

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NONEND INVENTIONS N.V.,

**Plaintiff and Counterclaim-
Defendant,**

v.

SPOTIFY USA INC., et al,

**Defendants and Counterclaim-
Plaintiffs.**

**Case No. 12-1041-GMS
Case No. 13-00389- GMS
JURY TRIAL DEMANDED**

JOINT CLAIM CONSTRUCTION CHART

Pursuant to Paragraph 5 of the Joint Scheduling Order, Plaintiff and Counterclaim-Defendant Nonend Inventions N.V. (“Nonend”) and Defendants and Counterclaim-Plaintiffs Spotify USA Inc., Spotify Limited, Spotify Technology S.A., and Spotify AB (collectively “Spotify”) hereby submit the following Final Joint Claim Chart including citations to intrinsic evidence for U.S. Patent Nos. 7,587,508 (the “’508 patent”), 7,590,752 (the “’752 patent”), 7,779,138 (the “’138 patent”), 8,090,862 (“the 862 patent”), 8,099,513 (the “’513 patent”) and 8,266,315 (the “’315 patent”) (collectively “the patents-in-suit”).

In the chart attached as Exhibit A, the parties list the constructions of claim terms, phrases, or clauses of the patents-in-suit on which the parties agree. In the chart attached as Exhibit B, Nonend and Spotify propose the constructions for the disputed claim terms, phrases, or clauses of the patents-in-suit and identify intrinsic evidence that each may rely on to support these proposed constructions.

Dated: September 20, 2013

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CERTIFICATE OF SERVICE

I hereby certify that on September 20, 2013, I electronically filed the foregoing filing with the Clerk of Court using the CM/ECF system which will send notification of such filing via electronic mail to all counsel of record.

/s/ Stamatios Stamoulis

Stamatios Stamoulis

EXHIBIT A

The chart below lists the claim terms on which the parties agree.

AGREED UPON CONSTRUCTIONS FOR THE PATENTS-IN-SUIT

Term	Patent/Claim	Agreed Construction
Stream Target	'508 patent, claims 1, 23; '752 patent, claim 1; '862 patent, claims 1, 12; '315 patent, claims 1, 31	Media player software and/or hardware that receives content
Media player	752 patent, claim 1; '138 patent, claim 22, 31, 38; '862 patent, claims 1, 12; '513 patent, claims 33, 36, 38, 40	Television, radio, or playback equipment for media content or a personal computer that is suitable to that end
Input managers	'508 patent, claims 1, 4, 6, 7, 8, 11, 13, 19, 23	Software modules that regulate incoming content

EXHIBIT B

The chart below lists the claim terms or phrases which are in dispute and require this Court's attention. In the chart below, the parties provide citations to the intrinsic evidence that each may rely on to support these proposed constructions. For reference, the claim number in which the term or phrase appears in the patents-in-suit is provided below the term.

DISPUTED CONSTRUCTIONS FOR THE PATENTS-IN-SUIT

Terms/Phrase	Nonend's Proposed Construction	Nonend's Intrinsic Evidence¹	Spotify's Proposed Construction	Spotify's Intrinsic Evidence
Streaming (n.) ('508 patent claims 1, 23; '752 patent, claim 1)	Transmission of content that may be played by the receiver while the transmission is occurring	Col. 2:16-18; Col. 2:35-37; Col. 2: 40-43; Col. 5: 30-35; Col.6: 12-16; Col. 7:1-14; Col 7: 41-44; Col.8: 8-9; Col 8:60-col. 9:9; Col. 11:38- col. 12:26; Col.12:42-46.	The continuous transmission of data packages that are received by a receiver in sequential order and played by the receiver while the transmission is occurring	The following citations are from the '508 Patent specification unless otherwise specified: 2:16-18; 2:40-42; 6:12-16; 7:2-10. <i>See also</i> '508 Patent history, December 9, 2008 Office Action, Detailed Action, p. 17; '138 Patent file history, January 5, 2010 Amendment, p. 15; '752 Patent file history,

¹ Because the specifications of the patents-in-suit essentially identical in substance, citations are to the '508 patent specification (e.g., column number:line number) for ease of reference.

Terms/Phrase	Nonend's Proposed Construction	Nonend's Intrinsic Evidence¹	Spotify's Proposed Construction	Spotify's Intrinsic Evidence
				February 12 Reply to Office Action, pp. 12-15; '862 Patent file history Oct. 12, 2011 Examiner Response, p. 2.
Streaming (adj.) ('138 patent, claim 22; '862 patent, claims 1, 12; '513 patent, claim 33; '315 patent, claim 1)	Transmitted and may be played by the receiver while the transmission is occurring	Col. 2:16-18; Col. 2:35-37; Col. 2: 40-43; Col. 5: 30-35; Col.6: 12-16; Col. 7:1-14; Col 7: 41-44; Col.8: 8-9; Col 8:60-col. 9:9; Col. 11:38- col. 12:26; Col.12:42-46.	Transmitted continuously and received in sequential order by a receiver and played by the receiver while the transmission is occurring	The following citations are from the '508 Patent specification unless otherwise specified: <i>See</i> intrinsic evidence of "streaming (n.)," above, incorporated herein by reference.
Streamed ('508 patent, claims 1, 23; '138 patent, claim 22; '862 patent, claims 1, 12; '315 patent, claims 1, 31)	Transmitted and may be played by the receiver while the transmission is occurring	Col. 2:16-18; Col. 2:35-37; Col. 2: 40-43; Col. 5: 30-35; Col.6: 12-16; Col. 7:1-14; Col 7: 41-44; Col.8: 8-9; Col 8:60-col. 9:9; Col. 11:38- col. 12:26; Col.12:42-46; Col. 14: 17-31; Col. 14:46-49.	Transmitted continuously and received in sequential order by a receiver and played by the receiver while the transmission is occurring	The following citations are from the '508 Patent specification unless otherwise specified: <i>See</i> intrinsic evidence of "streaming (n.)," above, incorporated herein by reference.

Terms/Phrase	Nonend's Proposed Construction	Nonend's Intrinsic Evidence ¹	Spotify's Proposed Construction	Spotify's Intrinsic Evidence
Peer node ('508 patent, claims 1, 3, 4, 6, 7, 11, 13, 23)	No definition required – plain and ordinary meaning		A node in a network that can act as a transmitter (server) of data packages at one moment or as a receiver (client) of data packages at another moment and change its role on its own initiative	The following citations are from the '508 Patent specification unless otherwise specified: Abstract; 2:25-30; 4:57-60; 5:17-45. <i>See also</i> '862 Patent file history, August 1, 2011 Office Action, Detailed Action, p. 3. <i>See also</i> at least intrinsic evidence for “device,” “production node,” and/or “consumer node” below, incorporated herein by reference.
Peer-to-peer network ('508 patent, claim 1)	No definition required – plain and ordinary meaning		A network of peer nodes	The following citations are from the '508 Patent specification unless otherwise specified: Abstract; 1:14-16; 1:56-2:3; 2:4-14; 2:19-30; 3:46-63; 4:36-50; 4:53-61; 5:17-45; 6:16-20;

Terms/Phrase	Nonend's Proposed Construction	Nonend's Intrinsic Evidence ¹	Spotify's Proposed Construction	Spotify's Intrinsic Evidence
				<p>7:63-65; 8:41-42; FIGS. 2A-2Q.</p> <p><i>See also</i> at least intrinsic evidence for “a system for distributing media content,” “network” and/or “network of media players” below, incorporated herein by reference.</p>
<p>A system for distributing media content</p> <p>(’752 patent, claim 1)</p>	<p>No definition required – plain and ordinary meaning</p>		<p>A network of peer nodes used to transmit audio or video content</p>	<p>The following citations are from the ’508 Patent specification unless otherwise specified:</p> <p>Abstract.</p> <p><i>See also</i> at least intrinsic evidence for “peer-to-peer network,” above, and “network of media players,” “network,” and/or “peer system,” below, incorporated herein by reference.</p>

Terms/Phrase	Nonend's Proposed Construction	Nonend's Intrinsic Evidence ¹	Spotify's Proposed Construction	Spotify's Intrinsic Evidence
Device ('752 patent, claim 1; '138 patent, claim 22)	No definition required – plain and ordinary meaning		A peer node	The following citations are from the '508 Patent specification unless otherwise specified: 2:4-9; 2:13-15; 2:25-30; 2:31-36; 3:8-13; 3:20-26; 3:27-29; 3:35-40; 4:14- 21; 4:51-52; 6:28-31. <i>See also</i> at least intrinsic evidence for “peer node,” above, incorporated herein by reference.
Autonomously ('138 patent, claim 22; '513 patent, claim 33; '315 patent, claim 37)	No definition required – plain and ordinary meaning		On its own initiative and independent of other nodes	The following citations are from the '508 Patent specification unless otherwise specified: 3:35-40; 5:38-40; 5:50- 51; 14:50-56. <i>See also</i> '862 Patent, August 1, 2011 Office Action, Detailed Action, p. 9.

Terms/Phrase	Nonend's Proposed Construction	Nonend's Intrinsic Evidence¹	Spotify's Proposed Construction	Spotify's Intrinsic Evidence
First Communication channel ('862 patent, claims 1, 12)	A first connection via a transmission medium	Col. 2: 54-67; Col. 11: 31-37. '862 patent prosecution history, October 18, 2011 Notice of Allowance, Examiner's Statement of Allowance at page 2.	A first connection via a transmission medium to a first peer node	The following citations are from the '508 Patent specification unless otherwise specified: Abstract; 2:62-67; 3:64-4:13; 5:17-45; 8:35-37; 8:60-9:10; 11:31-37; 12:18-24. <i>See also</i> '862 Patent file history, August 1, 2011 Office Action, Detailed Action, p. 9.
Second Communication channel ('862 patent, claims 1, 12)	A second connection via a transmission medium	Col. 2: 54-67; Col. 11: 31-37. '862 patent prosecution history, October 18, 2011 Notice of Allowance, Examiner's Statement of Allowance at page 2.	A second connection via a transmission medium to a second peer node	The following citations are from the '508 Patent specification unless otherwise specified: Abstract; 2:62-67; 3:64-4:13; 5:17-45; 8:35-37; 8:60-9:10; 11:31-37; 12:18-24. <i>See also</i> '862 Patent file history, August 1, 2011 Office Action, Detailed

Terms/Phrase	Nonend's Proposed Construction	Nonend's Intrinsic Evidence ¹	Spotify's Proposed Construction	Spotify's Intrinsic Evidence
				Action, p. 9.
Production Node ('513 patent, claim 33; '315 patent, claims 1, 8)	A node that initially provides the content to the network and can transmit content to another node when requested	Col. 4: 60-62; Col 4: 62-64; Col 5:19-20; Col. 5:59-63; Col. 7: 15-20; Col. 8:8-9; Col.8:41-47; Col.9: 7-9; Col.11:42-53.	A peer node that transmits content to other nodes when they request such	The following citations are from the '508 Patent specification unless otherwise specified: Abstract; 4:62-64; 5:17-45; 7:15-20; 8:42-44; FIG. 7; FIG. 8; FIG. 9; FIG. 10; FIG. 11. <i>See also</i> '508 Patent file history, March 9, 2009 Amendment, p. 12. <i>See also</i> at least intrinsic evidence for term "peer node," above, incorporated herein by reference.
Network of media players ('513 patent, claim 33)	No definition required – plain and ordinary meaning		A group of interconnected peer nodes for connecting media players	The following citations are from the '508 Patent specification unless otherwise specified: Abstract; 2:54-61; 3:20-26; 3:46-48; 4:36-50;

Terms/Phrase	Nonend's Proposed Construction	Nonend's Intrinsic Evidence ¹	Spotify's Proposed Construction	Spotify's Intrinsic Evidence
				<p>5:17-45; 6:4-5; 6:24-28; 6:31-34.</p> <p><i>See also</i> at least intrinsic evidence for terms “peer-to-peer network,” “a system for distributing media content,” above, and/or “network,” below, incorporated herein by reference.</p>
<p>Network</p> <p>(’315 patent, claims 1, 31)</p>	<p>No definition required – plain and ordinary meaning</p>		<p>A group of interconnected peer nodes</p>	<p>The following citations are from the ’508 Patent specification unless otherwise specified:</p> <p>Abstract; 2:54-61; 3:20-26; 3:46-48; 4:36-50; 5:17-45; 6:4-5; 6:24-28; 6:31-34.</p> <p><i>See also</i> at least intrinsic evidence for terms “peer-to-peer network,” “a system for distributing media content,” and/or “network of media players,” above,</p>

Terms/Phrase	Nonend's Proposed Construction	Nonend's Intrinsic Evidence ¹	Spotify's Proposed Construction	Spotify's Intrinsic Evidence
				incorporated herein by reference.
Central node ('513 patent, claim 38)	A node that controls data transmission among other nodes in a hierarchic system	Col. 1:36-39; Col. 5:54-58. <i>See generally</i> U.S. Pat. No. 5,511,168 to Hawe & Perlman	A node that controls other nodes in a hierarchic system	The following citations are from the '508 Patent specification unless otherwise specified: 1:36-39; 5:56-58.
Peer System ('513 patent, claim 40)	No definition required – plain and ordinary meaning		A peer-to-peer network	The following citations are from the '508 Patent specification unless otherwise specified: Abstract; 2:54-61; 3:20-26; 3:46-48; 4:36-50; 5:17-45; 6:4-5; 6:24-28; 6:31-34. <i>See also</i> at least intrinsic evidence for terms "peer-to-peer network," "a system for distributing media content," and/or "network of media players," above, incorporated herein by

Terms/Phrase	Nonend's Proposed Construction	Nonend's Intrinsic Evidence ¹	Spotify's Proposed Construction	Spotify's Intrinsic Evidence
				reference.
Consumer Node ('315 patent, claims 1, 8, 31, 37)	A node that is provided with software to receive content and to deliver it to other nodes requesting such, independent of the source	Col. 4:54-61; Col. 5:3-11; Col. 5:28-45; Col. 6:4-10; Col. 7:21-30; Col. 7:37-47; Col. 8:49-53.	A peer node that is provided with software to receive content and to deliver it to other nodes requesting such, independent of the source	<p>The following citations are from the '508 Patent specification unless otherwise specified:</p> <p>Abstract; 2:31-36; 5:3-5; 5:8-11; 5:17-45; 7:25-30; 8:49-52; FIG. 14; FIG. 15.</p> <p><i>See also</i> '508 Patent file history, March 9, 2009 Amendment, p. 12; '138 Patent file history, January 5, 2010 Amendment, p. 13.</p> <p><i>See also</i> at least intrinsic evidence for term "peer node," above, incorporated herein by reference.</p>