in the service, and is essential for account creation which is the cornerstone for personalized user experience and effective management of content distribution.
Infringement Analysis	The user interface to add the user to the system, by the processor establishes account identity in the service. This element of the claim is infringed because CH-9 demonstrates the Defendants provides a user interface allowing the user to create and account.

4. Plausibility Under Twombly/Iqbal – providing, by the processor, a user interface to log into the system;

1. Clear factual support: CH-9 directly demonstrates that Spotify provides a user interface to log into the system.
2. More than speculative: The log in feature is publicly known and integral to Spotify for Artist, making the claim factually plausible.
3. Direct infringement: The UI acts as the user's gateway to log into the system, fulfilling the “**providing, by the processor, a user interface to log into the system**”

claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
Providing, by the processor, a user interface to log into the system.	CH-9 demonstrates Spotify provided a user interface to log into the system. (To continue, Log into Spotify CH-9)
Providing	CH-9 demonstrates Defendant Action of providing something (in this case, a log in user interface)
By the processor	CH-9 demonstrates Defendant By having the processor provide a user interface, the system establishes personal access within the system.
A user interface to log into the system	CH-9 demonstrates Defendant provide This fundamental step ensures each user can securely access their personal space within the system and is essential for personalized access into the system
Infringement Analysis	The user interface to log into to the system, by the processor allows personal access into the service. This element of the claim is infringed because CH-9 demonstrates the Defendants provides a user interface allowing the user to log into the system.

5. Plausibility Under Twombly/Iqbal – providing, by the processor, a user interface to add the new media to the system, wherein the new media is new if not previously stored in the system.

1. Clear factual support: (Doc-Rec 19-2 Exhibit M), CH-12 directly demonstrates that Spotify allows artist to add the new media to the system for a release. CH-13 demonstrates the release album, image and the tracks, demonstrating having new media that was not previously stored in the system.

2. More than speculative: The add new media feature is publicly known and integral to Spotify for Artist, making the claim factually plausible.

3. Direct infringement: The UI acts as the user's gateway to add new media to the system, fulfilling the “**providing, by the processor, a user interface to add the new media to the system, wherein the new media is new if not previously stored in the system**” claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
Providing, by the processor, a user interface to add the new media to the system, wherein the new media is new if not previously stored in the system	CH-12 demonstrates Defendant providing a user interface to add new media to the system. CH-13 demonstrates the new media in the system.
Providing	CH-12 demonstrates Defendant Action of providing something (in this case, a create your release user interface)
By the processor	CH-12 demonstrates Defendant By having the processor provide a user interface, the system allows new media to be added to the system.
A user interface to add the new media to the system	CH-12 demonstrates Defendant has This fundamental step ensures each user can add new media to the system and is essential to adding new media to the system.
wherein the new media is not previously stored in the system	CH-13 demonstrates Defendant the new media was not previously stored in the system. This clause specifies the condition where under which the media is considered “new”
Infringement Analysis	The user interface to add new media to the system, by the processor allows users to add “new” media to the system that was not previously stored in the system. This element of the claim is infringed because CH-12 and CH-13 demonstrate the

	Defendants provides a user interface allowing the user to add the new media to the system.
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6. Plausibility Under Twombly/Iqbal – receiving, by the processor, the new media added to the system;

1. Clear factual support: CH-12 & CH-13 directly demonstrates that Spotify receives new media added to the system.
2. More than speculative: The receiving new media feature is publicly known and integral to Spotify for Artist, making the claim factually plausible.
3. Direct infringement: The processor received the new media added to the system, fulfilling the “**receiving by the processor, the new media added to the system**” claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
Receiving, by the processor, the new media added to the system.	CH-12 demonstrates Defendant providing a user interface to add new media to the system. CH-13 demonstrates the new media in the system.
Receiving	CH-12 demonstrates Defendant Action of receiving something (in this case, the new media)
By the processor	CH-12 demonstrates Defendant By having the processor receive new media, new media can be added to the system.
The new media added to the system	CH-13 demonstrates Defendant had This fundamental but crucial because the new media is received by the system.
Infringement Analysis	The new media added to the system, is received by the processor. This element of the claim is infringed because CH-12 and CH-13 demonstrate the Defendants allowing their processor to receive new

	media added to the system.
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7. Plausibility Under Twombly/Iqbal – automatically identifying, by the processor, metadata for the new media and storing the metadata in a database;

1. Clear factual support: CH-14 & CH21 directly demonstrates Spotify demonstration how their system automatically collects new media metadata store it in the Spotify Data Catalog database.
2. More than speculative: The identifying and storing new media metadata feature is publicly known and integral to Spotify for Artist, making the claim factually plausible.
3. Direct infringement: The processor identified new media metadata to the system, fulfilling the “**automatically identifying, by the processor, metadata for the new media and storing the metadata in a database**” claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
automatically identifying, by the processor, metadata for the new media and storing the metadata in a database.	CH-14 demonstrates Spotify demonstrating how their system collection of metadata from the new media, storing the metadata in their CH-21 data catalog
automatically identifying	CH-14 demonstrates Defendant Action of automatically identifying something (in this case, collecting the new media metadata)
By the processor	CH-14 demonstrates Defendant By having the processor identify new media, new media metadata can be stored system.
metadata for the new media and storing the metadata in a	CH-14 demonstrates Defendant demonstrating This fundamental but crucial capability of identifying and

database	storing in the CH-21 Spotify Data Catalog.
Infringement Analysis	The new media added to the system, is received by the processor. This element of the claim is infringed because CH-14 demonstrates the Defendants allowing their processor to collect and store (CH-21) the new media metadata.

8. Plausibility Under Twombly/Iqbal – storing, by the processor, the new media in a central storage device, wherein the storing automatically enables the new media to be requested by the jukebox for playback over the internet providing to a client software installed on the jukebox, access to the database storing the metadata for the new media, via an API call over the Internet;

REBUTAL and factual Support: (Exhibit H) directly demonstrates that Spotify Storing the new media in a central storage device (Exhibit H) automatically enables because the media metadata is visible in the (CH-13 create your release) page before the release is even released. In this claim automatically enables means systems when storing programmatically create a link association between the new media and the metadata data, since we are describing what happens to the new media once it reaches the server, the new media and the metadata are automatically associated with each other, and this association, **enables**, the new media data in the database (CH-18 Spotify Data Catalog) to be accessible by software. As visible in the create your release (CH-13) Spotify for Artist website is displaying the tracks for the new media. The new media comprising of

(metadata stored in the (CH-18 Spotify Data Catalog) database) about the (file stored on the central storage device (Exhibit H)) as such it **became available** for playback though metadata (data about the data), as evident by the Spotify API (CH-18) response, displaying the new media music metadata on the create your release page(CH-13), however, being that metadata is (data about data) meaning it's not the actual media file just the file descriptors about the file. File descriptors (metadata) don't actually play the file they only describe, the file to play, you can't play metadata through a media player, you can use metadata to see information about the file, or use it (CH-18 Spotify URIs and IDs) to request a file described later in a different element of the claim. CH-13 Spotify For Artists Create Your Release Page demonstrates that even before releasing, the enabling step has occurred 6 times, demonstrating the enabling happens before the release on Spotify. The patent description explains the server side, explaining how the server receives, processes, and creates a response. The the restful we service contains Data Access Objects (DAO)'s that will call the underlying metadata stored in the database. **Once the service retrieves** the metadata though the DAO... it will encode **just the metadata** and return it in a commonly used format such as XML or JSON. An interesting point that might be overlooked or non obvious is that the claim 1 describes a computer implemented method for **real time** music distribution of new media for allowing an artist **to control availability** of the new media. **RealTime**: A higher level argument of a much higher scope such as (in case the defendant argue they don't release

music instantly) is that, real-time processing is integral to any system or application where **timing** is critical, and **process control** is one of the many areas that rely on it. In the method of claim 1 and 3 **real-time** media distribution of “new media” precise process control over the timing is essential, whether releasing music instantaneously or scheduling a future release, its still **real-time**. A such a system that releases music in the future still infringes because when your release goes live, it distributes in real time, or when you pitch a song pre-release it still pitched in real time. Process Control coincidences with to control availability, and the patent specifically defines upload as “As used herein, the term **upload** comprises authorship with the ability to create, edit, update and delete and **to decide what media will be made available for playback** by users on internet jukeboxes. The term “upload” is not just about transferring data. It encompasses the entire authorship process, giving users control over the creation, editing, updating, and deletion of media. This includes decision-making regarding which media is available for playback. The definition of “upload” plays a crustal role over in the overall system. The ability to author and manage media, allows for unique content availability. Additionally the detailed description support. **Once the user creates an album then only the track in the album will be shown**. So for example, if a user has 20 songs uploaded and an 8 song album only their 8 songs album will show on the jukebox. **This simple mechanism allows musicians a way to only feature what they want to feature**. The detailed description also supports, **Any media not associated**

with albums will not be shown in the jukebox. And this claim element does not have a time limitation or any limitation to immediate playback.

1. Clear factual support: CH-17, CH-18 and Exhibit H directly demonstrates that Spotify stores the new media in a central storage device (Exhibit H) wherein the storing automatically enables through the (CH-18 Spotify Data Catalog) containing the new media(metadata) to be requested for playback over the internet by providing client software installed on the jukebox(website) (CH-17 a client software) access to the metadata stored in the database(CH-18 Spotify Data Catalog).

2. More than speculative: The element focus is on the storage of a single new media file on the system and the enabling of API access through it's metadata stored in a database, these common data storage features of storing file data in a central storage device, referencing data metadata stored in a database, which reference the new media metadata from client software though API are publicly known by millions of software developers and integral to any system and the Spotify for Artist system demonstrates these enabling capabilities, the future availability of playback does not invalidate the automatically enabling provided by the system, and the claim is not limited to immediate playback, Spotify for artist system possesses the inherent capabilities to make media accessible via the described API when requesting clients with client software request the new media for playback, making the claim factually plausible.

3. Direct infringement: The processor automates data storage in the system making the

metadata accessible through their API from client software, fulfilling the “**storing, by the processor, the new media in a central storage device, wherein the storing automatically enables the new media to be requested by the jukebox for playback over the internet providing to a client software installed on the jukebox, access to the database storing the metadata for the new media, via an API call over the Internet**” claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
storing, by the processor, the new media in a central storage device, wherein the storing automatically enables the new media to be requested by the jukebox for playback over the internet providing to a client software installed on the jukebox, access to the database storing the metadata for the new media, via an API call over the Internet	CH-18, CH-17 and Exhibit H demonstrates Spotify system, stores the new media in a central storage device (Exhibit H), demonstrates Defendant Storing the data in a central storage device (Exhibit H) (programmatically) automatically enabled the new media(metadata) to be requested from the (CH-18 Spotify Data Catalog) through the (CH-18 Spotify Web API) from (CH-17 a client software) installed on the jukebox(website), however the enabling occurred on the server, and there is no time limitation of when it can be requested.
Storing	Exhibit H demonstrates Defendant Action of storing something (in this case, the new media)
By the processor	CH-18 demonstrates By having the processor store the new media, the system establishes references to the file.
The new media in a central storage device	Exhibit H demonstrates Defendant Store the

	new media in a central storage device.
wherein the storing automatically enables the new media to be requested by the jukebox for playback over the internet providing to a client software installed on the jukebox	CH-18, CH-17 and Exhibit H demonstrates Defendant Storing the data in a central storage device(Exhibit H) automatically enabled the new media(metadata) to be requested from the (CH-18 Spotify Data Catalog) through the (CH-18 Spotify Web API) from (CH-17 a client software) installed on the jukebox(website), however, the enabling occurred on the server, and there is no time limitation of when it can be requested.
access to the database storing the metadata for the new media	CH-18 demonstrates defendant calls their database (Spotify Data Catalogue CH-18), the Catalogue (contains new media music metadata CH-18), and the Catalogue is accessible through (Spotify Web Api CH-18)
via an API call over the Internet	CH-18 demonstrates Defendants (Spotify Web API CH-18) is (based on simple Rest Principles CH-18), the (Web API is requestable CH-18), the request for the (Web API happen over the WEB CH-18).
Infringement Analysis	This element of the claim is infringed because the defendants server processor stores the new media, in a central storage device (Exhibit H) automatically (programmatically) enables the new media(metadata) from the (CH-18 Spotify Data Catalog) through the (CH-18 Spotify Web API) to be requested over the internet (CH-17 by client software), however, the enabling occurred on the server, and there is no time limitation of when it can be requested.

9. Plausibility Under Twombly/Iqbal – automatically analyzing, by the processor, audio signals of the new media for determining a root mean square(RMS) value, wherein the RMS value is further mathematically manipulated for obtaining a positive RMS value less than 1;

1. Clear factual support: CH-28, CH-29, CH-30 directly demonstrates that Spotify system supports new media digital signal analyzation to achieve a more balanced uniform form experience.

2. More than speculative: The Audio Normalization analyzation feature is publicly known and integral to Spotify for Artist, making the claim factually plausible.

3. Direct infringement: The Audio Normalization feature fulfills the “**automatically analyzing, by the processor, audio signals of the new media for determining a root mean square(RMS) value, wherein the RMS value is further mathematically manipulated for obtaining a positive RMS value less than 1**” claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
Automatically analyzing, by the processor, audio signals of the new media for determining a root mean square (RMS) value, wherein the RMS value is further mathematically manipulates for obtaining a positive RMS value less than 1	CH-28, CH-29, CH-30 demonstrates Spotify demonstrating, automatically analyses new media using ReplayGain and ITU 1770 standard which both inherently calculate the new medias perceived loudness using RMS.

Automatically analyzing	CH-30 demonstrates Defendant system (calculate loudness CH-30), the calculation is for and (individual track CH-30) and the calculation (uses the ITU 1770 standard CH-30)
By the processor	CH-30 demonstrates Defendant system has a processor, (the processor calculates CH-30) and the (calculation calculates loudness CH-30).
Audio signals of the new media for determining a root mean square (RMS) value	CH-29, CH-30 demonstrates Defendant system using (ReplayGain CH-29) and (ITU 1770 standard CH-30), the (ReplayGain CH-29) and (ITU 1770 standard CH-30) analyze audio signals of the new media, and the (ReplayGain CH-29) and (ITU 1770 standard CH-30) analyzation yield an RMS value (average power)
wherein the RMS value is further mathematically manipulates for obtaining a positive RMS value less than 1	CH-28, CH-29, CH-30 (ReplayGain CH-29) and (ITU 1770 standard CH-30) further calculate to obtain the perceived loudness described by defendants as (Calculate the loudness CH-30) and (Loudness and Normalization CH-28)
Infringement Analysis	CH-28, CH-29, CH-30 demonstrates Spotify system, has an automated process in place for mitigating (audio being delivered to them at different volumes CH-28), the process uses (ReplayGain CH-29) and (ITU 1770 standard CH-30) which is achieve (Loudness Normalization CH-28). This element of the claim is infringed because because Defendants performed audio analysis on new medias obtaining loudness spectrum of the signal as part of their (Loudness Normalization CH-28).

10. Plausibility Under Twombly/Iqbal – storing, by the processor, the obtained RMS value less than 1 as metadata for the new media;

1. Clear factual support: CH-19, CH-21 directly demonstrates Spotify has a processor,

the processor stores into the (Spotify Data Catalog CH-21), and the (the obtained low level audio analysis CH-21) is stored as metadata (CH-19 Track's Audio Analysis) for the new media..

2. More than speculative: The Audio Normalization storage feature is publicly known and integral to Spotify for Artist, making the claim factually plausible.

3. Direct infringement: The processor storing new media audio analysts as metadata for the new media, fulfills the **“storing, by the processor, the obtained RMS value less than 1 as metadata for the new media”** claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
storing, by the processor, the obtained RMS value less than 1 as metadata for the new media	CH-19, CH-21 demonstrates Spotify has a processor, the processor stores into the (Spotify Data Catalog CH-21), and the (the obtained low level audio analysis CH-21) is stored as metadata (CH-19 Track's Audio Analysis) for the new media.
storing	CH-19, CH-21 demonstrates Defendant system has a (Spotify Data Catalog CH-21), the (Spotify Data Catalog CH-21) contains metadata, and the (low level audio analysis for a track CH-19) gets stored in the (Spotify Data Catalog CH-21)
By the processor	CH-21 demonstrates the Defendants system has a processors, the processor stores, and the processor stores into the (Spotify Data Catalog CH-21).
the obtained RMS value less than 1 as metadata for the new media	CH-19, CH-21 demonstrates Defendant system has obtained (low level audio analysis CH-19), the audio analysis is (CH-21 metadata about music tracks), and the (CH-21 metadata about music tracks) is for the new media, which gets stored by the processor into the (Spotify Data Catalog CH-21)

Infringement Analysis	CH-19, CH-21 demonstrates Spotify system, performs the storage of the obtained (low level audio analysis CH-19) as (CH-21 metadata about music tracks) for the new media and stores it into the (Spotify Data Catalog CH-21).
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11. Plausibility Under Twombly/Iqbal – providing, by the processor, the metadata for the new media over the internet in response to the API call for display by the jukebox

1. Clear factual support: CH-21 demonstrates Spotify provides the REST (Spotify Web API CH-21) which contains (Spotify API endpoint API CH-21) that are accessible over the internet that returns metadata for new media **in response** to calls(request) by clients (CH-5) (CH-16 Tv jukebox).
2. More than speculative: The Spotify Web API feature is publicly known and integral to Spotify for Artist, making the claim factually plausible.
3. Direct infringement: The intention of this element is to demonstrate how the **processor provides** something, in this case new media metadata through an API call over the internet providing new media metadata **in response** to something calling it in this case, for display by the jukebox, but it is the server that provide the metadata, by Spotify server (process) providing metadata for new media this, fulfills the “**providing, by the processor, the metadata for the new media over the internet in response to the API call for display by the jukebox**” claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
providing, by the processor, the metadata for the new media over the internet in response to the API call for display by the jukebox	CH-21 demonstrates Spotify system through its processor, is capable of providing metadata for new media using a client-server design pattern, allowing distinct separation between the data provider(server) and the consumer(client). The Spotify Web API is based on simple REST principles(CH-21) that enforce separation of concerns, particularly through the client-server architecture. The (Spotify Web API CH-21) includes endpoint (Spotify Web API endpoints CH-21) specifically designed to that return metadata for new media. These endpoints are accessible via API calls over the internet (CH-21). The (CH-21) documentation demonstrates that the Spotify Web API performs these operations by responding with metadata when queried by clients.
providing	CH-21 demonstrates Defendant Action of providing something (in this case, (Spotify Web API CH-21))
By the processor	CH-21 demonstrates Defendant By having their system provide (Spotify Web API CH-21) the API can respond with new media metadata.
the metadata for the new media over the internet in response to the API call for display by the jukebox	CH-5, CH-16, CH-21 demonstrates Defendant demonstrating This fundamental but crucial capability of (Spotify REST API endpoint CH-21) that returns metadata for new media in response to something, in this case (API calls from clients). Spotify responds to API calls from multiple clients (CH-5) that request new media metadata such as (CH-16 Tv jukebox), but it is the server that provide the metadata.
Infringement Analysis	CH-21 demonstrates Spotify provides the (Spotify Web API CH-21) which contains Spotify API endpoint that return metadata for new media in response to API (Spotify Web API CH-21) call(request) over the internet for displayed by the jukebox, but it is the server that provide the metadata. This element of the claim is infringed because the defendants demonstrate their system has an API that

	responds from client request, returning metadata of the new media over the Internet.
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12. Plausibility Under Twombly/Iqbal – receiving, by the processor, a request for playback of the new media associated with the displayed metadata;

1. Clear factual support: CH-22 directly demonstrates that Spotify provides a way to receive request for playback of new media associated with displayed metadata demonstrated by (Spotify Web Playback SDK CH-22).

2. More than speculative: The receiving feature is publicly known by any API developer using the (Spotify Web Playback SDK CH-22) and integral to Spotify for Artist, making the claim factually plausible.

3. Direct infringement: The system receives a request to stream new media associated with display metadata from something in this case, the (Spotify Web Playback SDK CH-22) client, fulfilling the “**receiving, by the processor, a request for playback of the new media associated with the displayed metadata**” claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
receiving, by the processor, a request for playback of the new media associated with the displayed metadata	CH-22 demonstrates Spotify demonstrating the (Spotify Web Playback SDK CH-22) a client-side only JavaScript Library capable of making request for (new media / audio tracks) from Spotify associated with the displayed metadata (Spotify URIs) which allows you to steam or playback the new media associated with the displayed metadata javascript fetch('https://api.spotify.com/v1/me/player/play', { method: 'PUT',

	<pre>body: JSON.stringify({ uris: ['spotify:track:6rqhFgbbKwnb9MLmUQDhG6'] }), headers: { 'Content-Type': 'application/json', 'Authorization': `Bearer \${accessToken}` } });</pre>
Receiving	CH-21 demonstrates Defendant Action of receiving something (in this case, a request for playback of the new media associated with the displayed metadata(Spotify URIs and ID CH-21))
By the processor	CH-22 demonstrates Defendant By having the processor receive a request from (Spotify Web Playback SDK CH-22) playback, the system can provide playback of the new media.
A request for playback of the new media associated with the displayed metadata	CH-21, CH-22 demonstrates Defendant provide This fundamental step ensures the system can receive a unique request (Spotify URIs and ID CH-21) for playback of the new media (Spotify Web Playback SDK CH-22)
Infringement Analysis	CH-22 The receiving of request, by the processor allows the system to stream a requested track. This element of the claim is infringed because the Defendants provides a way to receive a request for playback the new media associated with the displayed metadata(Spotify URIs and ID CH-21).

13. Plausibility Under Twombly/Iqbal – in response to the request, streaming by the processor the requested new media to the jukebox for playing audio corresponding to the streamed portion of the new media;

1. Clear factual support: CH-23 demonstrates that Spotify server processor provides responses to request, and that the processor responds by streaming the streamed portion

of the new media audio for playback by the requestor, in this case the (Spotify Web Playback SDK CH-22).

2. More than speculative: The streaming feature is publicly known and integral to Spotify for Artist, making the claim factually plausible.

3. Direct infringement: The Spotify system streaming portions of audio corresponding to the new media to a client requesting audio playback, fulfills the “**in response to the request, streaming by the processor the requested new media to the jukebox for playing audio corresponding to the streamed portion of the new media**” claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
in response to the request, streaming by the processor the requested new media to the jukebox for playing audio corresponding to the streamed portion of the new media	CH-22, CH-23 demonstrates Spotify server (processor) is responsible for streaming the corresponding streamed portion of the new media to the jukebox upon receiving a request. The jukebox client (Spotify Web Playback SDK CH-22) initiates the process by sending a request, but it is the server that performs the action of providing the media through streaming.
in response to the request	CH-23 demonstrates Defendant action in response to something (in this case, a request) to play a track.
streaming by the processor the requested new media to the jukebox for playing audio	CH-22, CH-23 demonstrates Defendant By having server (processor) is responsible for streaming the corresponding streamed portion of the new media to the jukebox for playing audio upon receiving a request. The jukebox client-software (Spotify SDK

corresponding to the streamed portion of the new media	CH-22) initiates the process by sending a request (Spotify Web Playback SDK CH-22), but it is the server that performs the action of providing the media through streaming.
Infringement Analysis	CH-23 In this context, the server (processor) is responsible for streaming the new media to the jukebox upon receiving a request. The jukebox initiates the process by sending a request, but it is the server that performs the action of providing the media through streaming. This element of the claim is infringed because defendant server streams new media.

14. Plausibility Under Twombly/Iqbal – automatically calculating, by the processor, amounts earned by an artists and a venue playing the new media; and

1. Clear factual support: (Doc-Rec 19 Exhibit M), CH-24, CH-25, directly demonstrates that when Spotify announced on 20 Sep 2018 (Doc-Rec 19 Exhibit M) “**Spotify to Allow Indie Artists to Upload Music Directly, Bypassing Distributors**”, it was mentioned that through payment-processing provider Stripe, Spotify will facilitate royalty payments, which will be accounted each month, In an email, a rep for Spotify clarified that **artists who directly upload their music will receiver 50 percent of Spotify's net revenue** (the service will also account to publishers and **collection societies**) and will keep 100 percent of royalties on that music. Described by Defendant in (CH-25 Music on Spotify earns two types of royalties) Publishing royalties: The money owed to songwriter(s) or owner(s) of a composition. These payments are issued

to publishers, **collecting societies (PROs)**, and mechanical agencies based on the **territory of usage**. When a song gets played on Spotify, the rightholders receive royalties for it. (DOC-Rec 1-5 Exhibit I) Demonstrates ASCAP explaining that The U.S. Copyright law requires those that publicly perform copyrighted music – including websites and other digital services that transmit music to the public – to first obtain a license from the copying owners of the songs performed. Just as you need permission to use other forms of property. ASCAP and BMI are PRO collection society. Plaintiff ASCAP/BMI licenses (DOC-Rec 1-5 Exhibit I) demonstrates the '925 patent (web service) processor, supports PRO music use tracking and reporting to remain in compliance with the ASCPA. BMI license (DOC-Rec 1-5 Exhibit I) require **tracking the number of times the song was performed**, and **the country where the consumer received the transmission**. ASCAP licenses describes PRO licensing is **territorial**. What we describe in this element, is the server(**processor**) automatically tallie, **what** played and **where**. automatically calculating, by the processor, amounts earned(royalty) by an artists(what) and a venue(**territory**) playing the new media. The Defendant also demonstrate this process. (Doc-Rec 1-4 CH-24, CH-25).

2. More than speculative: The PRO music use reporting feature is publicly known and integral to Spotify for Artist (Doc-Rec 19 Exhibit M), making the claim factually plausible.

3. Direct infringement: The Defendant clearly demonstrated achieving direct

infringement (2018-2019) (Doc-Rec 19 Exhibit M), and continue direct infringement (CH-25), because “PRO music use reporting” is still an essential element required to operate legally, U.S. Copyright Law (DOC-Rec 1-5 Exhibit I) and achieve equivalent and similar results through Doctrine of Equivalents established by (Graver Tank & Manufacturing Co. v. Linde Air Products Co., decided by the U.S. Supreme Court in 1950), fulfilling the “**automatically calculating, by the processor, amounts earned by an artists and a venue playing the new media**” claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
automatically calculating, by the processor, amounts earned by an artists and a venue playing the new media	Doc-Rec 19-2 Exhibit M, CH-24, CH-25 demonstrate Spotify (pays artists and PROs directly Doc-Rec 19-2 Exhibit M), (Spotify server(processor) calculates royalties CH-24), demonstrates (Publishing Royalties as Money owed to songwriters CH-25) and demonstrates (When as song gets played (new media) on Spotify, the rightholder receives royalties CH-25) and demonstrates (These payment are based on ... the territory of usage CH-25).
automatically calculating	CH-24 demonstrates Defendant Action of automatically calculating something (in this case, royalties)
by the processor	CH-24 demonstrates Defendant server (processor) automatically calculating royalties.
amounts earned by an artists and a venue playing the new media	CH-25 demonstrates (Publishing Royalties as Money owed to songwriters CH-25) and (When as song gets played (new media) on Spotify, the rightholder receives royalties CH-25) and (These payment are based on ... the territory of usage CH-25).
Infringement Analysis	Doc-Rec 19-2 Exhibit M, CH-24, CH-25 demonstrate Spotify server(processor) (pays artists and PROs directly Doc-Rec 19-2 Exhibit M), (Spotify

	server(processor) automatically calculates royalties CH-24), describes (Publishing Royalties as Money owed to songwriters CH-25) and describes (When as song gets played (new media) on Spotify, the rightholder receives royalties CH-25) and demonstrates (These payment are based on ... the territory of usage CH-25). This element of the claim was directly infringed(Doc-Rec 19-2 Exhibit M) and continues to be infringed via the doctrine of equivalence.(CH-25) because this is still an essential element required to operate legally U.S. Copyright Law (DOC-Rec 1-5 Exhibit I) and achieve equivalent and similar results through the Doctrine of Equivalents established by (Graver Tank & Manufacturing Co. v. Linde Air Products Co., decided by the U.S. Supreme Court in 1950).
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15. Plausibility Under Twombly/Iqbal – receiving, by the processor, indication of payment of the amount earned,

1. Clear factual support: (Doc-Rec 19 Exhibit M),(CH-26). This element is part of the previous one joined by **and**, and continues the Automatic Calculation step and directly demonstrates that when Spotify announced on 20 Sep 2018 (Doc-Rec 19 Exhibit M) **“Spotify to Allow Indie Artists to Upload Music Directly, Bypassing Distributors”**, it was mentioned that through payment-processing provider Stripe, Spotify will facilitate royalty payments, which will be accounted each month, In an email, a rep for Spotify clarified that **artists who directly upload** their music **will receiver 50 percent of Spotify's net revenue** (the service will also account to publishers and **collection societies**) and will keep 100 percent of royalties on that music. Described by Defendant

in (CH-25 Music on Spotify earns two types of royalties) Publishing royalties: The money owed to songwriter(s) or owner(s) of a composition. These payments are issued to publishers, **collecting societies (PROs)**, and mechanical agencies based on the **territory of usage**. When a song gets played on Spotify, the rightholders receive royalties for it. (DOC-Rec 1-5 Exhibit I), CH-26. Plaintiff ASCAP/BMI licenses (DOC-Rec 1-5 Exhibit I) demonstrates the '925 patent (web service) processor, supports PRO music use tracking and reporting to remain in compliance with the ASCAP. The '925' patent supports (the website helps to track usage and session tracking to keep in compliance with ASCAP licensing) and (artists get paid royalties every time their media plays). Music use reporting entails **tallying** each performance and some time later **reporting** it to the PROs. For the last 15 years Plaintiff reported quarterly. In this element of the claim the processor receives indication of the performance royalty earned since you have to tally it to properly report it. The defendant previously acknowledged in their response to our original complaint they understand what we are describing in claim 1 and 3 the automatic calculation “limitation” a term they made up, “At most, the screenshots relate to calculating streaming royalty payments to music right holders”. Spotify server(**processor**) (CH-26) clearly demonstrates defendant receiving **what** (artist)(title) played **where** (country of sale), **tallying** (quantity) and (earnings(usd)), demonstrating their service provides the **automatic calculation and music use reporting feature**, receiving by the processor indication of payment of the amount

earned, this element is part of the previous element joined by **and**, and is important to make sure artists(music right holders) represented by the PROs get compensated properly.

2. More than speculative: The PRO music use **reporting** feature is publicly known and integral to Spotify for Artist, making the claim factually plausible.

3. Direct infringement: The Defendant clearly demonstrated achieving direct infringement (2018-2019) (Doc-Rec 19 Exhibit M), and continue direct infringement (CH-26), because “PRO music use reporting” is still an essential element required to operate legally, U.S. Copyright Law (DOC-Rec 1-5 Exhibit I) and achieve equivalent and similar results through Doctrine of Equivalents established by (Graver Tank & Manufacturing Co. v. Linde Air Products Co., decided by the U.S. Supreme Court in 1950), fulfilling the “**receiving, by the processor, indication of payment of the amount earned**” claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
receiving, by the processor, indication of payment of the amount earned	Doc-Rec 19-2 Exhibit M, CH-24, CH-25, CH-26 demonstrate Spotify server(processor) (pays artists and PROs directly Doc-Rec 19-2 Exhibit M), (Spotify server(processor) calculates royalties CH-24), demonstrates (Publishing Royalties as Money owed to songwriters CH-25) and demonstrates (When as song gets played (new media) on Spotify, the rightholder receives royalties CH-25) and demonstrates (These payment are based on ... the territory of usage CH-25), demonstrating their service provide the calculation feature

	and (CH-26) demonstrates Spotify server(processor) receiving what (artist)(title) played where (country of sale), tallying (quantity) and (earnings(usd)), demonstrating their service provides the reporting feature.
Receiving	CH-24 demonstrates Defendant Action of automatically calculating something (in this case, royalties) and (CH-26) demonstrates Defendant Action of receiving something (in this case, indication of the performance royalty earned).
By the processor	CH-24 demonstrates Defendant server (processor) calculating royalties. and (CH-26) demonstrates Defendant server (processor) receiving indication the performance royalty earned.
indication of payment of the amount earned	(CH-26) demonstrates Spotify server(processor) receiving what (artist)(title) played where (country of sale), tallying (quantity) and (earnings(usd)), demonstrating their service provides the (music use) reporting feature, (indication the performance royalty earned).
Infringement Analysis	Doc-Rec 19-2 Exhibit M, CH-24, CH-25 demonstrate Spotify server(processor) (pays artists and PROs directly Doc-Rec 19-2 Exhibit M), (Spotify server(processor) automatically calculates royalties CH-24), describes (Publishing Royalties as Money owed to songwriters CH-25) and describes (When as song gets played (new media) on Spotify, the rightholder receives royalties CH-25) and

	demonstrates (These payment are based on ... the territory of usage CH-25). And (CH-26) demonstrates Spotify server(processor) receiving what (artist)(title) played where (country of sale), tallying (quantity) and (earnings(usd)), demonstrating their service provides the reporting feature. This element of the claim was directly infringed(Doc-Rec 19-2 Exhibit M) and continues to be infringed via the doctrine of equivalence.(CH-26) because this is still an essential element required to operate legally U.S. Copyright Law (DOC-Rec 1-5 Exhibit I) and achieve equivalent and similar results through the Doctrine of Equivalents established by (Graver Tank & Manufacturing Co. v. Linde Air Products Co., decided by the U.S. Supreme Court in 1950).
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16. Plausibility Under Twombly/Iqbal – wherein, the audio signals of the new media are normalized by the processor or jukebox by applying gain to the signals based on the obtained positive RMS value less than 1, and

1. Clear factual support: CH-28 directly demonstrates that (**new media** audio gets delivered at different audio **signal** levels), and Defendants use Loudness Normalization to balance soft and loud songs, creating a more uniform experience. CH-28 demonstrates Defendant server(processor) performs normalization of the new media audio signals(CH-28 we use Loudness Normalization to balance soft and loud songs), by applying gain to the signals (+- gain is applied to masters) based on the obtained

perceived loudness (ReplayGain integrated LUFS CH-20) (ITU 1770 standard CH-30) (the (low level audio analysis for a track CH-19)).

2. More than speculative: The Loudness Normalization feature is publicly known and integral to Spotify for Artist, making the claim factually plausible.

3. Direct infringement: The perceived loudness for the new media audio analysis (the (low level audio analysis for a track CH-19) is used to determine how much gain compensation to apply to a track, fulfilling the “**wherein, the audio signals of the new media are normalized by the processor or jukebox by applying gain to the signals based on the obtained positive RMS value less than 1**” claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
wherein the audio signals of the new media are normalized by the processor or jukebox by applying gain to the signals based on the obtained positive RMS value less than 1	CH-28 demonstrates Defendant declaring (new media audio gets delivered at different audio signal levels), and that use Loudness Normalization to balance soft and loud songs (audio signals), CH-28 demonstrates Defendant server(processor) performs normalization of the new media audio signals(CH-28 we use Loudness Normalization to balance soft and loud songs), by applying gain to the signals (+- gain is applied to masters) based on the obtained perceived loudness (ReplayGain integrated LUFS CH-20) (ITU 1770 standard CH-30) (the (low level audio analysis for a track CH-19)
the audio signals of the new media are normalized by the	CH-28 demonstrates Defendant server(processor) performs normalization of the new media audio signals(CH-28 we use Loudness Normalization to

processor or jukebox by applying gain to the signals based on the obtained positive RMS value less than 1	balance soft and loud songs), by applying gain to the signals (+- gain is applied to masters) based on the obtained perceived loudness (ReplayGain integrated LUFS CH-20) (ITU 1770 standard CH-30) (the (low level audio analysis for a track CH-19)
Infringement Analysis	CH-28 demonstrates Defendant declaring (new media audio gets delivered at different audio signal levels), and that use Loudness Normalization to balance soft and loud songs (audio signals), CH-28 demonstrates Defendant server(processor) performs demonstrates normalization of the new media audio signals(CH-28 we use Loudness Normalization to balance soft and loud songs), (gets applied to the track while it's playing CH-28) by applying gain to the signals (+- gain is applied to masters) based on the obtained perceived loudness , (ReplayGain integrated LUFS CH-20) (ITU 1770 standard CH-30) (the (low level audio analysis for a track CH-19). This element of the claim is infringed because Defendants apply Loudness Normalization creating a more balanced uniform experience.

17. Plausibility Under Twombly/Iqbal – wherein, the audio signals of the new media are further compressed for reducing a dynamic range of the signal based on a preset compression ratio and preset threshold value.

1. Clear factual support: CH-29 Demonstrates defendants audio analysis ReplayGain achieving similar result to the disclosed method because it increases and decreased the integrated LUFS. LUFS stands for Loudness Units relative to Full Scale. It helps normalize **perceptive loudness** across different recordings and platforms. Introduced to

combat the “loudness wars” where artists aimed for the loudest possible masters, often sacrificing dynamic range and introducing unpleasant distortion. Songs with a good dynamic range (reflected in a wider difference between peak and RMS levels) offer a more engaging and enjoyable experience. A good dynamic range ensures that the quieter parts of your song are actually quiet, allowing the louder parts to stand out and create impact.) Sage audio further explaining because Spotify measures in RMS, it may adjust signals slightly different than those that measure in LUFS. It should be noted that although Spotify used LUFS targets, it still measured the signal in RMS meaning that some discrepancies may exist between Spotify and other streaming services that use -14 LUFS as a target. (Exhibit J Page-1 first Article) mentions in 2014 that Spotify's option to “set volume levels for all tracks” will use dynamic range compression. (Exhibit J Page-1 second Article) says the same the “set volume levels for all tracks” affects the dynamic range. (Exhibit J Page-2 first Article) says the “Audio Normalization” affects the Dynamic Range, And the Description and the Development of the multichannel measurement algorithm, the ITU 1770 standard that Spotify uses demonstrates that various form of dynamics processing are frequently applied to the signal, which can have a significant effect on the **perceived loudness** of the signal, and that the matter of subjective loudness is also a great importance to the music industry where dynamics processing commonly used to maximize the perceived loudness of a recording. Spotify demonstrates using this standard (CH-30 ITU 1770) to calculate the loudness of then

whole release or individual tracks using the ITU 1770 standard. Also, any reasonable person skilled in the art, (audio engineer) understands that if you have an audio track that is peaking the waves get cut off and become square ruining your speakers and sound harsh. So the software used inherently performs the dynamic range element.

2. More than speculative: The Audio Normalization is publicly known and integral to Spotify for Artist, making the claim factually plausible.

3. Direct and Equivalent Infringement: Audio Normalization and the ITU 1770 standard applied on the server or the client, make the music sound about the same by using compression while maintaining dynamic range, achieving a similar result, fulfilling the “**wherein, the audio signals of the new media are further compressed for reducing a dynamic range of the signal based on a preset compression ratio and preset threshold value**” claim element requirement.

Claim Element Limitation	Accused Instrumentality (Spotify for Artist)
wherein, the audio signals of the new media are further compressed for reducing a dynamic range of the signal based on a preset compression ratio and preset threshold value.	CH-28 demonstrates Defendant server(processor) performs normalization of the new media audio signals(CH-28 we use Loudness Normalization to balance soft and loud songs), by applying gain to the signals (+- gain is applied to masters) based on the obtained perceived loudness (ReplayGain integrated LUFS CH-20) (ITU 1770 standard CH-30) (the (low level audio analysis for a track CH-19). The Audio Normalization, and ITU 1770 standard affect the dynamic range, achieving a similar result. This is according to the developers of the ITU 1770 standard.
the audio signals of the new	based on the obtained perceived loudness

media are further compressed for reducing a dynamic range of the signal based on a preset compression ratio and preset threshold value.	(ReplayGain integrated LUFS CH-20) (ITU 1770 standard CH-30) (the (low level audio analysis for a track CH-19). The Audio Normalization, and ITU 1770 standard affect the dynamic range, achieving a similar result. This is according to the developers of the ITU 1770 standard.
Infringement Analysis	Bases on the documentation of the description and development of the multichannel measuring algorithm, the ITU 1770 that Spotify uses the process involves dynamic range as claimed in the method. And based the obtained perceived loudness (ReplayGain integrated LUFS CH-20) (ITU 1770 standard CH-30) (the (low level audio analysis for a track CH-19). The Audio Normalization, and ITU 1770 standard affect the dynamic range, achieving a similar result. So I conclude that the end result is equivalent satisfying the infringement on this element.

XIV. No Undue Delay Or Prejudice

These responsive pleadings will not cause any undue delay or prejudice to the opposing party.

XV. EXHIBITS

EXHIBIT A – SPOTIFY FOR ARTISTS TERMS AND CONDITIONS OF USE

EXHIBIT B – SPOTIFY EMPLOYS STAFF IN LOUISIANA

EXHIBIT C – SPOTIFY POST JOB OPENINGS IN LOUISIANA

EXHIBIT D – SPOTIFY PROVIDES COMPANY-OWNED EQUIPMENT

EXHIBIT E – SPOTIFY STREAMING SERVICES 5% TAX IN LOUISIANA

EXHIBIT F – SPOTIFY STUDIO IN LOUISIANA

EXHIBIT G – MUSIC METADATA

EXHIBIT H – SPOTIFY BEHIND THE SCENES 2011 DEMO

EXHIBIT I – INDEPENDENT CLAIMS DIAGRAM

EXHIBIT J – DYNAMIC RANGE

XVI. Conclusion

WHEREFORE, Plaintiff moves this Honorable Court to deny the Defendant's Motion to Dismiss(Doc Rec 13) and grant any other relief deemed appropriate.

Respectfully submitted,

11 February 2025

MANUEL TIJERINO, *Pro Se*

2141 Leslie Street, Gretna, LA 70056

515-803-8907

ManuelTijerino@Hotmail.com

Manuel Tijerino

CERTIFICATE OF SERVICE

I, Manuel Tijerino, hereby certify that a copy of the foregoing Opposition and Memorandum in Support was served upon registered counsel of record via EDSS (Electronic Document Submission System and via email this 11th day February 2025.

Respectfully submitted,

A handwritten signature in blue ink that reads "Manuel Tijerino". The signature is written in a cursive, flowing style.

eFile-ProSe

From: systems_unit@laed.uscourts.gov on behalf of Do Not Reply
<do_not_reply@laed.uscourts.gov>
Sent: Tuesday, February 11, 2025 11:25 PM
To: eFile-ProSe
Subject: New EDSS Filing Submitted

A new EDSS Filing has been submitted. The filing was submitted on Tuesday, February 11, 2025 - 23:24 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): 204 NE 25TH CT

Filer's Phone Number: 5158038907

Case Number (if known): 2:24-cv-02290

Case Name: Tijerino v Spotify

Document 1 Description: Motion For Leave To Exceed Page Limit

Document 2 Description: Proposed Order

Document 3 Description: Plaintiff Opposition To Motion To Dismiss

Document 4 Description: ExhibitA-F

Document 5 Description: ExhibitsG-J

Please keep this email for historical records.

EXHIBIT-A

SPOTIFY FOR ARTIST TERMS AND CONDITION OF USE

Spotify for Artists Terms and Conditions - Spotify.pdf

Spotify for Artists Terms and Conditions of Use

Effective as of: September 1st, 2021

Introduction

The Spotify Service Provided by Us

Your Use of the Spotify Service

Content and Intellectual Property Rights

Customer Support, Information, Questions, Complaints

Problems and Disputes

About These Terms

1. Introduction

Please read these Terms and Conditions of Use (these "**Terms**") carefully as they govern use of (which includes access to) the Spotify for Artists service, including all of our websites and software applications that incorporate or link to these Terms (collectively, "**Spotify for Artists**") and any material that is made available through Spotify for Artists (the "**Spotify for Artists Content**"). Use of Spotify for Artists may be subject to additional terms and conditions presented by Spotify, including without limitation Opt-In Terms (defined in Section 2 below), which are hereby incorporated by this reference into these Terms.

Spotify for Artists is made available only to users in the music industry for business purposes, and is not open to "consumers" as contemplated in applicable consumer protection laws, or anyone acting for personal, family or household purposes.

By signing up for, accessing, or otherwise using Spotify for Artists, you agree to these Terms  on behalf of the entity, organization or business that you represent (including without limitation recording artist or a record label) (your "**Subscribing Entity**"), and you represent and warrant that:

Service Provider

These Terms are between your Subscribing Entity, and (a) if your Subscribing Entity is organized under, or otherwise subject to the laws of, the United States of America: Spotify USA Inc., a Delaware Corporation with offices at 4 World Trade Center, 150 Greenwich Street, 62nd Floor, New York, New York 10007; or (b) if your Subscribing Entity is an entity organized under, or otherwise subject to the laws of, any country outside of the United States of America: Spotify AB, of Regeringsgatan 19, 111 53 Stockholm, Sweden, with registered number 556703-7495.

Age and eligibility requirements

In order to use Spotify for Artists on behalf of your Subscribing Entity, you need to (1) be 13 years of age (or the equivalent minimum age in your home country) or older; (2) have parent or guardian consent if you are a minor in your home country; (3) have the power to enter a binding contract with us on behalf of your Subscribing Entity and not be barred from doing so under any applicable laws; and (4) reside in a country where Spotify for Artists is available. You also promise that any registration information that you submit to Spotify is true, accurate, and complete, and you agree to keep it that way at all times.

2. The Spotify Service Provided by Us

Opt In Programs; Beta Features

In addition to Spotify for Artist's existing features, we may from time-to-time add new features with opportunities for rights holders, including your Subscribing Entity, to access additional data insights related to their content or to participate in and manage marketing, promotional, merchandising, programming and other campaigns for their content through Spotify for Artists (collectively, "**Programs**"). Opportunities to participate in these Programs will be presented to you or your Delegates on an opt-in basis through Spotify for Artists, along with the corresponding terms and conditions for the particular opportunity (each, "**Opt-In Terms**").



EXHIBIT – B

SPOTIFY EMPLOYS STAFF IN LOUISIANA



 Home  My Network  Jobs  Messaging  Noti



<https://www.linkedin.com/feed/?nis=true>

Henna Silvennoinen  (She/Her) · 3rd
Associate Manager, Audiobooks at Spotify
New Orleans, Louisiana, United States · [Contact info](#)
500+ connections

 Spotify
 University of Warwick

About

A confident, creative and strategic Acquisitions and Content Specialist passionate about fostering community, increasing brand awareness and encouraging disruptive thinking through creative deal-making and content-led live entertainment. Excels at building relationships and cross-functional collaboration; highly articulate, organized and persuasive. Background in intellectual copyright management, both sales and acquisition, in the publishing industry.

Based in New Orleans as of May 2019, following 18 months in New York, and 10+ years working in London, UK.

Development Committee Board Chair for HandsOn New Orleans

EXHIBIT-C

SPOTIFY POST JOB OPENINGS IN LOUISIANA

2/5/25, 10:50 PM

Spotify Lead Workforce Planning Analyst Customer Service Job Mix



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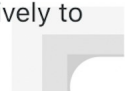
Lead Workforce Planning Analyst, Customer Service

Spotify
Mix, LA

Medical , Paid Time Off , Retirement
Other

We are looking for a Lead Workforce Planning Analyst to join Spotify's Customer Service (CS) team. You will report to the Associate Director of Workforce Management, and will work with Spotify colleagues as well as our vendor partners from around the world to manage invoicing, budget models, and financial reporting for CS.

Customer Service is a globally distributed team that advocates relentlessly for Spotify's customers, artists, authors and creators. Your work will ensure that CS is scaling effectively to meet demand while maintaining alignment with Spotify's overall financial goals.



2/5/25, 10:55 PM

Spotify Lead Workforce Planning Analyst Customer Service Job Mix

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Customer Service is a globally distributed team that advocates relentlessly for Spotify's customers, artists, authors and creators. Your work will ensure that CS is scaling effectively to meet demand while maintaining alignment with Spotify's overall financial goals.

What You'll Do

- Build and maintain models to predict monthly spend for CS variable expenses, and partner with finance to track and reconcile these expenses for financial reporting in monthly, quarterly and annual cycles.
- Normalize vendor invoices and maintain these records in a database for the purpose of analysis.
- Summarize expected vs actual spend into meaningful reports for CS leadership, and prepare other ad-hoc reports as needed.
- Gain a deep understanding of the full service delivery cycle (forecasting, workforce planning, operations) so that you can effectively model its complexity.
- Create monthly purchase orders for CS vendors and approve vendor invoices.
- Size the financial impact of new CS initiatives.
- Work closely with internal stakeholders to understand changes to our vendor contracts, and ensure these changes are reflected in the financial models.

Who You Are

- 5+ years of professional experience in a similar role with a focus on accounting or

Create or sign into a ZipRecruiter account, and then apply on the company site¹

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2/5/25, 11:42 PM

Spotify Lead Workforce Planning Analyst Customer Service Job Mix

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- Work closely with internal stakeholders to understand changes to our vendor contracts, and ensure these changes are reflected in the financial models.

Who You Are

- 5+ years of professional experience in a similar role with a focus on accounting or finance. Domain experience within a service delivery environment, business process outsourcer, or customer service department is a plus.
- A spreadsheet master. You are as comfortable in Google Sheets as you are in Microsoft Excel, and writing a series of nested IF statements or a custom number format does not phase you.
- Detail-oriented with a focus on accuracy.
- A great communicator in all respects (written, verbal, or with data).
- Comfortable working with a globally distributed team, with occasional international travel.
- Intellectually curious. You will need to understand many CS functions outside of your own in order to do your job effectively.
- Goal-oriented and motivated, with a strong sense of personal accountability.
- Comfort with data visualization tools like Tableau or Looker Studio is a plus.

Where You'll Be

- We offer you the flexibility to work where you work best! For this role, you can be within the United States as long as we have a work location.
- This team operates within the Eastern Time Zone time zone for collaboration.



Create or sign into a ZipRecruiter account, and then apply on the company site¹

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2/5/25, 11:45 PM

Spotify Lead Workforce Planning Analyst Customer Service Job Mix



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The United States base range for this position is \$77,223-\$110,319 plus equity. The benefits available for this position include health insurance, six month paid parental leave, 401(k) retirement plan, 23 paid days off, 13 paid flexible holidays.

[Apply for this job](#)

Address

Spotify

Mix, LA

USA

Industry

Business

Posted date

January 31, 2025

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EXHIBIT-D

SPOTIFY PROVIDES COMPANY-OWNED EQUIPMENT

Work From Anywhere _ Life at Spotify.pdf

2/7/25, 12:00 AM

Work From Anywhere | Life at Spotify



Spotify®

Locations

Being
Here

Diversity,
Equity &
Impact

Students

How
We
Hire

All Jobs

The Band Manifesto

Work From Anywhere

Grow With Us

Job Categories

Work isn't somewhere you go, it's something you do

At Spotify, you can choose to work where you work best – whether that's at home, at the office, or at times, somewhere else entirely.

How it works

It's simple. Choose to work where you work best, whether that's mostly at the office, or at home.

[w.lifeatspotify.com/being-here/work-from-anywhere](https://www.lifeatspotify.com/being-here/work-from-anywhere)

Work From Anywhere _ Life at Spotify.pdf

With our Work From Anywhere program, we embrace and support your choice to work either mostly at home or from one of our offices, with the understanding that each will bring a different experience. Doing this helps us become a more diverse place to work, and allows us to flex with our people as their lives and ambitions change.

<https://www.lifeatspotify.com/being-here/work-from-anywhere>

2/7/25, 12:00 AM

Work From Anywhere | Life at Spotify



Spotify

Locations

Being
Here

Diversity,
Equity &
Impact

Students

How
We
Live

2/7/25, 12:00 AM

Work From Anywhere | Life at Spotify



[Locations](#)[Being Here](#)[Diversity, Equity & Impact](#)[Students](#)[How We Hire](#)[All Jobs](#)

[The Band Manifesto](#)[Work From Anywhere](#)[Grow With Us](#)[Job Categories](#)

Will Spotify support me with office equipment if I choose Home mix?

Of course. If you choose this work mode, we'll set you up with furniture and IT equipment so your home working space is both comfortable and safe. As everyone is likely to work from home on some days, we also provide a Work From Anywhere monthly allowance for all Spotifiers, regardless of work mode.

EXHIBIT-E

SPOTIFY STREAMING 5% TAX IN LOUISIANA

Gov. Landry's 'Christmas for Louisiana' comes with a price tag for its poorest • Louisiana Illuminator.pdf

Gov. Landry's 'Christmas for Louisiana' comes with a price tag for its poorest

GREG LAROSE

DECEMBER 9, 2024 5:00 AM



Gov. Landry's 'Christmas for Louisiana' comes with a price tag for its poorest • Louisiana Illuminator.pdf

minimum wage worker would make in a year in Louisiana, according to Invest in Louisiana.

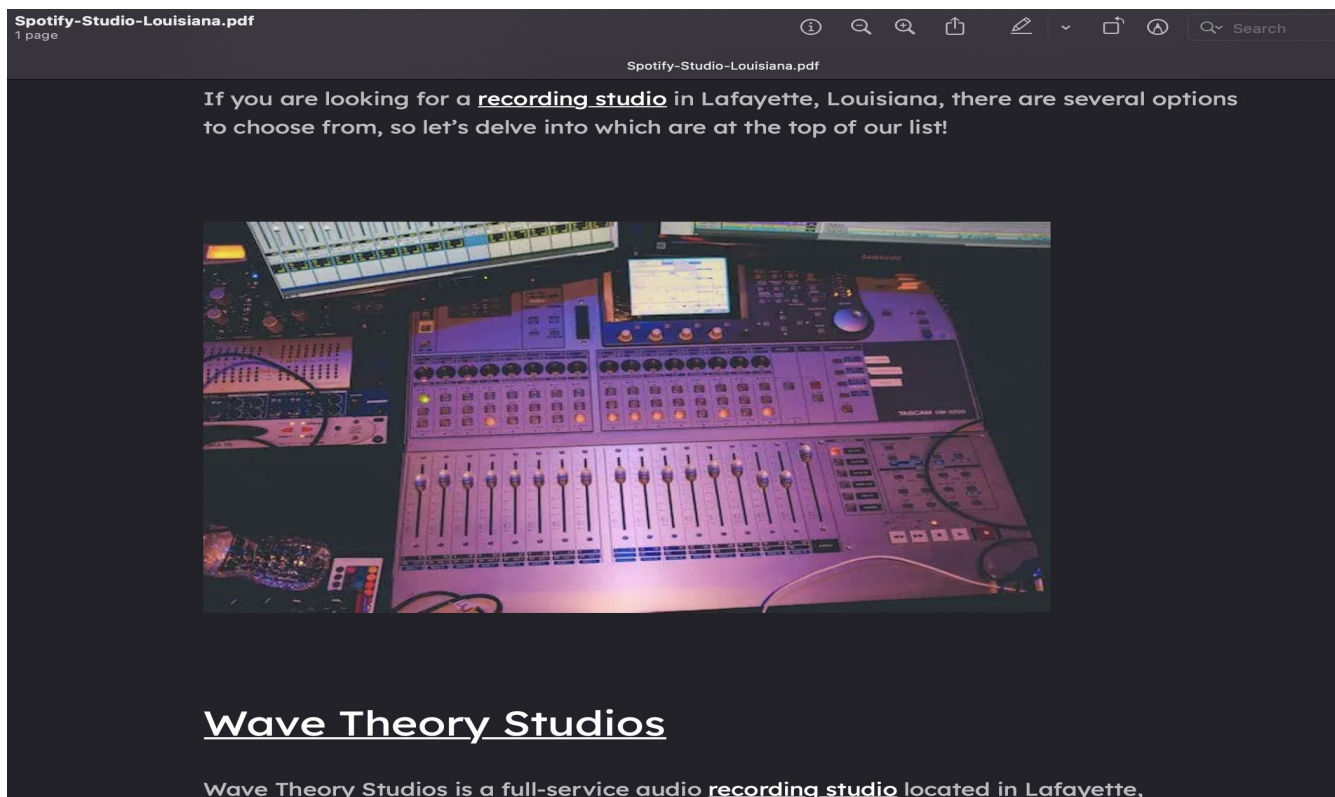
It took a few compromises among lawmakers to move Landry's tax package through last month's special session. A proposal to add sales taxes to more than 40 services and items was scuttled. The list included what many legislators termed "luxury" purchases, such as auto detailing, pet grooming and massages. Some professional services would have also been taxed, such as home remodeling and repairs, security monitoring and lobbying.

However, the Legislature did approve applying the higher sales tax to a host of digital products and services. If you use a streaming service such as Netflix, Spotify or Hulu, you'll pay the new 5% rate starting next year. It will also be added to the cost of dating apps and downloaded games, books and music. The "telecommunications services" category of items that will soon be taxed includes Zoom and other online meeting platforms that have become omnipresent in recent years.

Immediately after the special session ended, Republicans who carried Landry's legislation weren't keen to acknowledge the impact of higher sales taxes on poorer families. They saw a bigger upside for businesses they believe will now come to Louisiana, leading to more opportunity and better paying jobs.

EXHIBIT-F

SPOTIFY STUDIO IN LOUISIANA



Spotify-Studio-Louisiana.pdf
1 page

Spotify-Studio-Louisiana.pdf

 **USEFUL LINKS**

- Band Name Generator
- Blog
- BPM Tapper
- Case Studies
- Film Investors
- Artist / Band Showcase Page
- Free Large File Transfer
- Mastering
- Free Music Tools
- Pre-Save Links
- Online Guitar Tuner
- Online Metronome
- ISRC Finder
- Key/BPM finder
- Lyrics finder
- Lyric Rhyme Tool
- Partners
- Pricing
- Radio Stations Worldwide

FEATURES

- Cover Song Licensing
- For Music Licensing & Search
- Music Distribution
- Music Marketing
- Music Promotion
- Music PR & Press
- Music Sync Licensing
- Spotify Promotion
- Spotify Playlist Submission
- Submit Your Music Demos
- TikTok Promotion

MUSIC GATEWAY

- Advertising Agencies
- Artist Management
- Creative Industry Roles
- Curators
- Film Distribution
- Film Investment
- Film Marketing
- Games Publishers
- Indie Bands
- Independent Filmmakers
- Musician
- Music Artists
- Music Composer
- Music Industry Partners
- Music Producer
- Music Publishing
- Music Supervision
- Radio Stations
- Radio Promotion

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- Acceptable Use Policy
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support@musicgateway.com

 **Spotify**
Official Partner

EXHIBIT-A

SPOTIFY FOR ARTIST TERMS AND CONDITION OF USE

Spotify for Artists Terms and Conditions - Spotify.pdf

Spotify for Artists Terms and Conditions of Use

Effective as of: September 1st, 2021

Introduction

The Spotify Service Provided by Us

Your Use of the Spotify Service

Content and Intellectual Property Rights

Customer Support, Information, Questions, Complaints

Problems and Disputes

About These Terms

1. Introduction

Please read these Terms and Conditions of Use (these "**Terms**") carefully as they govern use of (which includes access to) the Spotify for Artists service, including all of our websites and software applications that incorporate or link to these Terms (collectively, "**Spotify for Artists**") and any material that is made available through Spotify for Artists (the "**Spotify for Artists Content**"). Use of Spotify for Artists may be subject to additional terms and conditions presented by Spotify, including without limitation Opt-In Terms (defined in Section 2 below), which are hereby incorporated by this reference into these Terms.

Spotify for Artists is made available only to users in the music industry **for business purposes**, and is not open to "consumers" as contemplated in applicable consumer protection laws, or anyone acting for personal, family or household purposes.

By signing up for, accessing, or otherwise using Spotify for Artists, you agree to these Terms on behalf of the entity, organization or business that you represent (including without limitation, **as a** recording artist or a record label) (your "**Subscribing Entity**"), and you represent and warrant that:



Service Provider

These Terms are between your Subscribing Entity, and (a) if your Subscribing Entity is organized under, or otherwise subject to the laws of, the United States of America: Spotify USA Inc., a Delaware Corporation with offices at 4 World Trade Center, 150 Greenwich Street, 62nd Floor, New York, New York 10007; or (b) if your Subscribing Entity is an entity organized under, or otherwise subject to the laws of, any country outside of the United States of America: Spotify AB, of Regeringsgatan 19, 111 53 Stockholm, Sweden, with registered number 556703-7495.

Age and eligibility requirements

In order to use Spotify for Artists on behalf of your Subscribing Entity, you need to (1) be 13 years of age (or the equivalent minimum age in your home country) or older; (2) have parent or guardian consent if you are a minor in your home country; (3) have the power to enter a binding contract with us on behalf of your Subscribing Entity and not be barred from doing so under any applicable laws; and (4) reside in a country where Spotify for Artists is available. You also promise that any registration information that you submit to Spotify is true, accurate, and complete, and you agree to keep it that way at all times.

2. The Spotify Service Provided by Us

Opt In Programs; Beta Features

In addition to Spotify for Artist's existing features, we may from time-to-time add new features with opportunities for rights holders, including your Subscribing Entity, to access additional data insights related to their content or to participate in and manage marketing, promotional, merchandising, programming and other campaigns for their content through Spotify for Artists (collectively, "**Programs**"). Opportunities to participate in these Programs will be presented to you or your Delegates on an opt-in basis through Spotify for Artists, along with the corresponding terms and conditions for the particular opportunity (each, "**Opt-In Terms**").



EXHIBIT – B

SPOTIFY EMPLOYS STAFF IN LOUISIANA



 Home  My Network  Jobs  Messaging  Noti



<https://www.linkedin.com/feed/?nis=true>

Henna Silvennoinen  (She/Her) · 3rd
Associate Manager, Audiobooks at **Spotify**
New Orleans, Louisiana, United States · [Contact info](#)
500+ connections

 Spotify
 University of Warwick

About

A confident, creative and strategic Acquisitions and Content Specialist passionate about fostering community, increasing brand awareness and encouraging disruptive thinking through creative deal-making and content-led live entertainment. Excels at building relationships and cross-functional collaboration; highly articulate, organized and persuasive. Background in intellectual copyright management, both sales and acquisition, in the publishing industry.

Based in New Orleans as of May 2019, following 18 months in New York, and 10+ years working in London, UK.

Development Committee Board Chair for HandsOn New Orleans

EXHIBIT-C

SPOTIFY POST JOB OPENINGS IN LOUISIANA

2/5/25, 10:50 PM

Spotify Lead Workforce Planning Analyst Customer Service Job Mix



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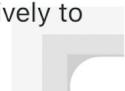
Lead Workforce Planning Analyst, Customer Service

Spotify
Mix, LA

Medical , Paid Time Off , Retirement
Other

We are looking for a Lead Workforce Planning Analyst to join Spotify's Customer Service (CS) team. You will report to the Associate Director of Workforce Management, and will work with Spotify colleagues as well as our vendor partners from around the world to manage invoicing, budget models, and financial reporting for CS.

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2/5/25, 10:55 PM

Spotify Lead Workforce Planning Analyst Customer Service Job Mix

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Who You Are

- 5+ years of professional experience in a similar role with a focus on accounting or

Create or sign into a ZipRecruiter account, and then apply on the company site¹

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2/5/25, 11:42 PM

Spotify Lead Workforce Planning Analyst Customer Service Job Mix

[Log In](#)

- Work closely with internal stakeholders to understand changes to our vendor contracts, and ensure these changes are reflected in the financial models.

Who You Are

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- Detail-oriented with a focus on accuracy.
- A great communicator in all respects (written, verbal, or with data).
- Comfortable working with a globally distributed team, with occasional international travel.
- Intellectually curious. You will need to understand many CS functions outside of your own in order to do your job effectively.
- Goal-oriented and motivated, with a strong sense of personal accountability.
- Comfort with data visualization tools like Tableau or Looker Studio is a plus.

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- We offer you the flexibility to work where you work best! For this role, you can be within the United States as long as we have a work location.
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Spotify Lead Workforce Planning Analyst Customer Service Job Mix



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The United States base range for this position is \$77,223-\$110,319 plus equity. The benefits available for this position include health insurance, six month paid parental leave, 401(k) retirement plan, 23 paid days off, 13 paid flexible holidays.

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Address

Spotify

Mix, LA

USA

Industry

Business

Posted date

January 31, 2025

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EXHIBIT-D

SPOTIFY PROVIDES COMPANY-OWNED EQUIPMENT

Work From Anywhere _ Life at Spotify.pdf

2/7/25, 12:00 AM

Work From Anywhere | Life at Spotify



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Diversity,
Equity &
Impact

Students

How
We
Hire

All Jobs

The Band Manifesto

Work From Anywhere

Grow With Us

Job Categories

Work isn't somewhere you go, it's something you do

At Spotify, you can choose to work where you work best – whether that's at home, at the office, or at times, somewhere else entirely.

How it works

It's simple. Choose to work where you work best, whether that's mostly at the office, or at home.

[w.lifeatspotify.com/being-here/work-from-anywhere](https://www.lifeatspotify.com/being-here/work-from-anywhere)

Work From Anywhere _ Life at Spotify.pdf

With our Work From Anywhere program, we embrace and support your choice to work either mostly at home or from one of our offices, with the understanding that each will bring a different experience. Doing this helps us become a more diverse place to work, and allows us to flex with our people as their lives and ambitions change.

<https://www.lifeatspotify.com/being-here/work-from-anywhere>

2/7/25, 12:00 AM

Work From Anywhere | Life at Spotify

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[The Band Manifesto](#)[Work From Anywhere](#)[Grow With Us](#)[Job Categories](#)

Will Spotify support me with office equipment if I choose Home mix?

Of course. If you choose this work mode, we'll set you up with furniture and IT equipment so your home working space is both comfortable and safe. As everyone is likely to work from home on some days, we also provide a Work From Anywhere monthly allowance for all Spotifiers, regardless of work mode.

EXHIBIT-E

SPOTIFY STREAMING 5% TAX IN LOUISIANA

Gov. Landry's 'Christmas for Louisiana' comes with a price tag for its poorest • Louisiana Illuminator.pdf

Gov. Landry's 'Christmas for Louisiana' comes with a price tag for its poorest

GREG LAROSE

DECEMBER 9, 2024 5:00 AM



Gov. Landry's 'Christmas for Louisiana' comes with a price tag for its poorest • Louisiana Illuminator.pdf

minimum wage worker would make in a year in Louisiana, according to Invest in Louisiana.

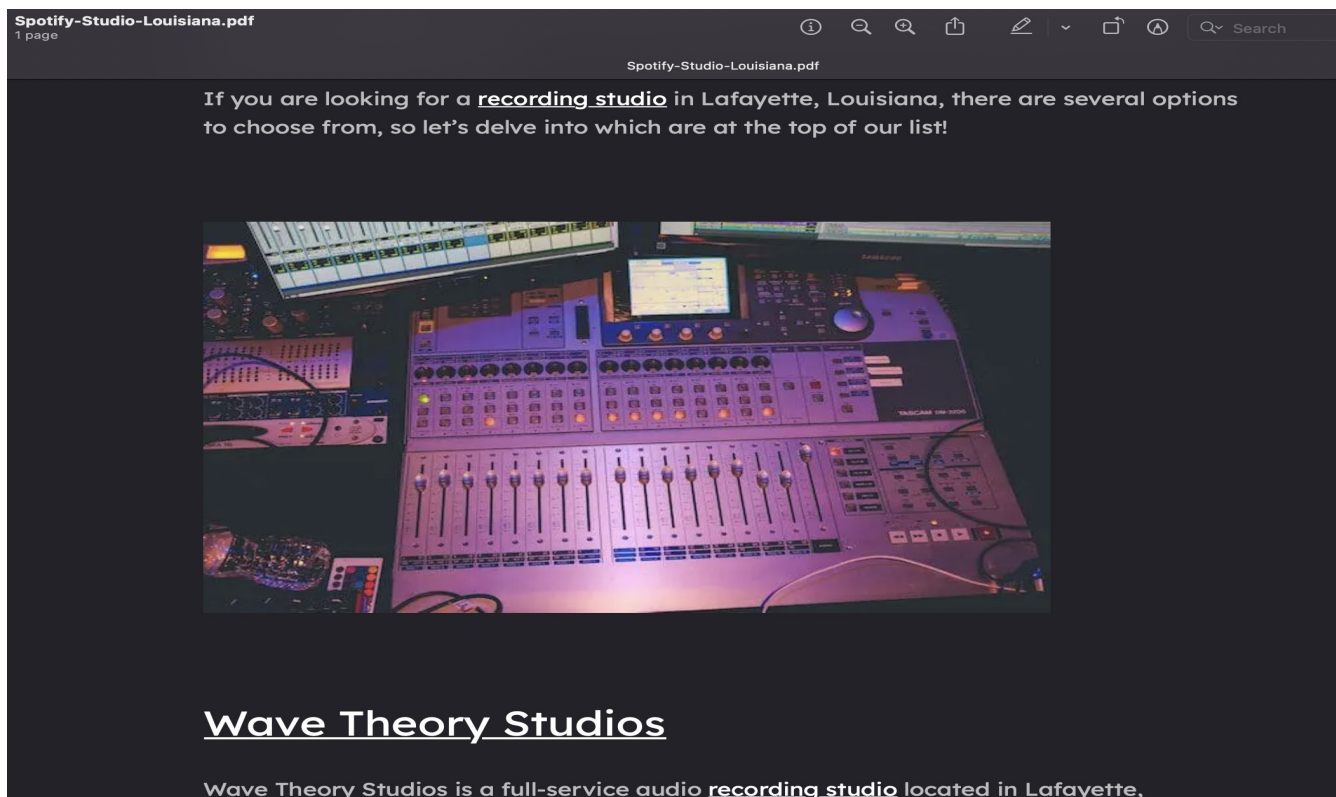
It took a few compromises among lawmakers to move Landry's tax package through last month's special session. A proposal to add sales taxes to more than 40 services and items was scuttled. The list included what many legislators termed "luxury" purchases, such as auto detailing, pet grooming and massages. Some professional services would have also been taxed, such as home remodeling and repairs, security monitoring and lobbying.

However, the Legislature did approve applying the higher sales tax to a host of digital products and services. If you use a streaming service such as Netflix, Spotify or Hulu, you'll pay the new 5% rate starting next year. It will also be added to the cost of dating apps and downloaded games, books and music. The "telecommunications services" category of items that will soon be taxed includes Zoom and other online meeting platforms that have become omnipresent in recent years.

Immediately after the special session ended, Republicans who carried Landry's legislation weren't keen to acknowledge the impact of higher sales taxes on poorer families. They saw a bigger upside for businesses they believe will now come to Louisiana, leading to more opportunity and better paying jobs.

EXHIBIT-F

SPOTIFY STUDIO IN LOUISIANA



Spotify-Studio-Louisiana.pdf
1 page

Spotify-Studio-Louisiana.pdf

 **USEFUL LINKS**

- Band Name Generator
- Blog
- BPM Tapper
- Case Studies
- Film Investors
- Artist / Band Showcase Page
- Free Large File Transfer
- Mastering
- Free Music Tools
- Pre-Save Links
- Online Guitar Tuner
- Online Metronome
- ISRC Finder
- Key/BPM finder
- Lyrics finder
- Lyric Rhyme Tool
- Partners
- Pricing
- Radio Stations Worldwide

FEATURES

- Cover Song Licensing
- For Music Licensing & Search
- Music Distribution
- Music Marketing
- Music Promotion
- Music PR & Press
- Music Sync Licensing
- Spotify Promotion
- Spotify Playlist Submission
- Submit Your Music Demos
- TikTok Promotion

MUSIC GATEWAY

- Advertising Agencies
- Artist Management
- Creative Industry Roles
- Curators
- Film Distribution
- Film Investment
- Film Marketing
- Games Publishers
- Indie Bands
- Independent Filmmakers
- Musician
- Music Artists
- Music Composer
- Music Industry Partners
- Music Producer
- Music Publishing
- Music Supervision
- Radio Stations
- Radio Promotion

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support@musicgateway.com

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EXHIBIT G

MUSIC METADATA

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Fixing problems with music metadata

Tip: We also have help if your [music's mixed up with another artist](#).

Reach out to your label or distributor to fix issues with:

- Artist name
- Release title
- Artwork
- Live date and release date
- Track order
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- Explicit lyric tags
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Your label or distributor needs to send a metadata update to us with the right info.

We can't change this manually on our end because we show music according to the metadata sent to us.

PRE SAVE



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7 Dec 2017 3 min read

New premium Smart Link features help get more pre-saves on Spotify, collect detailed fan info, and more



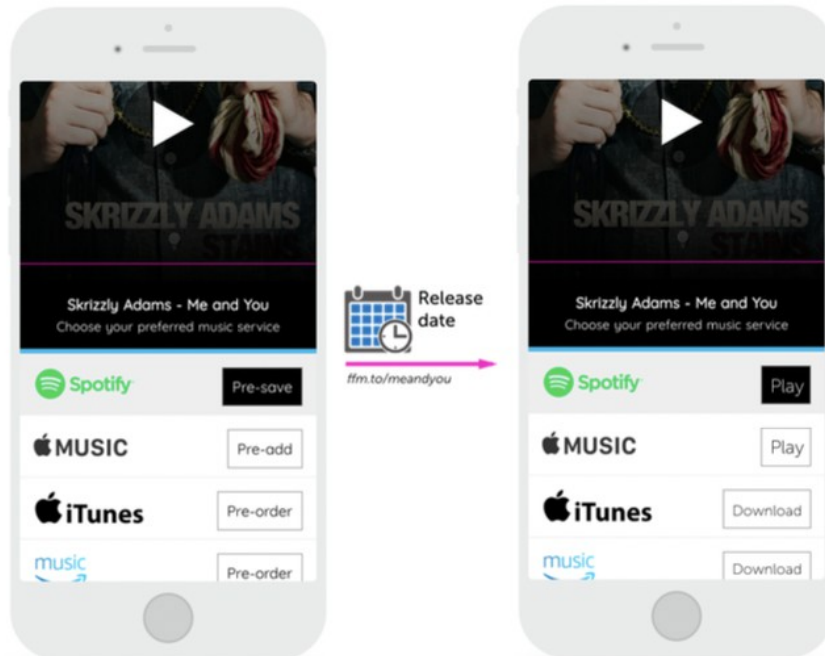
Feature.fm

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In addition to standard features like retargeting and affiliate commission, you get more features than anywhere else in one place.

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Pre-save links that convert to standard Smart Links automatically

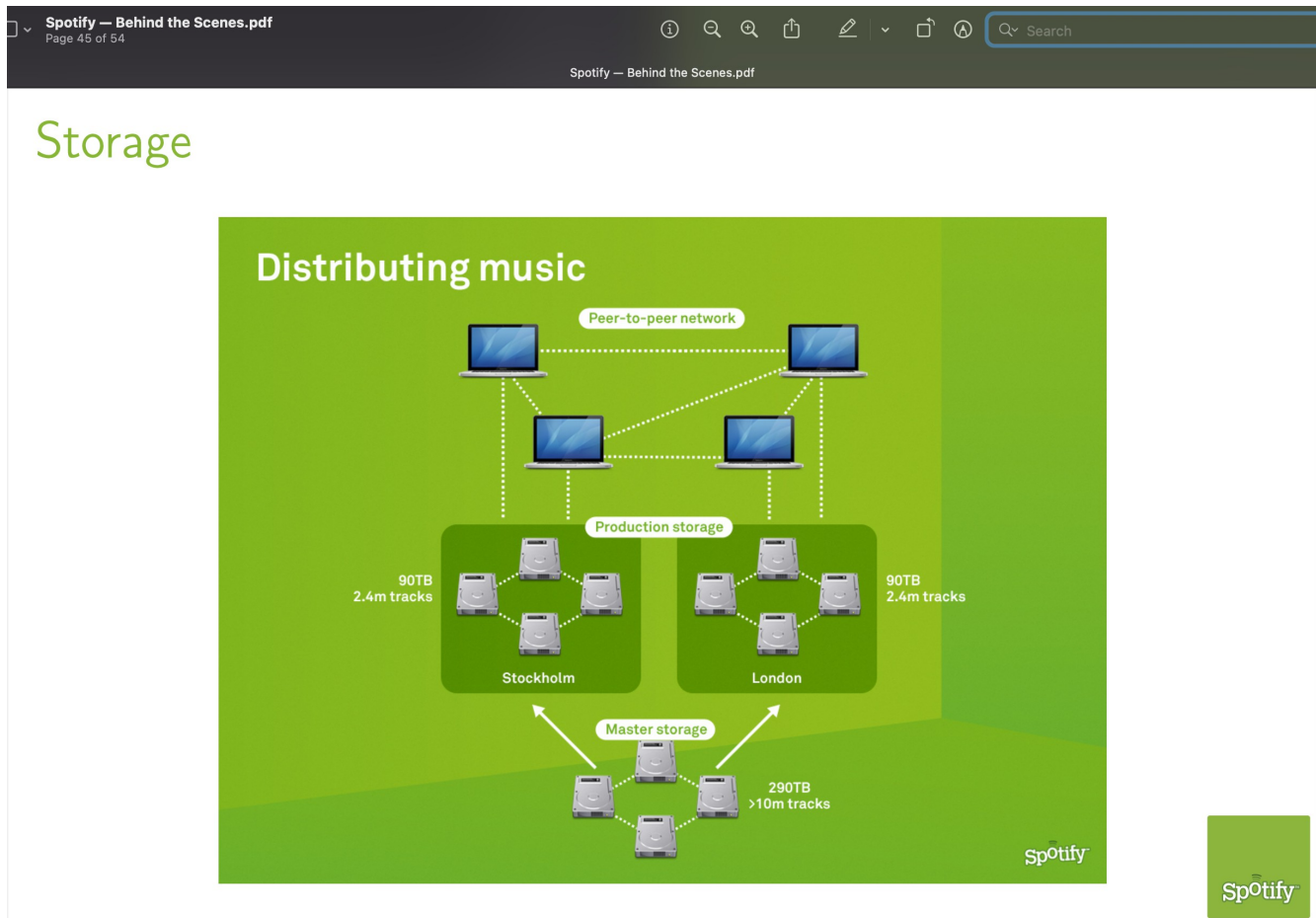


Want to start marketing a future release?

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EXHIBIT-H

SPOTIFY BEHIND THE SCENES 2011 DEMO



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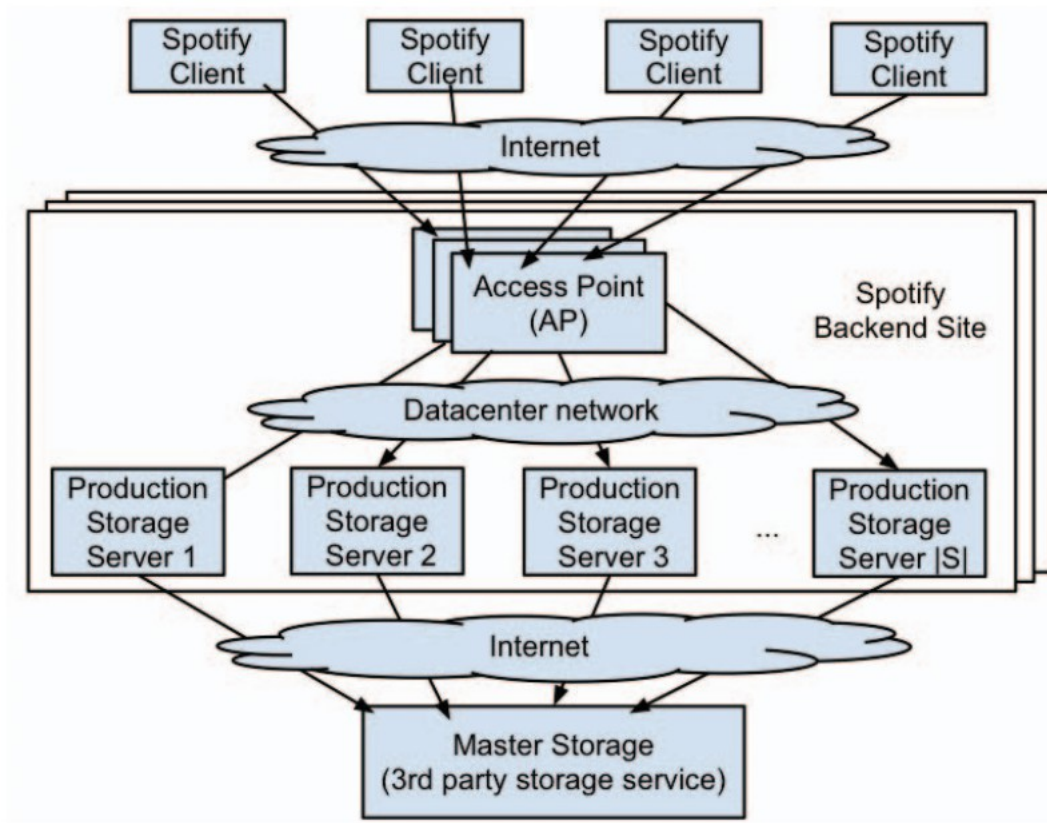


Fig. 1. Spotify Storage Architecture

EXHIBIT I

CLAIM 1 DRAWING

U.S. PATENT NO. 9,146,925
CHECK1TWO SERVER

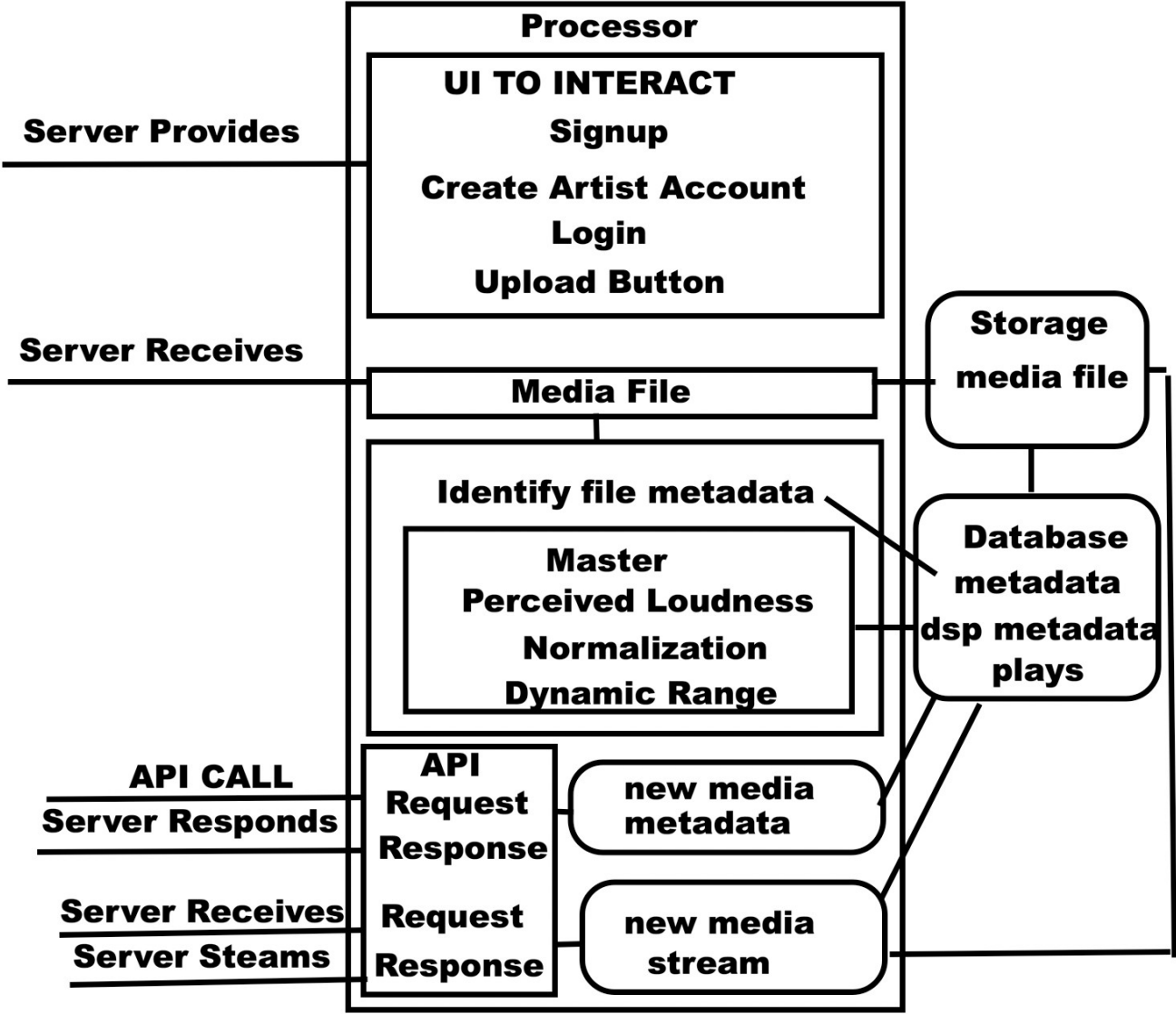


EXHIBIT J

SPOTIFY AUDIO NORMALIZATION USES DYNAMIC RANGE

↑ Top New Product Alert Classifieds Reviews [X] dynamic compression 0 of 0 Interviews Article



Introducing

Drawmer 1976

Three Band Saturator

Saturation that sings.



Reply Options

16th January 2015 #1

PrismaPhonic
Registered User
Joined: Sep 2014
Posts: 155
[My Recordings/Credits](#)
10 years

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I tested a song with an average RMS in loud passages of -14.5 dBFS, and recording out of spotify yielded a track with -12 dBFS RMS average in those same passages, which means that Spotify limited the material by 2.5 dB (roughly).

Are there any tools out there to show you what the outcome would be of running a song through Spotify's level matching algorithm?

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Initiative

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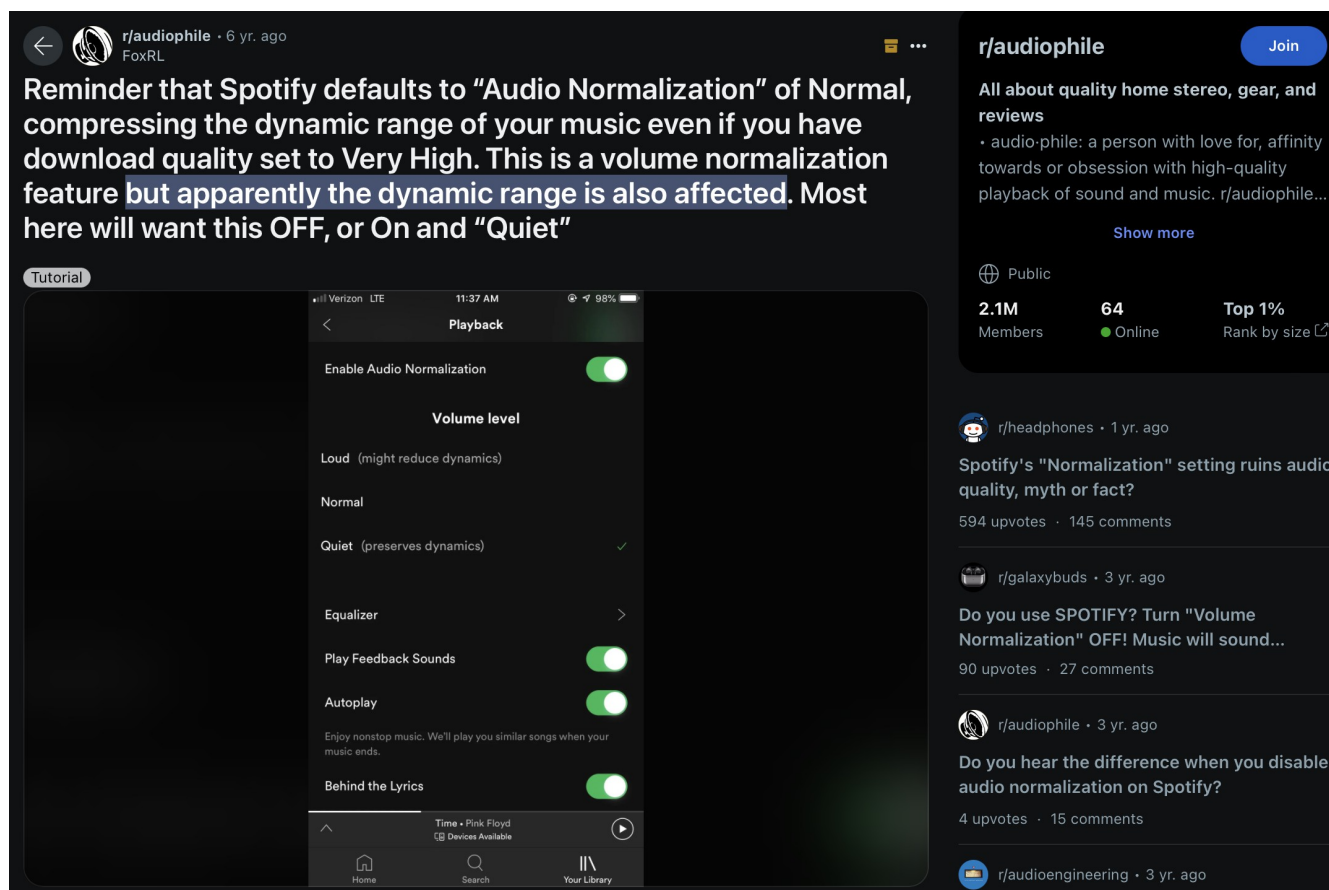
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SPOTIFY LOUDNESS CALCULATION USING ITU 1770 USE DYNAMIC RANGE

R-REC-BS.1770-5-202311-!!!PDF-E.pdf

22

Rec. ITU-R BS.1770-5

It is interesting to consider the implementation of such an over-sampler. It is usual to implement such the low-pass filter as a symmetrical FIR. Where such filters are used to pass high-quality audio, e.g. in (old-fashioned) over-sampling *D/A* converters or in sample-rate converters, it is necessary to calculate a large number of “taps” in order to maintain very low passband ripple, and to achieve extreme stop-band attenuation and a narrow transition band. A long word-length must also be maintained to preserve dynamic range and minimize distortion.

**Attachment 1
to Annex 1
(informative)**

Description and development of the multichannel measurement algorithm

This Attachment describes a newly developed algorithm for objectively measuring the perceived loudness of audio signals. The algorithm can be used to accurately measure the loudness of mono, stereo and multichannel signals. A key benefit of the proposed algorithm is its simplicity, allowing it to be implemented at very low cost. This Attachment also describes the results of formal subjective tests conducted to form a subjective database that was used to evaluate the performance of the algorithm.

1 Introduction

There are many applications where it is necessary to measure and control the perceived loudness of audio signals. Examples of this include television and radio broadcast applications where the nature and content of the audio material changes frequently. In these applications the audio content can continually switch between music, speech and sound effects, or some combination of these. Such changes in the content of the programme material can result in significant changes in subjective loudness. Moreover, various forms of dynamics processing are frequently applied to the signals, which can have a significant effect on the perceived loudness of the signal. Of course, the matter of subjective loudness is also of great importance to the music industry where dynamics processing is commonly used to maximize the perceived loudness of a recording.

SPOTIFY FOR ARTISTS USES DYNAMIC COMPRESSION AND LIMITERS



for Artists

Get started

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Premium listeners can also choose volume normalization levels in the app settings to compensate for a noisy or quiet environment

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7 Dec 2017 3 min read

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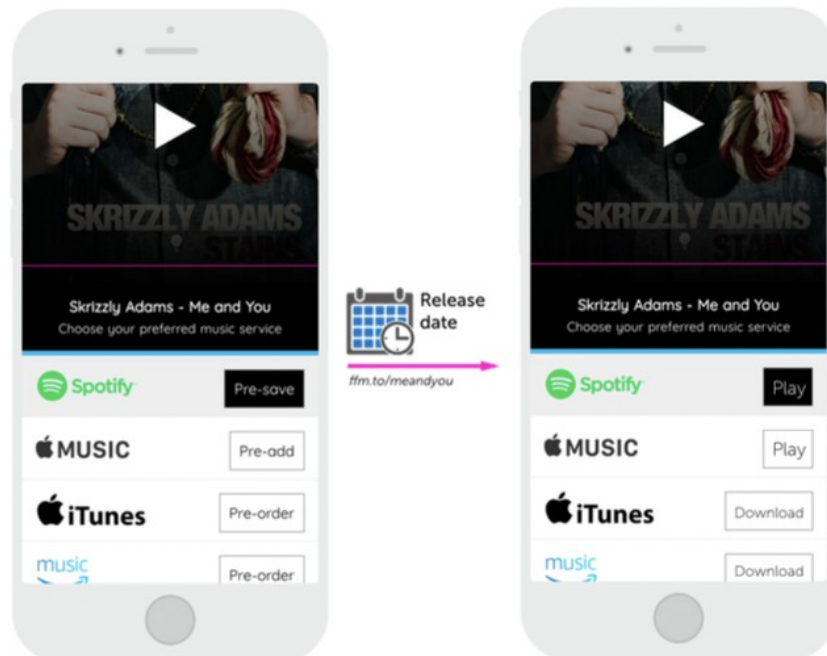
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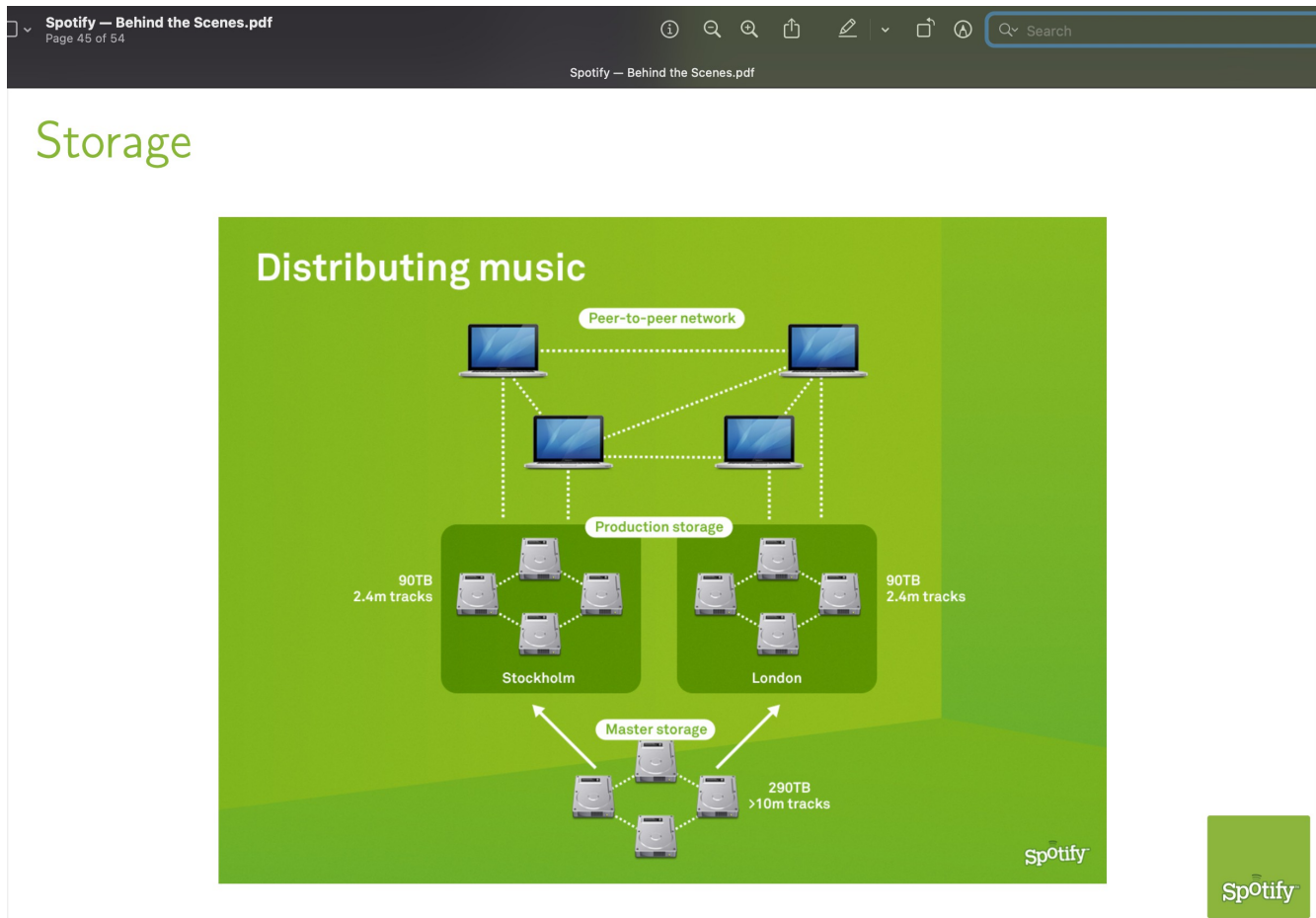


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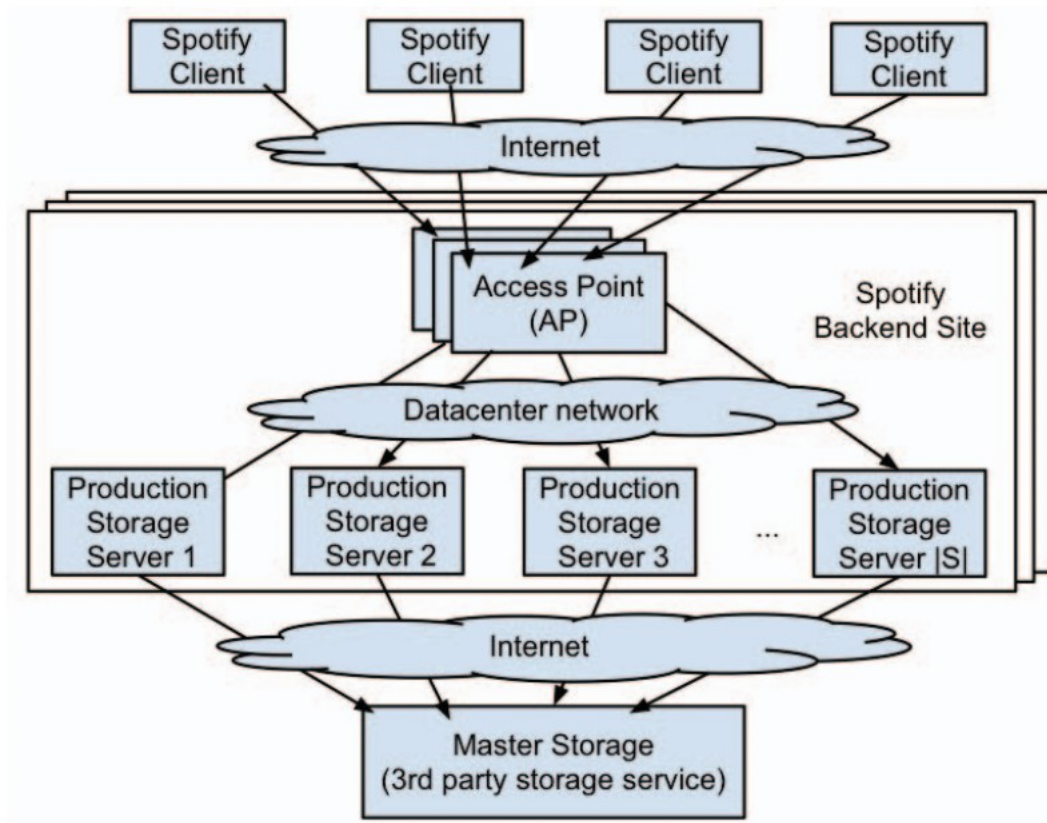


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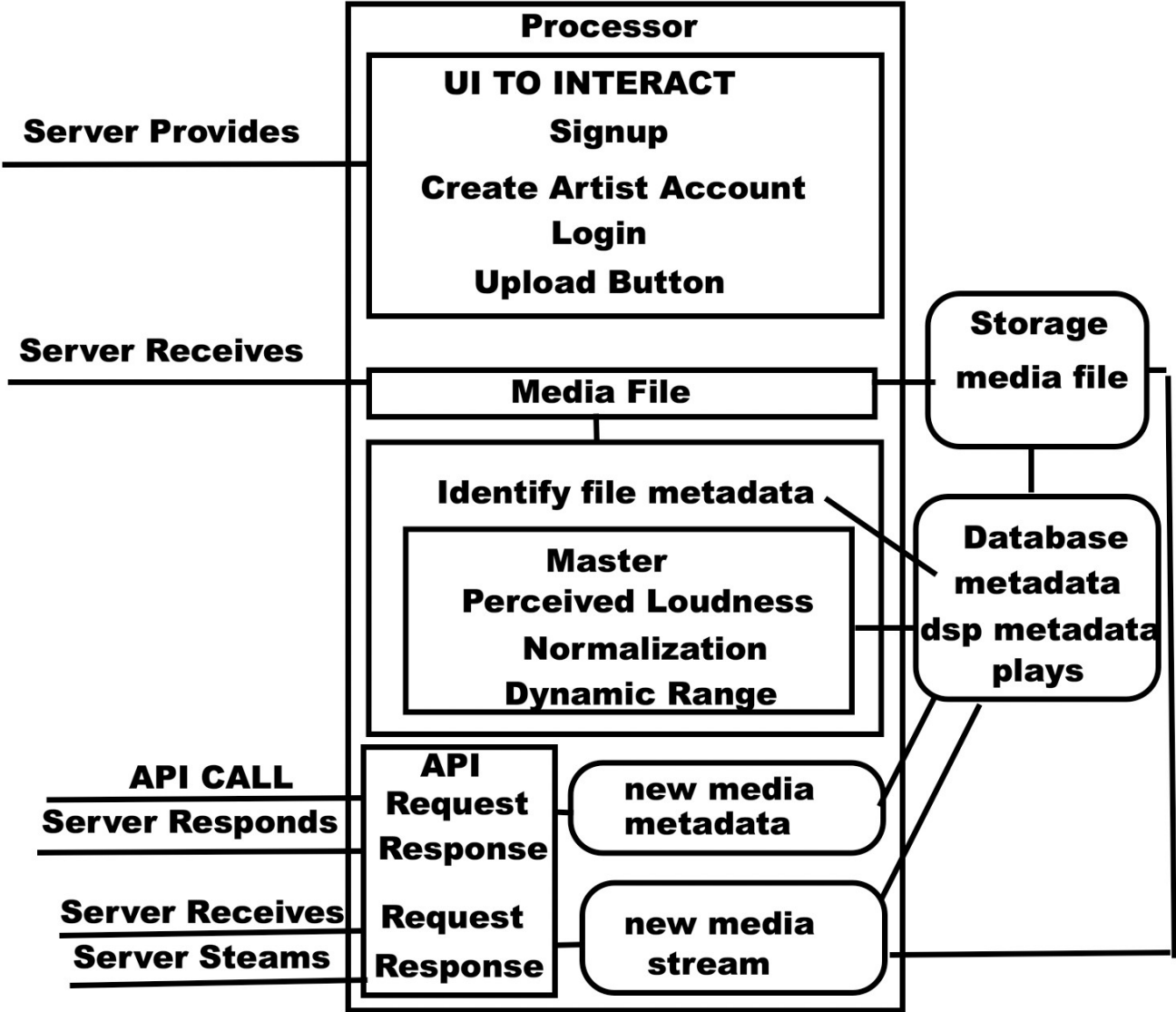


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16th January 2015

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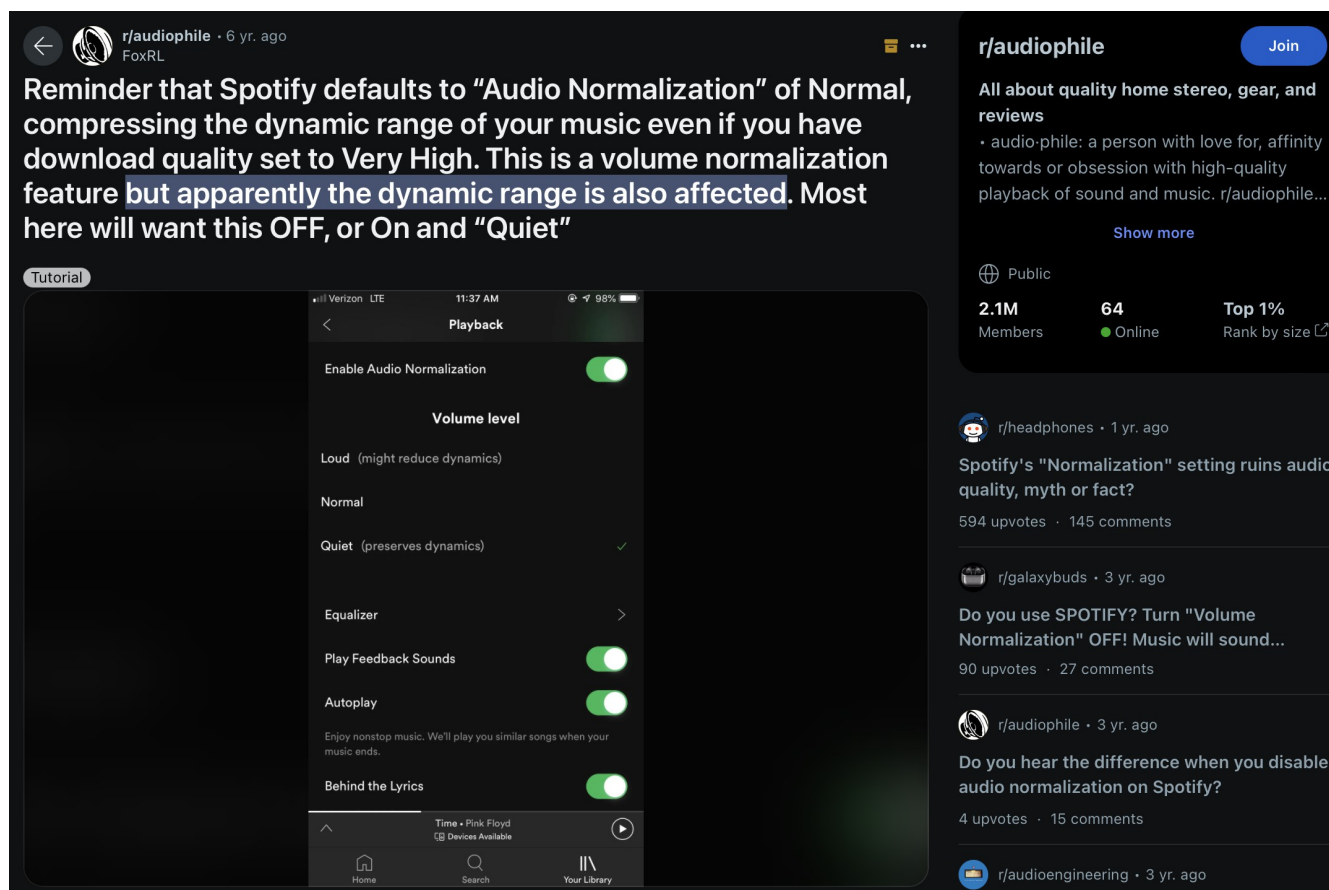
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