

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Spotify USA Inc.
Petitioner,

v.

Manuel Tijerino
Patent Owner.

Patent No. 9,146,925

Inter Partes Review No. IPR2025-01280

SUPPLEMENTAL DECLARATION OF WILLIAM ROSENBLATT

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I, William Rosenblatt, make this declaration in connection with the proceeding identified above.

I. INTRODUCTION

1. I have been retained by counsel for Spotify USA Inc. (“Petitioner” or “Spotify”) in connection with the proceeding identified above. I submit this supplemental declaration in support of Spotify’s Petition for *Inter Partes* Review (“Petition”) of United States Patent No. 9,146,925 (EX1001, “’925 patent”). I understand that Manuel Tijerino (“Patent Owner”) states that he is the owner of the ’925 patent.

2. I submitted a prior declaration (EX1003) dated July 11, 2025, in connection with Spotify’s Petition. That declaration included my opinions regarding how a person of ordinary skill in the art (“POSITA”) would have understood the ’925 patent, and its claims, at the time of invention, and my opinions regarding whether the prior art references used in the asserted grounds of the Petition disclose elements of the claims challenged in that petition and would have been combinable.

3. I understand that the Petition challenged claims 1-17 of the ’925 Patent. I understand further that, after the Petition was filed, the Patent Trial and Appeal Board (“Board”) issued a decision on institution (Paper No. 10, “DI”) that instituted trial for the challenged claims. I understand that, after the Board

instituted trial, Patent Owner filed a Patent Owner's Response (POR) in this proceeding (Paper No. 14).

4. I understand that the application that became the '925 patent was filed on July 27, 2010, and initially purported to be a continuation-in-part of U.S. Patent Appl. No. 11/744,228 ("the '228 application"). The '925 application added new material to the disclosure of the '228 application. I understand that Patent Owner's apparent position is that the '925 patent is entitled to the benefit of the May 4, 2007, filing date of the '228 application. As explained further below, I understand that in order for a patent to have the benefit of an earlier application's filing date, each claim of the patent must be supported by the disclosure of the earlier application.

5. I have been asked to consider and provide my technical review, analysis, insights, and opinions regarding aspects of the POR. As set forth below, it is my view that none of the claims of the '925 patent is supported by the disclosure of the '228 application. I provide here my analysis of a proposed construction of the claim term "processor"; and of certain technical details regarding the motivation to combine prior art references presented in my initial declaration.

6. I do not respond here to all of Patent Owner's arguments in the POR. To be clear, any failure here to fully address any argument raised in the POR does not mean that I agree with the argument in any way.

7. I am being paid the same hourly rate as set forth in my initial declaration. My compensation is not dependent on the outcome of this *inter partes* review and in no way affects the substance of my statements in this declaration.

8. I reside in New York City, USA.

II. QUALIFICATIONS AND EXPERTISE

9. I provided details of my qualifications, and a copy of my CV (EX1004), in connection with my previous declaration in this matter (EX1003, ¶¶10-19). I incorporate them here by reference. My qualifications and experience have not changed materially since the filing of my initial declaration in July 2025.

III. MATERIALS REVIEWED AND CONSIDERED

10. In performing my analysis and preparing this supplemental declaration, I reviewed the Petition and the cited exhibits; the POR; Spotify's Reply to Patent Owner's Preliminary Response (Paper No. 8) and Patent Owner's Sur-Reply (Paper No. 9); the Board's Decision on Institution (DI, Paper No. 10); the prosecution history of U.S. Patent Appl. No. 11/744,228 (EX1029) and its

USPTO publication (EX1032); and the '925 patent (EX1001) and its prosecution history (EX1002), in addition to any other documents identified herein.

11. In addition to these materials and any other documents identified herein, my opinions herein are based upon my personal knowledge, professional judgment, education, and experience gained through my years as a computer scientist, professor, and consultant. I reserve the right to rely upon additional materials as I become aware of them, and to revise my analysis and opinions to the extent appropriate based on any such new materials.

IV. LEGAL UNDERSTANDING

12. I have been advised and understand that for a patent's claims to be entitled to an earlier priority date, the patent owner must demonstrate that each claim meets the requirements of 35 U.S.C. § 120. I have been informed that this section provides four requirements. For the purposes of this Supplemental Declaration, I focus on only one of the four requirements: whether the written description of the earlier filed application discloses the invention claimed in the later filed application sufficient to satisfy the requirements of § 112. I understand that this analysis with respect to § 112 is performed on a claim-by-claim basis.

13. Section 112, in turn, has a number of requirements that must be met for a later-filed application to benefit from the filing date of an earlier-filed

application. I focus here on the requirement that the earlier filed application—here, 11/744,228 (the “’228 application”)—must provide adequate written description support for a patent claim of ’925 patent. I understand that this is referred to as the “written description” requirement. I understand that the written description requirement is met if, at the time of the filing of the earlier application, a POSITA reading that application would have reasonably concluded that the inventor had possession of the claimed invention. That is, the disclosure of the ’228 application must reasonably convey to the POSITA that the inventor had possession at that time of the claimed subject matter of the ’925 patent.

14. I further understand that written description does not necessarily require express disclosure in the earlier filed application, and that non-express disclosures (such as inherent disclosures) can provide written description support.

15. I understand that the written description inquiry must take into the entirety of what is disclosed within the specification. Factors, such as the existing knowledge in the field, the extent and content of the prior art, the maturity of the science or technology, and the predictability of the aspect at issue, may also be used to determine the adequacy of written description disclosure of the earlier filed application. But I understand that it is insufficient that undisclosed subject matter would have been obvious to a POSITA at the time of the earlier filed application.

16. I understand that another requirement under § 112 is that the earlier filed application must enable the claimed invention. I do not express any opinion here as to whether any claims of the '925 patent are enabled by the '228 application.

V. LEVEL OF ORDINARY SKILL

17. Based on the disclosure of the '925 patent and the priority date, a POSITA would have had a Bachelor of Science degree and a Masters degree in Computer Science, Electrical Engineering, Computer Engineering, or an equivalent field, as well as one to two years of academic or industry experience in computer-based systems for digital audio distribution and playback, or comparable industry experience. The POSITA further would have been knowledgeable about audio signal processing techniques, such as gain normalization and dynamic range compression, and software engineering. This is the same level of ordinary skill I applied in my prior declaration in this matter. I note that the POR does not dispute that this is the level of skill applicable to this matter.

VI. THE '228 APPLICATION AND THE '925 PATENT

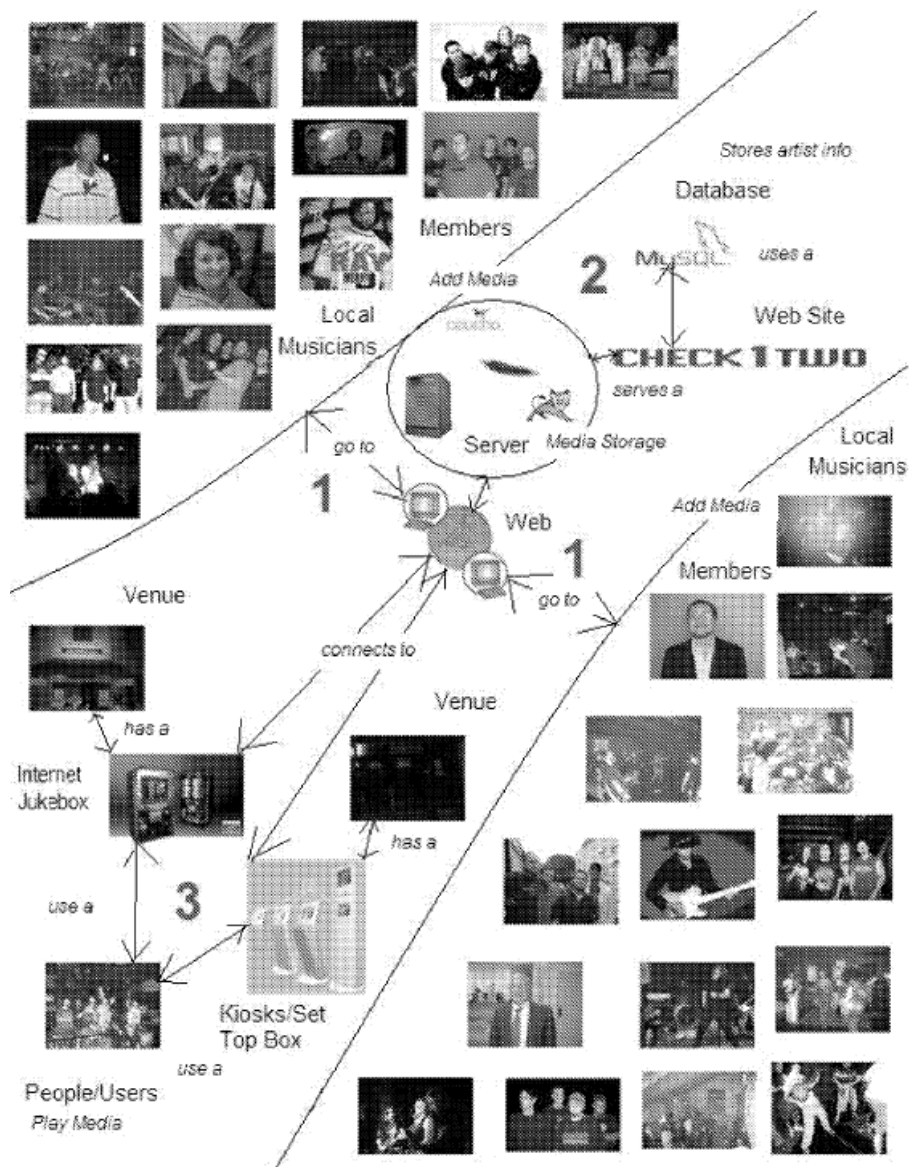
A. The '228 Application

18. I understand the '228 patent application (titled "User Defined Internet Jukebox Kiosks Set Top Box") was filed on May 4, 2007, and published on November 6, 2008. (EX1032; EX1029.) Exhibit EX1029 is the prosecution

history of that application which includes the '228 application as filed and later published as shown in Exhibit EX1032. I understand the '228 application was abandoned and never issued as a U.S. patent.

19. The specification of the '228 application, as filed on May 4, 2007, included a single figure. The remainder of the specification included a sentence purporting to describe the “Technical Field and Industrial Appllicability [sic] of the Invention”; a two-sentence abstract; and four paragraphs purporting to describe the background of the invention. The application as filed on that date also included 20 claims. (EX1029, 106-110.)

20. The figure as filed on May 4, 2007, is provided below:



(EX1029, 109.)

21. The abstract of the specification as filed on May 4, 2007, is provided below:

Abstract of the Disclosure

A system such as an Internet Juke Box, Kiosk, or Set Top Box connected to the network which is database driven and tied to an on line internet site where local artist and musicians can create a profile which will allow them to upload their media, being images, music and videos, and later go to an establishment that has this system and play it. The system will have the ability to expose local musicians to the masses and earn them money.

(EX1029, 110.)

22. The remainder of the specification as filed on May 4, 2007, is provided below:

TECHNICAL FIELD AND INDUSTRIAL APLLICABILITY OF THE INVENTION

This invention relates to systems and methods for exposing local artist to the masses.

BACKGROUND OF THE INVENTION

As a programmer, musician, and sole creator of <http://www.check1two.com> I have noticed the struggle faced by many local artist and musicians in the ability of promoting their music by means of the internet jukeboxes. The present invention relates particulaly to the ability of a band, artist, and or individual musician to easily upload their media to a website that is directly linked to an internet jukebox, kiosk, and or set top box.

Jukebox systems are widely used in establishments as means of promoting well known musicians. The not so well known musicians can use this invention to promote themselves with out having the clout previously needed. Typically, the musicians will upload their media to the system which will allow them to earn fees and royalties. The novelty of the invention is the power an individual will have in promoting themselves.

Making music takes a lot of time, dedication and money. The people lucky enough to have a band still have to work hard at playing shows and exposing themselves in a way that will counter the heavy cost of equipment and practice room rent. Current internet jukeboxes serve media in digital format, therefore artist have to pay big bucks to get a digital record and still so few get air play. Before the invention of the internet jukebox, an artist had to know someone to get their cd's into the jukebox. Now with the great technological advances of the internet and internet jukeboxes artist still have to audition, submit ,and practically beg the companies to put their music in their systems. Some companies will not even consider you unless you have an existing record deal. If your music is not mainstream you can forget about getting it played on any jukebox.

This invention will put an end to the current struggle local musicians face today in getting their music played in the internet jukeboxes and create better livelihoods for individual artist and bands that may have never otherwise had a chance to be heard.

(EX1029, 106.)

23. The 20 claims filed on May 4, 2007 are reproduced below:

What Is Claimed Is:

1. The system will have users and members. Members that provide the content and users that use the content.
2. A member's role will be to create a profile from home, work or anywhere where they have access to a computer with internet.
3. From claim 2, after a profile is created the member will be able to add his band/group/individual images to his/her profile.
4. From claim 2, the member will have the ability to upload his/her media files.
5. From claim 4, the media files may be images, music, and or videos in digital format.
6. From claim 5, as soon as the profile is created and the media and image files are uploaded the member account will receive a status of active.
7. From claim 6, upon activating the account the users media/content/profile will be available to all of the systems connected to the network as well as online for convenience.
8. The system will keep track of the member's media and files and play count for royalties to be paid.
9. From a user's standpoint they will be using an Internet jukebox with local artist on it.
10. The system will also connect to existing artist just like jukeboxes do now.
11. The system will be built in an Object oriented manner which will also allow for modular expansion.
12. From claim 11, some systems will contain built in speakers and amplifiers that can be of different sizes and exchangeable, while other systems will simply connect to existing in house PA's.
13. From claim 11, some systems will contain video cards to allow connection to television sets in venues that would like that feature for video plays.
14. From claim 11, some systems will contain the ability of burning cd's on the spot for customers.
15. Systems will contain a bill acceptor.
16. From claim 11, some systems will be enabled to receive credit cards and debit cards as well a prepaid online accounts by account providers such as paypal.
17. Some systems will have wired remotes for skipping tracks and volume controls while others have wireless remotes and some having both.
18. From claim 17, when a user chooses to play a file that is not stored on the hard drive the system will stream it and store it on the hard drive for future plays.
19. From claim 10, all royalties and fees will be paid to the proper content providers and or artist who created the media used, governed by their terms of use.
20. The main purpose of the system is to expose local artist to the masses without having to be signed by a major record label and having a chance to earn money while allowing more time to focus on making music, and facilitating what has been almost an impossible feat to attain today, an easy reality of tomorrow as every party involved meaning the artist, the individual users, and the establishment, venue, bar, or club a positive experience.

(EX1029, 107-08.)

24. On June 20, 2007, the applicant amended the specification and claims. (EX1029, 79-95.) In remarks accompanying the amendment, the applicant stated that “This amendment does not contain any new material.” (EX1029, 79.) (For clarity, I take no position here on whether any amendment to the ’228 application was in any way proper, or whether any such amendment presented new matter.)

25. The June 20, 2007, amendment reorganized the disclosure that was originally presented on May 4, 2007. It also provided a replacement figure, and added two new paragraphs. (EX1029, 89-92.) The amendment also purported to add preamble language to claims 2, 8, 9, 10, 15, and 17. (EX1029, 93-94.) The amendment also added a “Title of the Invention” (“User Defined Internet Jukebox Kiosks Set Top Box”) and three new headings: “Cross-Reference to Related Applications”; “Statements Regarding Federally Sponsored Research or Development”; and “Reference to Sequential Listing, a Table or a Computer Program Listing Compact Disk Appendix”. (EX1029, 90.) For each of these new headings, the applicant added: “Not Applicable.”

26. The replacement figure provided on June 20, 2007, now labeled Fig. 1, is provided below:

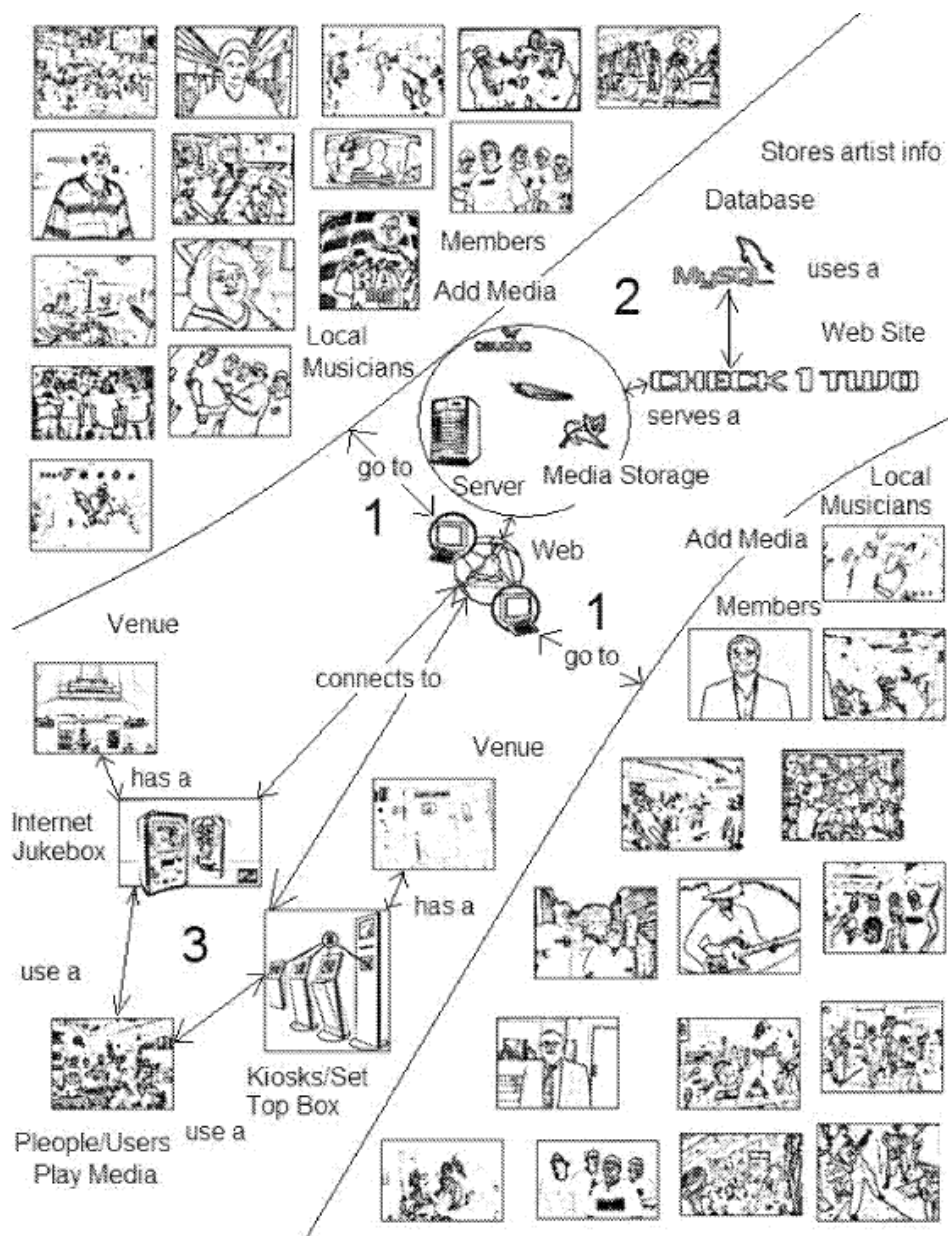


Fig. 1.

(EX1029, 89.)

27. The two new paragraphs ([0006] and [0007]) added on June 20, 2007, are provided below:

BRIEF DESCRIPTION OF THE DRAWING

[0006] The foregoing aspects and many of the attendant advantages of this invention will become more readily appreciated as the same become better understood by reference to the following detailed description, when taken in conjunction with the accompanying drawing and/or FIGURE. FIGURE 1 is a perspective view of the entire system from start to finish.

DETAILED DESCRIPTION OF THE INVENTION

[0007] The present invention is a unique and new way to expose local artist from any state, city, or country to a world wide audience, currently not implemented by internet jukeboxes. By way of overview and with reference to FIGURE 1, the system of the present invention includes the members meaning an individual musician, band, artist, etc, that add their media meaning images, music, and videos to the system, and the manner in which this media is added to the system 1. When a member gets on anything with an internet connection, such as a computer, that can upload their media they will connect to the website or user interface provided to add their media. The back end system 2 will be composed of servers, databases, and web programs that will handle storage, retrieval, and updates to the members accounts and foremost their media. The establishments that have the jukeboxes, kiosk, or set top boxes 3 will have the media available from all members in the system. This means that as soon as any member adds their media to their account it will be instantly available for playback.

(EX1029, 91-92.)

28. On November 3, 2009, the applicant again amended the specification and claims. (EX1029, 14-27.) The specification was amended as follows:

AMENDMENT TO THE SPECIFICATION

The first sentence of paragraph [0008] should be replaced to read:

As a programmer, musician, and founder of checkitwo® I have noticed the struggle of faced by many local artist and musicians in the ability of promoting their music by means of internet jukeboxes.

No new matter has been added.

(EX1029, 15.)

29. The claims were amended to cancel claims 1-20 and add new claims 21-23:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

1. (Cancelled)
2. (Cancelled)
3. (Cancelled)
4. (Cancelled)
5. (Cancelled)
6. (Cancelled)
7. (Cancelled)
8. (Cancelled)
9. (Cancelled)
10. (Cancelled)
11. (Cancelled)
12. (Cancelled)
13. (Cancelled)
14. (Cancelled)
15. (Cancelled)
16. (Cancelled)
17. (Cancelled)
18. (Cancelled)
19. (Cancelled)
20. (Cancelled)
21. (New) A computer implemented method of allowing any musician to upload media to an Internet jukebox, comprising the steps of:
 - providing the musician with an interface to upload media to a server,
 - instantly transferring the media to a system of Internet jukeboxes in establishments,
 - providing for instant availability for playback of media by users on Internet jukeboxes in establishments after uploading by the musician to the server.
22. (New) The method of claim 21 where the media comprises images, video and music.
23. (New) The method of claim 21 further comprising the step of:
 - providing the system of Internet jukeboxes with programming to maintain an account for the musician allowing the musician to earn fees and royalties from playback of the media.

(EX1029, 16-17.)

30. After November 3, 2009, no further amendments were made.

B. The '925 Patent

31. I understand the application that became the '925 patent was filed on July 27, 2010, and initially purported to be a continuation-in-part of the '228 application. (EX1001.) The '925 application added substantial new material that was not described in the '228 application. For example, the '925 application included 48 figures (compared to the single figure in the '228 application) and a more substantial written description than the short description provided in the '228 application. (EX1001.)

VII. NONE OF THE CHALLENGED CLAIMS OF THE '925 PATENT IS SUPPORTED BY THE '228 APPLICATION

32. I have analyzed claims 1-17 of the '925 patent in view of the '228 application. I have considered the entirety of the '228 application as it was originally filed on May 4, 2007, and as it was amended on June 20, 2007, and November 3, 2009, as described above. In my view, none of claims 1-17 of the '925 patent is supported by the '228 application, at least because the claims fail the written description requirement. That is, in my view, the '228 application does not reasonably convey to a POSITA that the inventor was in possession of the claimed subject matter of the '925 patent at the time the '228 application was filed (May 4,

2007), or at either of the times the '228 application was amended (June 20, 2007, and November 3, 2009).

33. In my analysis below, the “filing date” refers to the '228 application's actual filing date of May 4, 2007, and also includes the two dates on which the '228 application was amended (June 20, 2007, and November 3, 2009).

34. In the explanations below, for consistency with my prior declaration, I use the same letter designations for claim limitations as I did previously.

35. As described below, the written description requirement is not met at least because limitations [I], [J], [P], and [Q] of independent claim 1 are not supported by the '228 application. Any of these limitations, let alone all four, would be sufficient to show that the written description requirement is not met for claim 1, and therefore that claim 1 is not supported by the '228 application.

36. Limitations [I], [J], [P], and [Q] of independent claim 3 are substantively the same as limitations [I], [J], [P], and [Q] of independent claim 1. Thus, the written description requirement is not met for independent claim 3 for at least the same reasons as for independent claim 1.

37. Claims 2 and 4-17 depend from claim 1 and thus include the limitations of claim 1. The written description requirement is not met for any of claims 2 and 4-17 for at least the same reasons as for independent claim 1.

38. I do not express an opinion here as to specification support for any limitations of any claim other than limitations [I], [J], [P], and [Q] of independent claim 1 (and the analogous limitations [I], [J], [P], and [Q] of independent claim 3), except as otherwise noted.

A. Claim 1

1. Limitation [I]

39. In my view, the '228 application does not support Limitation [I] of claim 1 at least because the written description requirement is not met for this limitation. That is, the disclosure of the '228 application does not reasonably convey to the POSITA that, as of the filing date, the inventor had possession of the claimed subject matter recited in Limitation [I]: “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”.

40. This is at least because the POSITA would have understood there to be no disclosure in the '228 application of any automatic analysis, by a processor, of audio signals of new media, for determining a root mean square (RMS) value; nor of the RMS value being further mathematically manipulated for obtaining a positive RMS value less than 1. For example, the '228 application—including

Figure 1, which purports to show “the entire system from start to finish”—provides no disclosure of determining or manipulating an RMS value. (EX1029, 89, 91.)

41. During prosecution of the application that became ’925 patent, the application was rejected as obvious over the prior art references Davis et al. (U.S. Pub. No. 20030135424) and Gunaseelan et al. (US 6601136). (EX1002, 361-378.) The application was not allowed until the applicant, at the express suggestion of the patent examiner in an interview, amended the claims to recite Limitations [I], [J], [P], and [Q]. (EX1002, 402-408, 412, 439-443.) The applicant expressly provided the reasons for the amendment: “the Examiner suggested adding details relating to on-the-fly mastering found on paragraph 0081, of Applicant’s specification, to help proceed this case towards allowance.” (EX1002, 408.) (Paragraph 0081 in this context can refer only to the specification of the ’925 patent application, not the ’228 application, which does not include a paragraph 0081.)

42. In my view, the POSITA would have understood the applicant’s reference to claiming “details relating to on-the-fly mastering found on paragraph 0081” to include Limitation [I]. This is because paragraph 0081 of the ’925 patent’s specification discloses that “the jukebox will master the artist’s track using digital signal processing,” including that “the average volume is checked using the

root mean (RMS) formula”; that “[t]he RMS returns a positive value which is then negated by subtracting the RMS value from 0”; and that “[t]his negative value is then added to the maximum peak volume of 1 which returns a positive value less than 1.” (EX1002, 62-63.) The POSITA would have understood that none of these disclosures of paragraph 0081 are expressly found in the ’228 application, including as originally filed and as amended. (EX1029.) Further, the POSITA would not have found the ’228 application to otherwise disclose Limitation [I], at least because the ’228 application does not relate to a processor automatically analyzing audio signals, and thus neither implies nor requires determining and manipulating the RMS values recited in Limitation [I].

43. Additionally, the applicant did not dispute the Examiner’s identification of paragraph 0081 as providing the “details relating to on-the-fly mastering”; nor did the applicant identify any disclosure of the ’228 application (or any other disclosure) as supporting Limitation [I]. (EX1002, 408, 412.) The Examiner’s and applicant’s reliance on the ’925 application, not the ’228 application, to support Limitation [I] reinforces my opinion that Limitation [I] is not supported by any disclosure (express or otherwise) of the ’228 application.

2. Limitation [J]

44. In my view, the '228 application does not support Limitation [J] of claim 1 at least because the written description requirement is not met for this limitation. That is, the disclosure of the '228 application does not reasonably convey to the POSITA that, as of the filing date, the inventor had possession of the claimed subject matter recited in Limitation [J]: “storing, by the processor, the obtained RMS value less than 1 as metadata for the new media”.

45. This is at least because the POSITA would have understood there to be no disclosure in the '228 application of determining an RMS value, or mathematically manipulating that RMS value to obtain an RMS value less than 1, as described above for Limitation [I]. Further, the '228 application includes no disclosure of storing any RMS value as metadata for the new media. For example, the '228 application—including Figure 1, which purports to show “the entire system from start to finish”—provides no disclosure of storing an RMS value of any kind. (EX1029, 89, 91.)

46. As noted above for Limitation [I], the '925 patent application was not allowed until the applicant, at the express suggestion of the patent examiner in an interview, amended the claims to recite Limitations [I], [J], [P], and [Q]. (EX1002, 402-408, 412, 439-443.) The claims were amended to recite these limitations

because “the Examiner suggested adding details relating to on-the-fly mastering found on paragraph 0081, of Applicant’s [’925] specification, to help proceed this case towards allowance.” (EX1002, 408.)

47. In my view, the POSITA would have understood the applicant’s reference to claiming “details relating to on-the-fly mastering found on paragraph 0081” to include Limitation [J]. This is because paragraph 0081 of the ’925 patent’s specification discloses that “[t]he RMS returns a positive value which is then negated by subtracting the RMS value from 0”; and that “[t]his negative value is then added to the maximum peak volume of 1 which returns a positive value less than 1.” (EX1002, 63-64.) Limitation [J] similarly refers to the “obtained RMS value less than 1”. The POSITA would have understood that none of these disclosures of paragraph 0081 are expressly found in the ’228 application, including as originally filed and as amended. (EX1029.) Further, the POSITA would not have found the ’228 application to otherwise disclose Limitation [J], at least because the ’228 application does not relate to a processor automatically analyzing audio signals or obtaining RMS values, and thus neither implies nor requires storing an obtained RMS value less than 1 as metadata, as recited in Limitation [J].

48. Additionally, the applicant did not dispute the Examiner's identification of paragraph 0081 as providing the "details relating to on-the-fly mastering"; nor did the applicant identify any disclosure of the '228 application (or any other disclosure) as supporting Limitation [J]. (EX1002, 408, 412.) The Examiner's and applicant's reliance on the '925 application, not the '228 application, to support Limitation [J] reinforces my opinion that Limitation [J] is not supported by any disclosure (express or otherwise) of the '228 application.

3. Limitation [P]

49. In my view, the '228 application does not support Limitation [P] of claim 1 at least because the written description requirement is not met for this limitation. That is, the disclosure of the '228 application does not reasonably convey to the POSITA that, as of the filing date, the inventor had possession of the claimed subject matter recited in Limitation [P]: "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".

50. This is the case at least because the POSITA would have understood there to be no disclosure in the '228 application of determining an RMS value, or mathematically manipulating that RMS value to obtain a positive RMS value less than 1, as described above for Limitation [I]. Further, the '228 application

includes no disclosure of normalizing audio signals, or applying gain to audio signals based on an RMS value. For example, the '228 application—including Figure 1, which purports to show “the entire system from start to finish”—provides no disclosure of normalizing audio signals or applying gain based on an RMS value. (EX1029, 89, 91.)

51. As noted above for Limitation [I], the '925 patent application was not allowed until the applicant, at the express suggestion of the patent examiner in an interview, amended the claims to recite Limitations [I], [J], [P], and [Q]. (EX1002, 402-408, 412, 439-443.) The claims were amended to recite these limitations because “the Examiner suggested adding details relating to on-the-fly mastering found on paragraph 0081, of Applicant’s [’925] specification, to help proceed this case towards allowance.” (EX1002, 408.)

52. In my view, the POSITA would have understood the applicant’s reference to claiming “details relating to on-the-fly mastering found on paragraph 0081” to include Limitation [P]. This is because paragraph 0081 of the '925 patent’s specification discloses that “[t]he RMS returns a positive value which is then negated by subtracting the RMS value from 0”; and that “[t]his negative value is then added to the maximum peak volume of 1 which returns a positive value less than 1.” (EX1002, 63-64.) Limitation [P] similarly refers to the “obtained positive

RMS value less than 1”. Paragraph 0081 further discloses that “[t]he system applies a gain to the left and right channels.” The POSITA would have understood that none of these disclosures of paragraph 0081 are expressly found in the ’228 application, including as originally filed and as amended. (EX1029.) Further, the POSITA would not have found the ’228 application to otherwise disclose Limitation [P]. This is at least because the ’228 application does not relate to a processor or jukebox analyzing or processing audio signals, so the disclosure neither implies nor requires normalizing audio signals by applying gain based on a obtained positive RMS value, as recited in Limitation [P].

53. Additionally, the applicant did not dispute the Examiner’s identification of paragraph 0081 as providing the “details relating to on-the-fly mastering”; nor did the applicant identify any disclosure of the ’228 application (or any other disclosure) as supporting Limitation [P]. (EX1002, 408, 412.) The Examiner’s and applicant’s reliance on the ’925 application, not the ’228 application, to support Limitation [P] reinforces my opinion that Limitation [P] is not supported by any disclosure (express or otherwise) of the ’228 application.

4. Limitation [Q]

54. In my view, the ’228 application does not support Limitation [Q] of claim 1 at least because the written description requirement is not met for this

limitation. That is, the disclosure of the '228 application does not reasonably convey to the POSITA that, as of the filing date, the inventor had possession of the claimed subject matter recited in Limitation [Q]: “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 a preset threshold value[.]”

55. This is at least because the POSITA would have understood there to be no disclosure in the '228 application of compressing audio signals for reducing a dynamic range of the signal, nor of doing so based on a preset compression ratio and a preset threshold value. For example, the '228 application—including Figure 1, which purports to show “the entire system from start to finish”—provides no disclosure of audio signal compression. (EX1029, 89, 91.)

56. As noted above for Limitation [I], the '925 patent application was not allowed until the applicant, at the express suggestion of the patent examiner in an interview, amended the claims to recite Limitations [I], [J], [P], and [Q]. (EX1002, 402-408, 412, 439-443.) The claims were amended to recite these limitations because “the Examiner suggested adding details relating to on-the-fly mastering found on paragraph 0081, of Applicant’s [’925] specification, to help proceed this case towards allowance.” (EX1002, 408.)

57. In my view, the POSITA would have understood the applicant's reference to claiming "details relating to on-the-fly mastering found on paragraph 0081" to include Limitation [Q]. This is because paragraph 0081 of the '925 patent's specification discloses that "[t]he system then applies dynamic range compression with stereo linkage using a 4:1 ratio with a threshold of .8". (EX1002, 63.) Limitation [Q] similarly refers to compressing audio signals "for reducing a dynamic range of the signal based on a preset compression ratio [e.g., a 4:1 ratio] and a preset threshold value [e.g., .8]". The POSITA would have understood that none of these disclosures of paragraph 0081 are expressly found in the '228 application, including as originally filed and as amended. (EX1029.) Further, the POSITA would not have found the '228 application to otherwise disclose Limitation [Q]. This is at least because the '228 application does not relate to analyzing or processing audio signals, so the disclosure neither implies nor requires compressing an audio signal for reducing a dynamic range of the signal based on a preset compression ratio and a preset threshold value, as recited in Limitation [Q].

58. Additionally, the applicant did not dispute the Examiner's identification of paragraph 0081 as providing the "details relating to on-the-fly mastering"; nor did the applicant identify any disclosure of the '228 application (or

any other disclosure) as supporting Limitation [Q]. (EX1002, 408, 412.) The Examiner's and applicant's reliance on the '925 application, not the '228 application, to support Limitation [Q] reinforces my opinion that Limitation [Q] is not supported by any disclosure (express or otherwise) of the '228 application.

B. The POR's Arguments Do Not Change My Opinions

59. In the POR, Patent Owner does not appear to dispute that Limitations [I], [J], [P], and [Q] are not supported by the '228 application or that the written description requirement is not met for those limitations. For example, the POR states that “the challenged claims remain entitled to priority because the parent application specification reasonably conveys possession of the claimed server-based distribution of newly uploaded media,” and that “the parent specification reasonably conveys possession of the server-based distribution of newly uploaded media later claimed in the '925 patent”. (POR, 62-63.) But Limitation [I] recites automatically analyzing audio signals for determining a RMS value; Limitation [J] recites storing an obtained RMS value less than 1 as metadata; Limitation [P] recites normalizing audio signals by applying gain based on a obtained positive RMS value; and Limitation [Q] recites compressing audio signals for reducing a dynamic range of the signal. None of these limitations recites “server-based distribution of newly uploaded media.” The POR does not address whether any of

Limitations [I], [J], [P], and [Q] is supported by the '228 application and thus does not change my opinions above.

60. None of the POR's other arguments changes any of my opinions above. For example, the POR states that "the only anticipation theory applied by the USPTO to the server-distribution claim set in the parent application relied on Davis, not audio-processing or playback-normalization references." (POR, 65.) This refers to a January 27, 2010, Office Action in which claims 21-23 of the '228 application were rejected. (POR, 64.) The POR argues that this rejection "confirms continuity between the originally disclosed server-distribution architecture and the challenged claims," and "reinforces that the continuation-in-part application did not introduce a different invention but rather added implementation detail to the same server-mediated media-distribution system described in the parent disclosure." (POR, 65.) These arguments do not change my opinions in any way. The January 27, 2010, rejection did not have to rely on "audio-processing or playback-normalization references" because none of claims 21-23 of the '228 application included limitations that recited audio processing or playback normalization. (EX1029, 5-7, 16-17.) This supports, not undermines, my opinions above: the '228 application did not provide support for Limitations [I], [J], [P], or [Q] (which relate to audio processing), which explains why the

applicant did not attempt to claim Limitations [I], [J], [P], or [Q] in the '228 application.

61. For all of the foregoing reasons, the '228 application does not support claim 1 or claim 3 of the '925 patent. Additionally, because claims 2 and 4-17 depend from claim 1, the '228 application does not support claims 2 and 4-17 for at least the reasons described above for claim 1.

VIII. CLAIM CONSTRUCTION

62. My understanding of claim construction was set forth in my prior declaration. (EX1003, ¶20.)

63. I understand that Patent Owner proposed the following claim constructions in the POR:

Claim Term	Patent Owner's Proposal
Processor	server-side processor
Venue	territory of use
Automatically calculating	tracking/tallying (accrual), not payment execution
Receiving indication of payment	system acknowledgement/record of payment status, not cash handling or disbursement execution
Real-time	system-controlled execution (immediate or scheduled within system control), not “instantaneous playback only”

(POR, 8.)

64. As I stated in my prior declaration, I do not believe any claim construction is necessary for this proceeding. (EX1003, ¶29.)

65. My analysis and opinions herein do not apply or rely on any particular claim construction. My opinions above regarding specification support would not change even if Patent Owner's proposed constructions were adopted. This is at least because none of Limitations [I], [J], [P], and [Q] recites any of the proposed terms, except for “processor,” and my analysis above does not apply or rely on any particular construction of “processor.”

66. I disagree, however, with the Patent Owner's proposal to construe "processor" as "server-side processor." In my opinion, the claims and specification of the '925 patent do not support limiting the term "processor" in this manner. I do not offer opinions here on Patent Owner's other proposed constructions.

67. The term "processor" does not appear in the '925 patent's specification. It appears only in the claims. Claim 1 recites "a processor," and dependent claims 4, 5, 8, and 10-13 also recite a processor. (EX1001.)

68. In my opinion, nothing in the claim language limits the processor to a server-side processor. The claims do not recite a "server-side processor," a "server," or any "server-side" component.

69. The specification also does not support Patent Owner's proposed limitation. The specification discloses client-side components and operations, including operations performed by a client jukebox. A POSITA would understand that a client device, such as "client jukebox 3," is not a server-side processor. (EX1001, 6:59-60.)

70. For example, in claim 1, Limitations [A] through [E] recite that the processor provides user interfaces. The specification discloses user interfaces for interacting with the system, broadly including interfaces provided through

“anything with an internet connection, such as a computer[.]” (EX1001, 3:61-4:9.)

A user of the computer can use the internet-connected user interface to, e.g., upload media to a server—an operation that the ’925 specification describes as encompassing “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.” (EX1001, 2:17-35.) The POSITA would understand this disclosure to include providing a user interface using a client device that does not have a server-side processor. That disclosure is not consistent with limiting the claimed processor to a server-side processor.

71. Patent Owner’s own characterization of the prosecution history confirms this point. In the POR, Patent Owner characterized claims canceled on September 13, 2013 as “client-interface functionality,” and contrasted that functionality with a “server-side streaming architecture.” (POR, 3-4.) (EX1001, 10:9-10, 11:36-37; EX1002, 184-185.) But the challenged claims were amended during prosecution to include limitations (e.g., Limitations [A] through [E]) that are analogous in relevant respect to those of the “client-interface functionality” claims. For example, Limitation [D] of claim 1 recites “providing, by the processor, a user interface to log into the system”, and the POSITA would understand that functionality to be analogous to “providing the artist a page to log

into the system” in the canceled claim 1. (EX1001, 9:66-10:55; EX1002, 184.) A POSITA would therefore understand the challenged claims to include subject matter Patent Owner describes as “client-interface functionality,” not only server-side processor functionality.

72. Additionally, the specification discloses that Limitations [I], [J], [P], and [Q] (the “on-the-fly mastering” limitations) are performed by the client jukebox and are thus not limited to a server-side processor. The applicant and the Examiner agreed that these “on-the-fly mastering” limitations are supported by paragraph 0081 of the ’925 specification. (EX1002, 408, 412.)

73. Paragraph 0081 explains that these steps are performed by the jukebox. (EX1001, 7:38-67; EX1002, 62-63.) In particular, paragraph 0081 states that, “[a]gnostic to any method mentioned above for obtaining the audio file, the jukebox will master the artist’s track using digital signal processing.” (EX1001, 7:38-42.) It then describes determining an RMS value, manipulating that value to obtain a positive value less than 1, applying gain, applying dynamic range compression using a 4:1 ratio and a threshold of 0.8, and applying a hard limiter. (EX1001, 7:41-60; EX1002, 62-63.) A POSITA would understand these disclosures to support limitations [I], [J], [P], and [Q]. The POSITA would understand them as disclosures of client-side jukebox processing, not only server-

side processing. The POSITA would further understand the client-side jukebox processing to be performed by a client-side processor.

74. Paragraph 0081 further confirms that server-side processing is optional. It states that the RMS-checking step “can also occur on the server.” (EX1001, 7:47.) A POSITA would understand the phrase “can also” to mean that this step need not occur on the server. The specification does not state that the other on-the-fly mastering steps must occur on the server.

75. Claim 3 further confirms that the claims are not limited to a server-side processor. Claim 3 is directed to “non-transitory computer-readable media embodying program instructions for execution by a computer.” Limitation [I] of claim 3 recites “automatically analyzing 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.” This limitation is substantively the same as limitation [I] of claim 1, except that claim 3 does not require the automatically analyzing to be performed by a “processor” at all. Instead, claim 3 recites program instructions for execution by “a computer,” which a POSITA would have understood to include, e.g., a server device or a client device. A POSITA would therefore understand that at least the automatic audio signal analysis of claim 1 is not limited to performance by a server-side processor.

76. The specification also explains that the processing in limitation [I] helpfully “make[s] the tracks all sound relatively the same volume” and prevents poorly mixed tracks from sounding harsh or damaging the venue speaker system. (EX1001, 7:57-60.) It then states that “the present invention ... helps artists by mastering their track on the fly.” (EX1001, 7:62-64.) The specification similarly identifies “master[ing] on the fly” as one of the “main features” of the jukebox. (EX1001, 8:40-44.) But because the jukebox is a client device and is “both a client to the system and part of the system,” these disclosures do not limit on which devices such processing can take place; the specification is thus inconsistent with limiting the claims to server-side processors or excluding client-side operations. (EX1001, 6:59-60.)

77. For the same reasons as above, I disagree with the Patent Owner’s characterization of the claimed invention as limited to a “server-side system,” “server-side processing,” “server-centric system,” “server-side architecture,” “server-side ingestion architecture,” “server-side streaming architecture,” “server-side media-distribution architecture,” “server-side ingestion and metadata pipeline,” “server-side ingestion and metadata system,” “system architecture for ingesting, analyzing, or managing media at a server,” “automated ingestion-time processing at a server,” “server-side system that processes new media at the time

of ingestion,” or similar formulations (collectively “server features”). (See, e.g., POR, 2, 3, 4, 6, 7, 10, 11, 12, 14, 25, 30, 33, 34, 63, 64.) To the extent Patent Owner uses those descriptions to require server limitations not recited in the claims, or to exclude client-side elements or operations from the scope of the claims, I disagree.

78. A POSITA would understand that the claimed invention may include server-side components, but is not limited to them. The specification emphasizes “*draw[ing] together* the capabilities of client and server side software.” (EX1001, 1:65-67 (emphasis added).) It further states that “[t]he client jukebox 3 is both a client to the system and part of the system,” and that the jukebox software is “architecture agnostic.” (EX1001, 6:59-60, 8:18-19, 8:28-30.) Figure 1 likewise depicts “the entire system from start to finish” as including both server-side elements, such as a back-end system with servers, databases, and web programs, and client elements, such as jukeboxes, kiosks, and set-top boxes. (EX1001, 3:4-5, 3:57-4:3, 6:59-60, Fig. 1.)

79. In my opinion, a POSITA would understand from these disclosures that the claims encompass systems with client-side processors and client-side processing. I therefore disagree that the challenged claims are limited to a server-side processor or to server-side processing.

IX. MOTIVATION TO COMBINE

80. In my prior declaration, I explained why a POSITA would have been motivated to combine Laut, Kincaid, and Bongiovi to meet the claim limitations, and why the POSITA would have had a reasonable expectation of success in doing so. (EX1003, ¶¶65-66, 83-85.)

81. Patent Owner argues in the POR that a POSITA would not have been motivated to combine Laut, Kincaid, and Bongiovi with a reasonable expectation of success. (POR, 9-29.) Patent Owner's arguments do not change my opinions.

82. Patent Owner's main argument is that the stated rationale for combining Laut and Kincaid is "directed entirely to playback-stage concerns," such as "how audio is perceived during playback at a jukebox," while the challenged claims supposedly require "server-side processing at the time of ingestion of new media." (POR, 10.) Patent Owner further asserts that "the claimed operations occur at the server and at ingestion—not during playback." (POR, 10.)

83. I disagree. As explained above, the claims are not limited to "server-side processing" or to "server-side processing at the time of ingestion of new media." Patent Owner's motivation and reasonable expectation of success arguments therefore fail to the extent they depend on those supposed limitations.

84. Patent Owner’s assertion that “the claimed operations occur at the server and at ingestion—not during playback” is also inconsistent with the claim language. Claim 10, which depends from claim 1, expressly recites “automatically adjusting ... volume of the media *during playback* of the media.” (EX1001, 12:11-15 (emphasis added).) Claim 17, which depends from claim 10 and therefore from claim 1, recites that media is “configured to be played by the jukebox with substantially a same volume based on the adjusting *during playback* of each of the media.” (EX1001, 12:41-44 (emphasis added).) These claims expressly recite playback-stage operations that fall within the scope of the parent claim 1.

85. Claim 17 also confirms that the claims are directly concerned with the volume at which media is played by the jukebox. That volume is directly related to “how audio is perceived during playback at a jukebox,” which Patent Owner describes as a “playback-stage concern[]” but then incorrectly as one that is “fundamentally different” from the claims. (POR, 10.) In my prior declaration, I explained that a POSITA would have been motivated to combine Laut and Kincaid to “ensure consistent loudness across tracks.” (EX1003, ¶65.) I also explained that a POSITA would have been motivated to combine Laut and Kincaid with Bongiovi to “obtain more appropriate sound quality for high-noise jukebox

environments.” (EX1003, ¶84.) Those rationales are consistent with the claim language.

86. The rationales are also consistent with the '925 specification. The claims were allowed only after they were amended to add limitations [I], [J], [P], and [Q], which the applicant and Examiner described as “on-the-fly mastering”; the POSITA would have understood “on-the-fly” to mean “during playback” (EX1002, 402-408, 412, 439-443; EX1003, ¶27.) The applicant and Examiner identified paragraph 0081 of the '925 specification as support for those limitations. (EX1002, 408, 412.)

87. Paragraph 0081 describes determining and manipulating an RMS value, normalizing audio signals, and compressing audio signals as operations performed by the jukebox using digital signal processing. (EX1001, 7:38-67; EX1002, 62-63.) A POSITA would understand that at least some of those operations occur at playback. The specification states that “the track begins to play” while the system applies digital signal processing filters, gain, dynamic range compression, and a limiter. (EX1001, 7:48-60.) These playback-stage operations relate at least to limitations [P] and [Q].

88. The specification gives the reason for those operations: “to make the tracks all sound relatively the same volume” and to keep “poorly mixed tracks that

would otherwise sound harsh and peak from ruining the speaker system at the venue.” (EX1001, 7:57-60.) That is analogous to the “consistent loudness” and “appropriate sound quality” rationales I identified for combining Laut, Kincaid, and Bongiovi. (EX1003, ¶¶65-66, 83-85.)

89. The ’925 specification therefore contradicts Patent Owner’s view that the claimed operations must occur only “at the server and at ingestion—not during playback.” (POR, 10.) The specification describes the “on-the-fly mastering” limitations of “the present invention” as occurring when “the track begins to play.” (EX1001, 7:48-64.) It also states that “the jukebox will master the artist’s track,” and describes “master[ing] on the fly” as one of the “main features” of the jukebox. (EX1001, 7:41-44, 8:40-44.) The specification further states that the process is “[a]gnostic to any method mentioned above for obtaining the audio file,” which is inconsistent with Patent Owner’s view that the claims require a particular “server-side ingestion and analysis system.” (EX1001, 7:38-41; POR, 12-13.) And the specification states that one step “can also occur on the server,” confirming that server-side performance is optional, not required. (EX1001, 7:47.) (For other processing steps, the specification does not even identify server-side performance as an option.)

90. For the same reasons, I disagree with Patent Owner's criticism of my rationales for combining the references. Patent Owner dismisses "differences in perceived loudness between audio tracks" and "improv[ing] audio quality in high-noise environments" as improper rationales. (POR, 10-12, 21-22.) But those rationales are closely tied to the '925 specification's own stated purpose: "to make the tracks all sound relatively the same volume" and to prevent poorly mixed tracks from sounding harsh or damaging venue speakers. (EX1001, 7:57-60.) Thus, Patent Owner's arguments do not change my opinion that a POSITA would have been motivated to combine Laut, Kincaid, and Bongiovi with a reasonable expectation of success.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code.

Executed the 16th of June, 2026 in Louisville, Kentucky.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'William Rosenblatt', written over a horizontal line.

William Rosenblatt