

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SPOTIFY USA INC.,
Petitioner,

v.

MANUEL TIJERINO,
Patent Owner.

U.S. Patent No. 9,146,925

Inter Partes Review No. IPR2025-01280

**PETITIONER'S REPLY IN SUPPORT OF
MOTION TO STRIKE**

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I. INTRODUCTION

The Opposition (Paper 18) does not address the Motion’s central point. In the POR, Patent Owner argued that the claims exclude playback-stage processing, and that Ground 1 fails by including playback-stage normalization and compression. But, in the Sur-reply, he reversed course, arguing that the claims *require* normalization and compression during a “later playback-stage” of a “particular chronological relationship” of the claimed steps. (Mot., 2–5.)

Seeking to explain this reversal, Patent Owner pivots again in the Opposition, allowing that normalization limitation [P] “*may* occur during playback.” (Opp., 3–4 (emphasis added).) These ever-shifting positions confuse the issues for trial and highlight why the challenged passages should be stricken.

II. THE OPPOSITION CONFIRMS THAT THE ORDERED-WORKFLOW THEORY IS NEW AND IMPROPER

In his Opposition, Patent Owner never attempts to reconcile the POR’s exclusion of playback-stage processing with the Sur-reply’s required playback sequence. The POR did not merely contend that “Kincaid’s and Bongiovi’s isolated playback operations do not disclose the complete architecture,” as the Opposition claims. (Opp., 4.) Instead, it repeatedly argued that playback-stage operations categorically fall outside the claims, *e.g.*: “the claimed operations occur at the server and at ingestion—not during playback”; and Bongiovi’s “**manipulation of an audio signal during playback**” occurs at “the wrong stage

of operation.” (POR, 10, 19 (emphases in original).) Those statements were central to the POR’s Ground 1 arguments—with Patent Owner repeatedly highlighting the term “playback” for emphasis—yet the Opposition does not even acknowledge them.

The Sur-reply advanced an opposite theory. It argued that the claims *require* “playback limitations”—*i.e.*, a “particular chronological relationship” in which “playback normalization and compression” occur “only thereafter” numerous other steps in a “complete claimed sequence.” (Sur-reply, 6–9.) In the Opposition, Patent Owner again fails to acknowledge these arguments: he instead denies seeking a “new rigid ordering of every limitation,” and revises the Sur-reply’s “particular chronological relationship” as one in which normalization step [P] “*may* occur during playback.” (Opp., 4 (emphasis added).) But these responses do not answer the Motion, which challenged the Sur-reply’s specific new timing requirements for steps [P] and [Q]. (Opp., 3–4; Mot., 3–5.)

Patent Owner also does not dispute that the Sur-reply’s ordered-workflow theory could have been presented in the POR. To the contrary, he insists that it *was* presented there. (Opp., 1, 3.) That contention is not only incorrect—the POR never argued at least that normalization and compression (steps [P] and [Q]) must be performed “only thereafter” Internet/API distribution—but also confirms that nothing in the Reply made that theory newly necessary. (Sur-reply, 9.)

III. THE NEW NATHAN AND GROUND 2 ARGUMENTS SHOULD BE STRICKEN

Patent Owner does not dispute that the POR never mentioned Ground 2 or Nathan, or that Spotify's Reply never mentioned Nathan. (Mot., 3, 5.) He instead asserts that the Reply "incorporated the Petition's Ground 2 analysis and EX1003." (Opp., 5.) The Reply made no such incorporation. It observed that the POR had not addressed Ground 2, resulting in waiver; and responded to the POR's "server-side processor" construction with reference to Dion, not Nathan. (Reply, 24–26.)

On Sur-reply, he nevertheless argued for the first time that Nathan is "directed to managing jukebox systems having local memory storing audiovisual items"; and that "Ground 2 references such as Nathan and Dion" fail to "teach the claimed integrated workflow." (Sur-reply, 5, 8–9.) These are substantive merits arguments that were omitted in the POR and are not timely presented on sur-reply.

Finally, Spotify agrees with Patent Owner that the Nathan portions of the Sur-reply are severable. (Opp., 5–6.) Thus, even if the Board declines to strike the challenged Ground 1 passages, it can and should strike the challenged Ground 2 and Nathan passages. More generally, if the Board concludes that narrower relief is warranted, it may tailor that relief to the particular arguments it finds improper. That ability addresses Patent Owner's contention that the Motion seeks relief disproportionate to Spotify's asserted prejudice; it does not justify retaining new arguments that the Board determines were improperly raised. (Opp., 6–7.)

Dated: August 12, 2026

By: /Mehran Arjomand/

Mehran Arjomand
Registration No.: 48,231
MORRISON & FOERSTER LLP
707 Wilshire Boulevard, Suite 6000
Los Angeles, CA 90017
Tel: (213) 892-5630
Fax: (213) 892-5454
Email: MArjomand@mofo.com

Bryan Blumenkopf
Registration No.: 73,282
MORRISON & FOERSTER LLP
12531 High Bluff Drive, Suite 200
San Diego, CA 92130
Tel: (213) 892-5269
Fax: (213) 892-5454
Email: BBlumen@mofo.com

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I hereby certify that the attached PETITIONER'S REPLY IN SUPPORT OF MOTION TO STRIKE was served as of the below date via e-mail (by agreement) to Patent Owner (Pro Se):

Manuel Tijerino
manueltijerino@hotmail.com

Dated: August 12, 2026

/Bryan Blumenkopf/
Bryan Blumenkopf