

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

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| <p>MOAEC TECHNOLOGIES, LLC,</p> <p style="text-align: center;">Plaintiffs,</p> <p>v.</p> <p>DEEZER S.A. and DEEZER INC.,</p> <p style="text-align: center;">Defendants.</p> | <p>C.A. No.: _____</p> <p>JURY TRIAL DEMANDED</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs MOAEC Technologies, LLC (“MOAEC” or “Plaintiff”) files this Complaint against Defendants Deezer S.A. and Deezer Inc. (each a “Defendant” and collectively “Defendants” or “Deezer”), and alleges the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

PARTIES TO THE ACTION

2. Plaintiff MOAEC Technologies, LLC, is a Florida limited liability corporation with corporate offices located at 990 Biscayne Boulevard, Suite 503, Miami, Florida 33132.

3. Upon information and belief, Deezer S.A. is a corporation (Reg. No. 511 716 573) organized and existing under the laws of France, with a place of business at 12 Rue d’Athènes, 75009 Paris, France. Upon information and belief, Deezer S.A. sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and services into the stream of commerce and that incorporate infringing technology knowing that they would be sold in this judicial district and elsewhere in the United States.

4. Upon information and belief, Deezer Inc. is a corporation organized and existing

under the laws of Delaware, with a place of business at 527 Howard St., Floor 4, San Francisco, CA 94105, and can be served through its Delaware registered agent, Paracorp Incorporated, 2140 S. Dupont Hwy, Camden, DE 19934. Upon information and belief, Deezer Inc. sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and services into the stream of commerce and that incorporate infringing technology knowing that they would be sold in this judicial district and elsewhere in the United States.

JURISDICTION, VENUE, AND CHOICE OF LAW

5. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

6. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), (c), (d) and/or 1400(b). On information and belief, Deezer Inc. is incorporated in the State of Delaware.

8. On information and belief, each Defendant is subject to this Court's general and specific personal jurisdiction because each Defendant has sufficient minimum contacts within the State of Delaware and this District, pursuant to due process and/or the Delaware Long Arm Statute (10 Del. Code § 3104), because each Defendant purposefully availed itself of the privileges of conducting business in the State of Delaware and in this District, because each Defendant regularly conducts and solicits business within the State of Delaware and within this District, and because Plaintiff's causes of action arise directly from each Defendant's business contacts and other activities in the State of Delaware and this District. Further, this Court has personal jurisdiction over Deezer Inc. because it is incorporated in Delaware and has purposely availed itself of the privileges and benefits of the laws of the State of Delaware.

FACTUAL ALLEGATIONS

9. This lawsuit asserts infringement of U.S. Patent No. 6,232,539 (the “’539 Patent”), issued on May 15, 2001. The patent is entitled “Music Organizer and Entertainment Center.” A true and correct copy of the original patent certificate is attached as Exhibit A. MOAEC Technologies LLC is the owner of all right, title and interest in the ‘539 Patent.

10. The inventors of the ’539 Patent are Brian Looney, with Dale R. McMullin, Joseph Pasciuto, and Edward T. Doyle. Brian Looney, the primary inventor, had been an apprentice DJ to a family friend since the early 1980s. Mr. Looney assembled his own music library and began to act as a DJ for birthday parties and other events, but needed a way to access any music on hand, instantly, after being provided only a minimum of helpful information. That library also had to be able to adapt to the constantly changing formats in which the music industry sold music in the 1980s and 90s.

11. As a solution to the problem, Mr. Looney developed an invention, disclosed in the ‘539 Patent, to organize an entire collection of music and access it through a touch-screen, with instant results, such that users could customize a playlist by mood, beats-per-minute, and other categories devised by the content provider. Mr. Looney dubbed his invention a “Music Organizer and Entertainment Center,” or MOAEC.

12. From 2001 through 2007, Mr. Looney sold his music organizer and entertainment center at trade shows for various industries and by direct sales to consumers and business owners, including individuals in the sports and entertainment industries. Mr. Looney’s products were eventually sold to customers in forty-three states and nine countries.

13. On November 14, 2007, the inventors assigned the patent to Looney Productions LLC, which merged into MOAEC, Inc., effective September 3, 2009. MOAEC, Inc., in turn assigned the ’539 Patent to MOAEC Technologies LLC on April 27, 2015.

14. The claims of the '539 Patent do not merely recite the performance of some business practice known from the pre-Internet world along with a requirement to perform it on the Internet. Instead, the claims of the '539 patent recite one or more inventive concepts that are rooted in computerized electronic data communications networks, and an improved method to deliver content and provide interface among different accounts and computing systems.

15. The claims of the '539 patent recite an invention that is not merely the routine or conventional use of electronic devices for music playback. Instead, among other things, the invention adds new features to deliver content, integrate application interfaces and other protocols together on shared networks. The '539 patent claims thus include improvements for, for example, storing music information in association with a set of predetermined flags, including an ownership category flag, and permitting user-customizable playback of music, based in part on the flags.

16. Accordingly, each claim of the '539 patent recites a combination of elements sufficient to ensure that the claim in practice amounts to significantly more than a patent on an ineligible concept.

COUNT I

DIRECT INFRINGEMENT OF U.S. PATENT NO. 6,232,539

17. Plaintiffs incorporate by reference all prior allegations of this Complaint.

18. Plaintiff is the assignee and owner of all right, title and interest in and to the '539 patent, including the right to assert all causes of action arising under the patents and the right to any remedies for infringement of them.

19. Upon information and belief, each Defendant has and continues to directly infringe at least claims 1, 2, 6–7, 9, 15–16, 19–21, and 24 of the '539 patent by making, using, selling, importing, and/or providing and causing to be used without authority within the United States, a music organizer and entertainment center that stores and plays compressed data defining a

plurality of individual music selections and associated category flags, customizable by a user through a graphical interface through requests to the service provider. The accused embodiments include computer and smartphone applications that permit the organization and selection of music by a user through a graphical interface, and user-customizable playback according to category flags placed on the plurality of music selections, including an ownership category flag (the “Accused Instrumentalities”). The Accused Instrumentalities include at least the Deezer app, including the Premium+ and Family services and the Flow and Hear This algorithms, and systems implementing those services (*e.g.*, applications, websites, and devices).

20. In particular, claim 1 of the ’539 Patent generally recites a music organizer and entertainment center comprising: a storage device for storing compressed data defining a plurality of individual music selections and associated category flags, wherein the storage device includes a file having individual music selections available from a service provider, constructed and arranged so that a user can identify each of the individual music selections whereby the individual music selections can be requested from the service provider; a processor that retrieves selections and the associated category flags from the storage device based upon user selection of predetermined of the categories; a data decompressor that translates the compressed data into playable digital music data; a network interface for receiving the compressed data from a remote source over a network for download into the storage device; and a graphical user interface display having a plurality of selectable screens, at least one of the selectable screens including a plurality of category buttons constructed and arranged so that when a predetermined of the category buttons is activated, music selections having category flags matching the predetermined category of a respective of the buttons are selected and listed on the display; wherein one of the category flags comprises an ownership category flag that indicates which music selections from the list of all

music selections are currently resident in the storage device.

21. On information and belief, the Accused Instrumentalities infringe at least claim 1 of the '539 Patent. (*See, e.g.,* <https://www.deezer.com/us/features>; <https://support.deezer.com/hc/en-gb/articles/115003746149-Creating-and-Adding-to-Playlists> (and demonstrative video); <https://support.deezer.com/hc/en-gb/articles/115003743809-Playlist-Settings>; <https://support.deezer.com/hc/en-gb/articles/201331091-Flow> (and demonstrative video); <https://support.deezer.com/hc/en-gb/articles/115004367089-Flow-FAQ-s>; <https://support.deezer.com/hc/en-gb/articles/115004367189-Improving-Flow>; <https://support.deezer.com/hc/en-gb/articles/115004612929-Hear-This->; <https://support.deezer.com/hc/en-gb/articles/201193822-Confirming-Your-Details-for-Offline-Listening>; <https://support.deezer.com/hc/en-gb/articles/201193632-Why-Your-Playlist-Isn-t-Completely-Visible-In-Another-Country>; <https://support.deezer.com/hc/en-gb/articles/201193812-Why-is-it-impossible-to-find-certain-artists-on-Deezer->; <https://support.deezer.com/hc/en-gb/articles/201168832-Keeping-Downloaded-Music->; <https://support.deezer.com/hc/en-gb/articles/213609049-Downloading-on-Your-Mobile-App>; <https://support.deezer.com/hc/en-gb/articles/115003852969-Downloading-Favorite-Tracks>; <https://support.deezer.com/hc/en-gb/articles/115003860485-Downloading-on-Your-Computer-app>; <https://support.deezer.com/hc/en-gb/articles/115004296949-Channels>; <https://support.deezer.com/hc/en-gb/articles/115004366565-Editor-Mixes>; <https://support.deezer.com/hc/en-gb/articles/115004288385-Explore-Playlists> (all references accessed March 6, 2018).)

22. Claim 2 of the '539 Patent generally recites the system for claim 1, where the category flags are propagated from the service provider to the user-side storage device.

23. On information and belief, the Accused Instrumentalities infringe at least claim 2 of the '539 Patent. (*See* citations from claim 1.)

24. Claim 6 of the '539 Patent generally recites a display including a playlist of music selections chosen from a search list, constructed to translate the compressed data, in a predetermined order, into playable digital music media and then audible music signals.

25. On information and belief, the Accused Instrumentalities infringe at least claim 6 of the '539 Patent. (*See* <https://support.deezer.com/hc/en-gb/articles/115003746149-Creating-and-Adding-to-Playlists> (and demonstrative video); <https://support.deezer.com/hc/en-gb/articles/115003743809-Playlist-Settings>; <https://support.deezer.com/hc/en-gb/articles/115004296949-Channels>; <https://support.deezer.com/hc/en-gb/articles/115004366565-Editor-Mixes>; <https://support.deezer.com/hc/en-gb/articles/115004288385-Explore-Playlists>.)

26. Claim 7 of the '539 Patent generally recites a memory function that memorizes predetermined lists of music selections for subsequent playback based on predetermined list identifier commands.

27. On information and belief, the Accused Instrumentalities infringe at least claim 7 of the 539 Patent. (*See* citations from claim 6.)

28. Claim 9 of the '539 Patent generally recites a display screen having a plurality of graphical user interface displays, including at least a plurality of buttons that, when activated, display a list of music selections on a search list having associated category flags.

29. On information and belief, the Accused Instrumentalities infringe at least claim 9 of the '539 Patent. (*See* <https://support.deezer.com/hc/en-gb/articles/115004296949-Channels>; <https://support.deezer.com/hc/en-gb/articles/115004366565-Editor-Mixes>;

<https://support.deezer.com/hc/en-gb/articles/115004288385-Explore-Playlists.>)

30. Claim 15 of the '539 Patent generally recites a computer readable medium that contains program instructions for: receiving compressed data representative of a plurality of musical selections from a source; storing the compressed data in a database with a plurality of category markers associated therewith representative of a plurality of predetermined characteristics of each of the musical selections, respectively; selectively accessing predetermined of the plurality of selections and constructing a list of the selections for playback as music based upon at least one of the predetermined characteristics entered by a user; decompressing and playing back each of the predetermined of the plurality of selections according to a desired order of playback; and displaying in a graphical user interface display having a plurality of selectable screens, at least one of the selectable screens including a plurality of category buttons constructed and arrayed so that when a predetermined of the category buttons is activated, music selections having category flags matching the predetermined category of a respective of the buttons are selected and listed on the display; wherein at least one of the category flags is an ownership category flag that indicates which music selections from the list of music selections are currently resident in a storage device of the music organizer and entertainment center.

31. On information and belief, the Accused Instrumentalities infringe at least claim 15 of the '539 Patent. (*See* citations for claim 1.)

32. Claim 16 of the '539 Patent specifies that the step of receiving in claim 15 includes downloading the compressed data from a network.

33. On information and belief, the Accused Instrumentalities infringe at least claim 16 of the '539 Patent. (*See* <https://support.deezer.com/hc/en-gb/articles/201193822-Confirming-Your-Details-for-Offline-Listening>; <https://support.deezer.com/hc/en-gb/articles/201193632->

[Why-Your-Playlist-Isn-t-Completely-Visible-In-Another-Country;](#)

[https://support.deezer.com/hc/en-gb/articles/201193812-Why-is-it-impossible-to-find-certain-](https://support.deezer.com/hc/en-gb/articles/201193812-Why-is-it-impossible-to-find-certain-artists-on-Deezer-)

[artists-on-Deezer-; https://support.deezer.com/hc/en-gb/articles/201168832-Keeping-](#)

[Downloaded-Music-; https://support.deezer.com/hc/en-gb/articles/213609049-Downloading-on-](#)

[Your-Mobile-App; https://support.deezer.com/hc/en-gb/articles/115003852969-Downloading-](#)

[Favorite-Tracks; https://support.deezer.com/hc/en-gb/articles/115003860485-Downloading-on-](#)

[Your-Computer-app.\)](#)

34. Claims 19–21 of the '539 Patent generally recite the method for claim 15, comprising executing program instructions stored in the computer readable medium of claim 15, receiving category flags from the service provider and matching them to musical selections, and download the data from a network.

35. On information and belief, the Accused Instrumentalities infringe at least claims 19–21 of the '539 Patent. (*See* citations for claim 1.)

36. Claim 24 of the '539 Patent generally recites the combination of the computer readable medium of claim 15, a network interface, a graphical user interface display, and a processor configured to execute the program instructions contained in the computer readable medium.

37. On information and belief, the Accused Instrumentalities infringe at least claim 24 of the '539 Patent. (*See* citations from claim 1.)

38. Each Defendant was made aware of the '539 Patent and its infringement thereof at least as early as October 19, 2016, when MOAEC informed Defendants of the '539 Patent.

39. Upon information and belief, since at least October 19, 2016, when each Defendant received notice of the '539 Patent and its infringement thereof, each Defendant has willfully

infringed at least one claim of the '539 Patent.

40. Upon information and belief, since at least October 19, 2016, when each Defendant received notice of the '539 Patent and its infringement thereof, each Defendant has induced and continues to induce others to infringe at least one claim of the '539 Patent under 35 U.S.C. § 271(b) by, among other things, with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to each Defendant's partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '539 Patent.

41. In particular, each Defendant's actions that aid and abet others such as its partners, customers, clients, artists, and end users to infringe include using, advertising and distributing the Accused Instrumentalities and providing playlists, instruction materials, training, and services regarding the Accused Instrumentalities. For example, Defendants induce artists to infringe the '539 Patent by creating their own playlists, pushing content out to users, and distributing their music through the Accused Instrumentalities. Defendants further induce users to infringe the '539 Patent by promoting said infringing artists to users, who then use the Accused Instrumentalities in an infringing manner. (See https://www.deezer.com/us/company/label_artists; <https://support.deezer.com/hc/en-gb/articles/115004260385-Favorite-Artists>; <https://support.deezer.com/hc/en-gb/articles/115004254729-Artist-Queries-and-answers->; <https://support.deezer.com/hc/en-gb/articles/115004370029-Artist-Mixes>; <https://support.deezer.com/hc/en-gb/articles/115004296949-Channels>; <https://support.deezer.com/hc/en-gb/articles/115004366565-Editor-Mixes>; <https://support.deezer.com/hc/en-gb/articles/115004288385-Explore-Playlists>.) On information and belief, each Defendant has engaged in such actions with specific intent to cause infringement

or with willful blindness to the resulting infringement since each Defendant has had actual knowledge of the '539 Patent and knowledge that its acts were inducing infringement of the '539 Patent since at least the date each Defendant received notice that such activities infringed the '539 Patent.

42. Plaintiff has been harmed by each Defendant's infringing activities.

PRAYER FOR RELIEF

43. WHEREFORE, Plaintiff asks this Court for judgment for itself and against Defendants, including:

- a. An adjudication that each Defendant has infringed the '539 Patent;
- b. An adjudication that each Defendant has induced infringement of the '539 Patent pursuant to 35 U.S.C. § 271(b);
- c. An award of damages to be paid by Defendants adequate to compensate Plaintiff for Defendants' past infringement of the '539 patent, and any continuing or future infringement through the date such judgment is entered, including pre and post judgment interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- d. A determination that Defendants' infringement of the '539 Patent is willful, and an increase in damages of up to three times the amount found or assessed under 35 U.S.C. § 284;
- e. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees; and
- f. Such other and further relief at law or in equity as this Court should find just and proper.

JURY DEMAND

44. Plaintiffs hereby demand a jury as to all claims triable to a jury.

Dated : March 9, 2018

Respectfully submitted,

Of Counsel :

FARNAN LLP

Leonard A. Gail
Kenneth M. Goldman
MASSEY & GAIL LLP
50 East Washington Street, Suite 400
Chicago, Illinois 60602
Phone : 312-283-1590
Facsimile : 312-379-0467
lgail@masseygail.com

/s/ Brian E. Farnan
Brian E. Farnan (Bar No. 4089)
Michael J. Farnan (Bar No. 5165)
919 N. Market St., 12th Floor
Wilmington, DE 19801
Telephone : (302) 777-0300
Fax : (302) 777-0301
bfarnan@farnanlaw.com
mfarnan@farnanlaw.com

Christopher L. May
Jeremy G. Mallory
MASSEY & GAIL LLP
1325 G Street N.W., Suite 500
Washington, DC 20005
Phone : 312-283-1590
Facsimile : 312-379-0467
cmay@masseygail.com
jmallory@masseygail.com

*Attorneys for Plaintiff MOAEC
Technologies, LLC*