

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

BUFFALO PATENTS, LLC,

Plaintiff,

v.

SPOTIFY TECHNOLOGY S.A., SPOTIFY
AB, and SPOTIFY USA INC.

Defendants.

CIVIL ACTION NO. _____

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Buffalo Patents, LLC (“Buffalo Patents” or “Plaintiff”) files this original complaint against Defendants Spotify Technology S.A., Spotify AB, and Spotify USA Inc. (“Spotify” or “Defendant”), alleging, based on its own knowledge as to itself and its own actions and based on information and belief as to all other matters, as follows:

PARTIES

1. Buffalo Patents is a limited liability company formed under the laws of the State of Texas, with its principal place of business at 1200 Silver Hill Dr., Austin, Texas, 78746.
2. Defendant Spotify Technology S.A. (“Spotify Technology”) is a company duly organized and existing under the laws of the Grand Duchy of Luxembourg, with a place of business located at Regeringsgatan 19, SE-111 53 Stockholm, Sweden.
3. Spotify Technology, together with its subsidiaries, is an audio streaming and media services provider. It describes itself as “the world’s most popular audio streaming subscription service with a community of more than 433 million users, including 188 million Spotify Premium subscribers, across 183 markets.”¹

¹ See About Spotify, <https://investors.spotify.com/about/default.aspx>.

4. Defendant Spotify AB is a company duly organized and existing under the laws of Sweden, with a place of business located at Regeringsgatan 19, SE-111 53, Stockholm, Sweden.

5. Spotify AB is a wholly owned subsidiary of Spotify Technology. Spotify AB is the main operating company of Spotify.

6. Defendant Spotify USA Inc. (“Spotify USA”) is a corporation organized and existing under the laws of the State of Delaware. Spotify USA Inc. may be served with process through its registered agent, National Registered Agents, Inc., 1209 Orange St., Wilmington, Delaware, 19801.

7. Spotify USA is a wholly owned subsidiary of Spotify AB. Spotify USA is the American operating company for Spotify.

8. The Defendants named above and their affiliates are part of the same corporate structure and distribution chain for the making, importing, offering to sell, selling, and using of the accused devices in the United States, including in the State of Delaware generally and this judicial district in particular. Spotify’s annual report, for instance, states that the term “Spotify” refers to “Spotify Technology S.A. and its direct and indirect subsidiaries on a consolidated basis.”²

9. The Defendants named above and their affiliates share the same management, common ownership, advertising platforms, facilities, distribution chains and platforms, and accused product lines and products involving related technologies.

² See Spotify’s Annual Report, at 1 (2021), https://s29.q4cdn.com/175625835/files/doc_financials/2021/AR/2021-Spotify-AR.pdf.

10. Thus, the Defendants named above and their affiliates operate as a unitary business venture and are jointly and severally liable for the acts of patent infringement alleged herein.

11. The parties to this action are properly joined under 35 U.S.C. § 299 because the right to relief asserted against defendants jointly and severally arises out of the same series of transactions or occurrences relating to the making and using of the same products or processes. Additionally, questions of fact common to all defendants will arise in this action.

JURISDICTION AND VENUE

12. This is an action for infringement of United States patents arising under 35 U.S.C. §§ 271, 281, and 284–85, among others. This Court has subject matter jurisdiction of the action under 28 U.S.C. § 1331 and § 1338(a).

13. This Court has personal jurisdiction over Spotify pursuant to due process and/or the Delaware Long Arm Statute because, *inter alia*, (i) Spotify has done and continues to do business in Delaware, (ii) Spotify regularly does or solicits business, engages in other persistent course of conduct in Delaware, and derives substantial revenue from services, or things used or consumed in Delaware, (iii) Spotify has committed and continues to commit acts of patent infringement in the State of Delaware, including making, using, offering to sell, and/or selling accused products or services in Delaware, inducing others to commit acts of patent infringement in Delaware, and/or committing at least a portion of any other infringements alleged herein in Delaware, and (iv) Spotify regularly places its products or services within the stream of commerce—directly, through subsidiaries, or through third parties—with the expectation and knowledge that such products or services will be sold or used in Delaware and elsewhere in the United States. Thus, Spotify has established minimum contacts within Delaware and purposefully availed itself of the benefits of Delaware, and the exercise of personal jurisdiction

over Spotify would not offend traditional notions of fair play and substantial justice. In addition, or in the alternative, this Court has personal jurisdiction over (i) Spotify Technology and Spotify AB pursuant to Federal Rule of Civil Procedure 4(k)(2), and (ii) Spotify USA because it is organized under the laws of Delaware.

14. Venue is proper as to Defendants Spotify Technology and Spotify AB, which are organized under the laws of foreign jurisdictions. 28 U.S.C. § 1391(c)(3) provides that “a defendant not resident in the United States may be sued in any judicial district, and the joinder of such a defendant shall be disregarded in determining where the action may be brought with respect to other defendants.” *See also In re HTC Corp.*, 889 F.3d 1349 (Fed. Cir. 2018).

15. Venue is proper in this district as to Spotify USA under 28 U.S.C. § 1400(b). Spotify USA is incorporated in the State of Delaware, so it resides in this district.

BACKGROUND

16. The patent-in-suit generally relates to an improved method and system of managing conference calls. The patented technology allows communities of individuals to initiate, join, and participate in conference calls. In particular, members of a community (even unknown to one another) can meet and collaborate in a freeform and unscheduled way, and yet “retain collective and individual degrees of organizational control,” such as through providing conference call data, designation of users as “speakers,” limiting the time a user is permitted to speak, etc.

17. The technology disclosed by the patent-in-suit was developed by award-winning software developers, known especially for game and graphic design. Since the 1980s, Jordan Weisman has worked on and created interactive entertainment software, including a plethora of role-playing and alternative reality games. Mr. Weisman has earned more than 100 awards throughout his career and, in 2003, he was selected as the Pacific Northwest Entrepreneur of the

Year by Ernst & Young. Elan Lee is best known as a designer of computer games, and has had extensive experience with creating interactive programming for audiences. He has also won much acclaim, including multiple industry awards for design and innovation. Bill Redmann is an engineer who has worked on creating virtual reality technologies, including the design of interactive technologies, since the 1980s. Mr. Redmann is a named inventor on over 70 patents.

18. The invention disclosed in the patent-in-suit has been cited during patent prosecution nearly 300 times and multiple times by electronics companies, including Alcatel-Lucent, Amazon, Apple, AT&T, Avaya, Blackberry, Canon, Cisco, Dolby, Ericsson, Fujitsu, Google, IBM, Hewlett-Packard, Infineon, Intel, Lenovo, LG Electronics, Microsoft, Motorola Solutions, Nokia, Nortel Networks, Palm, Panasonic, Qualcomm, Samsung, Sharp Labs, Siemens, Sony, Sprint, T-Mobile, Verizon, and Vodafone.

COUNT I

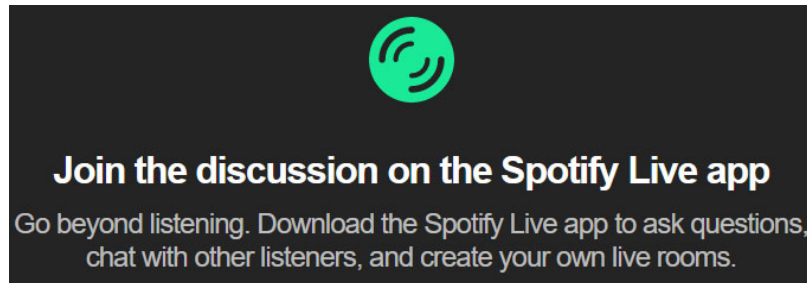
DIRECT INFRINGEMENT OF U.S. PATENT NO. 6,839,417

19. On January 4, 2005, United States Patent No. 6,839,417 (“the ’417 Patent”) was duly and legally issued by the United States Patent and Trademark Office for an invention entitled “Method and Apparatus for Improved Conference Call Management.” A true and correct copy of the ’417 Patent is attached as Exhibit A.

20. Buffalo Patents is the owner of the ’417 Patent, with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the ’417 Patent against infringers, and to collect damages for all relevant times.

21. Spotify made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems including, for example, its Spotify Live social

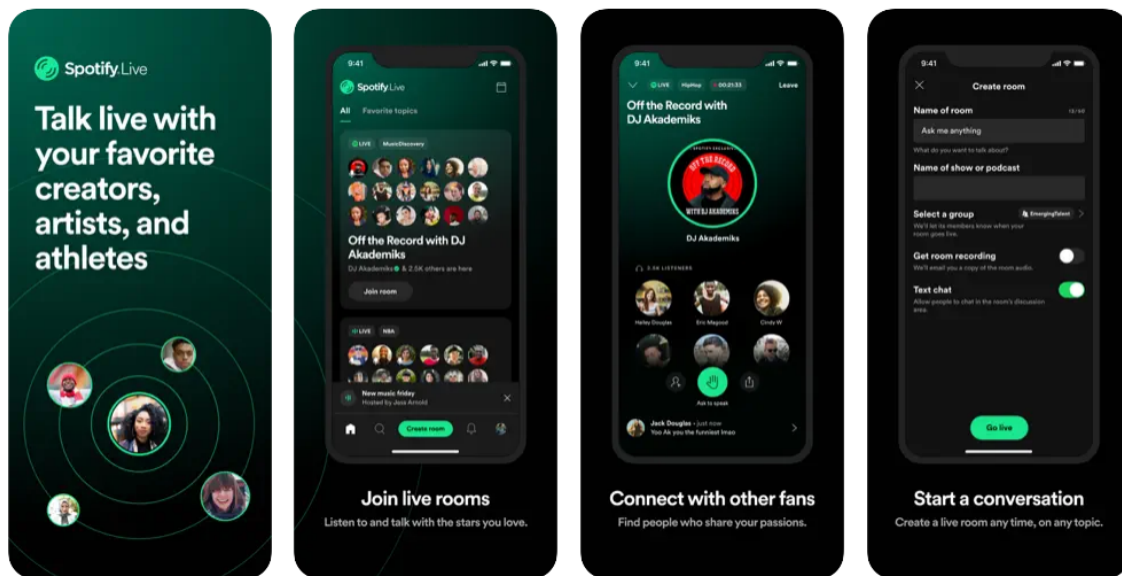
platform (formerly Spotify Greenroom³) and other products and/or services that allow users to set up and join a conference call, and receive a list of available conference calls (“accused products”):



What is Spotify Live?

Spotify Live is an audio experience from Spotify that lets you listen to live discussions in Spotify, or participate through the Spotify Live app. Through virtual rooms you can listen and talk about the things you love with creators and fans with similar interests.

Source: <https://www.spotify.com/us/live/>



Source: <https://apps.apple.com/us/app/spotify-live/id1517524960>

³ See *Spotify Greenroom Is Getting a New Name—Spotify Live—And a New Home*, SPOTIFY AB (Apr. 12, 2022), <https://newsroom.spotify.com/2022-04-12/spotify-greenroom-is-getting-a-new-name-spotify-live-and-a-new-home/>.

22. By doing so, Spotify has directly infringed (literally and/or under the doctrine of equivalents) at least Claim 38 of the '417 Patent. Spotify's infringement in this regard is ongoing.

23. The Spotify platform is an exemplary accused product.

24. Spotify has infringed the '417 Patent by using the accused products and thereby practicing a method for a selecting participant to access a conference call.

25. For example, Spotify Live (formerly Spotify Greenroom) is a social audio mobile platform that allows a user to set up and join audio rooms. A user ("selecting participant") can access an ongoing audio room ("conference call") by tapping on the audio room.

Spotify Greenroom

Spotify Greenroom

Spotify Greenroom is a new social audio app from Spotify that lets you host and participate in live discussions.

Through virtual rooms you can listen and talk about the things you love with artists and fans that have similar interests.

- Host or participate in live discussions
- Join Live Rooms with your favorite artists
- Browse groups about different topics
- Create rooms just for you and your friends to hang out
- Get notified about Live Rooms that might interest you

Source: <https://support.spotify.com/us/article/spotify-greenroom/>

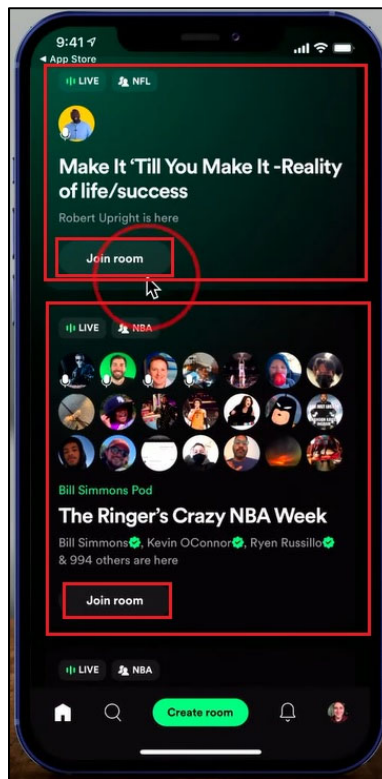
How do I start or join a Room?

Anyone can start a Room by tapping the **Create Room** button at the bottom of the Home page. Creating a Room means you're the host. You can invite others to the Room, and select groups to go live in.

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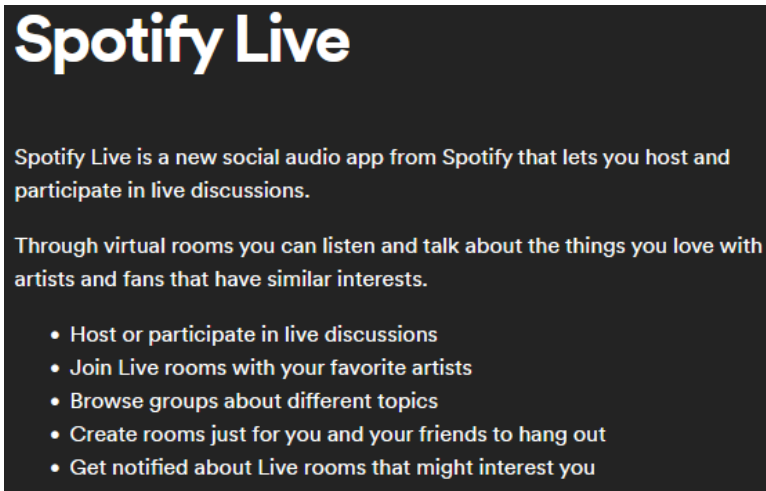
You'll be notified when a group you join or a person you follow starts a Live Room.

Source: <https://www.spotify.com/us/greenroom/>



Source: https://youtu.be/uFPS_4tp95U?t=183

Spotify Live



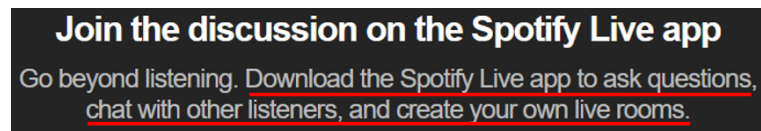
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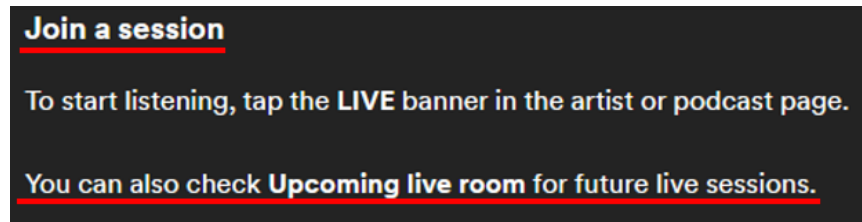
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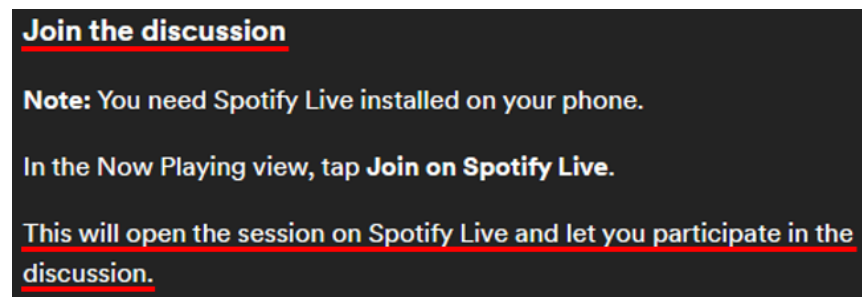


Join a session

To start listening, tap the **LIVE** banner in the artist or podcast page.

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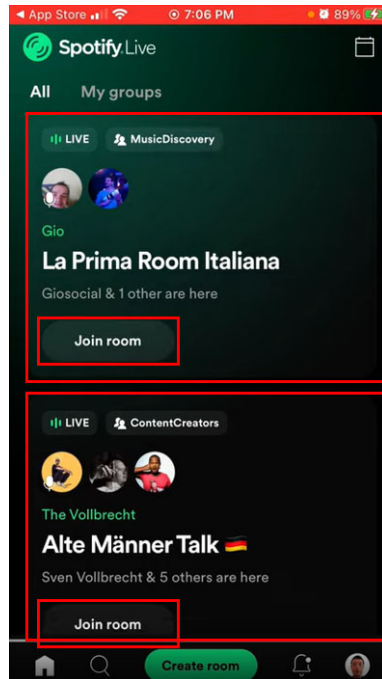
Join the discussion

Note: You need Spotify Live installed on your phone.

In the Now Playing view, tap **Join on Spotify Live**.

This will open the session on Spotify Live and let you participate in the discussion.

Source: <https://support.spotify.com/us/article/spotify-live/>



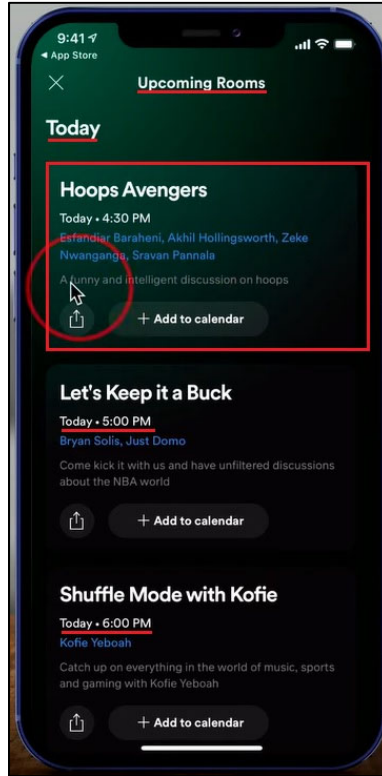
Source: <https://www.youtube.com/watch?v=CIttUK2o7Zg> (0:15)

26. The method practiced using the accused products includes the step of providing to the selecting participant a list of conference call data representing a subset of conference calls available.

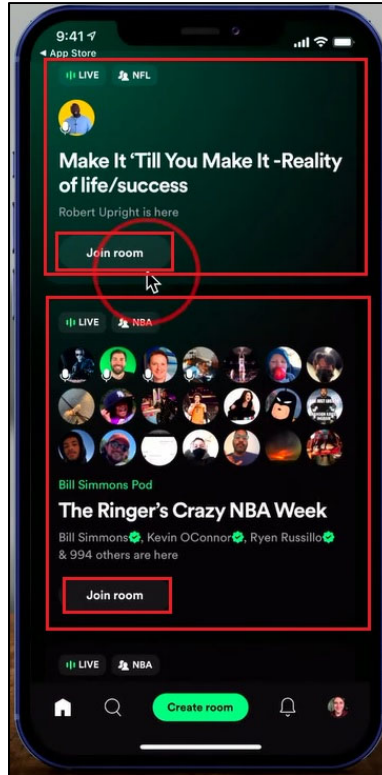
27. For example, Spotify Live (formerly Spotify Greenroom) is a social audio mobile platform that allows a user to set up and join audio rooms. A user can select and join an audio room from a list of ongoing rooms. The audio rooms provide information to users about the audio room, including title of the room, topic of the room, list of members currently in the room, name of the host, etc.

28. A user (“selecting participant”) is also provided a list of available ongoing audio rooms (“representing a subset of conference calls”).

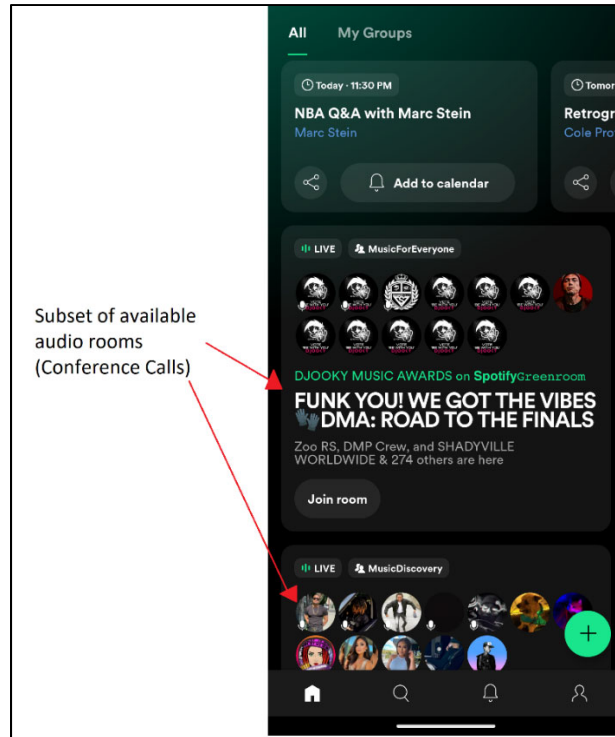
Spotify Greenroom



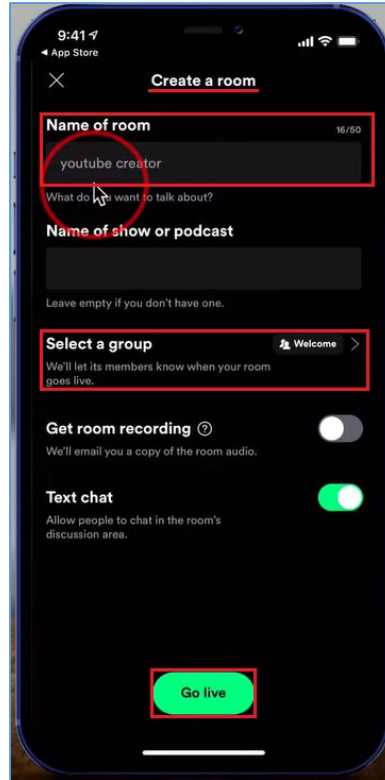
Source: https://youtu.be/uFPS_4tp95U?t=163



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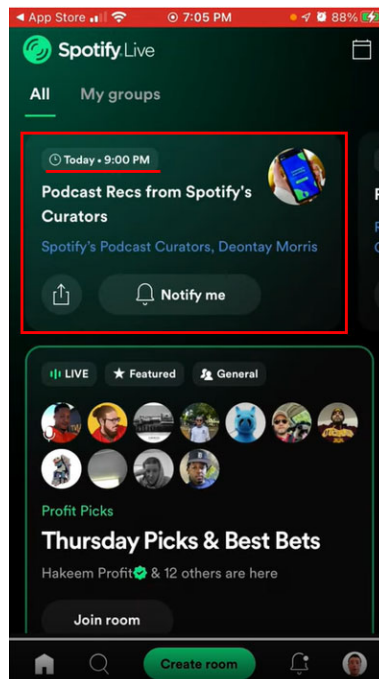


Source: Screenshot taken during testing showing a subset of ongoing audio rooms, e.g., available conference calls.

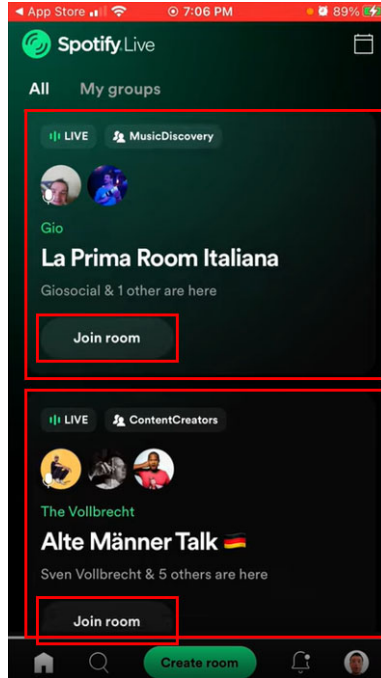


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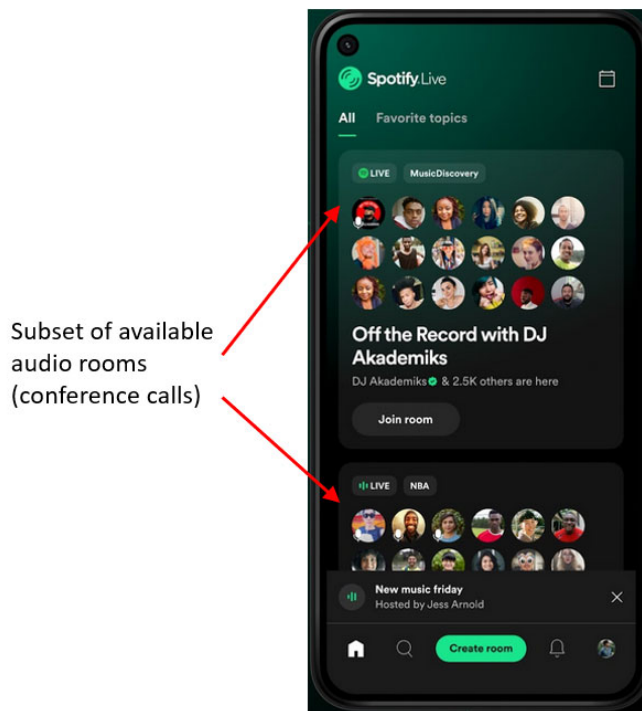
Spotify Live



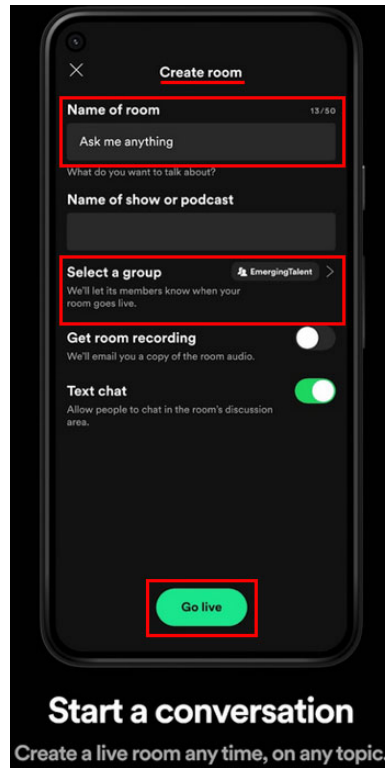
Source: <https://www.youtube.com/watch?v=CIttUK2o7Zg> (0:08)



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Source: https://play.google.com/store/apps/details?id=io.bettylabs.disco&hl=en_US&gl=US



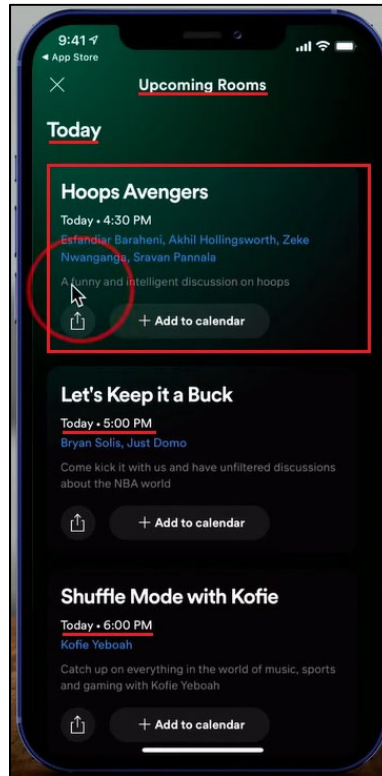
Source: https://play.google.com/store/apps/details?id=io.bettylabs.disco&hl=en_US&gl=US

29. The method practiced using the accused products includes the step of receiving from a selecting participant, a designation of the conference call from the list.

30. For example, Spotify Live (formerly Spotify Greenroom) is a social audio mobile platform that allows a user to set up and join audio rooms. A user can select and join a room from a list of scheduled or ongoing rooms. When a user taps on the “join” button of the room they want to join, the user joins the room as a listener. If a user creates a room, the user automatically joins as the speaker or host of that room. Other users that subsequently join the room join as listeners. The platform receives a user’s designation in the audio room before that user actually joins the audio room.

31. As one example, when a user joins a room as a listener, that user will only be able to listen (“designation”) to the speakers in that room.

Spotify Greenroom



Source: https://youtu.be/uFPS_4tp95U?t=163

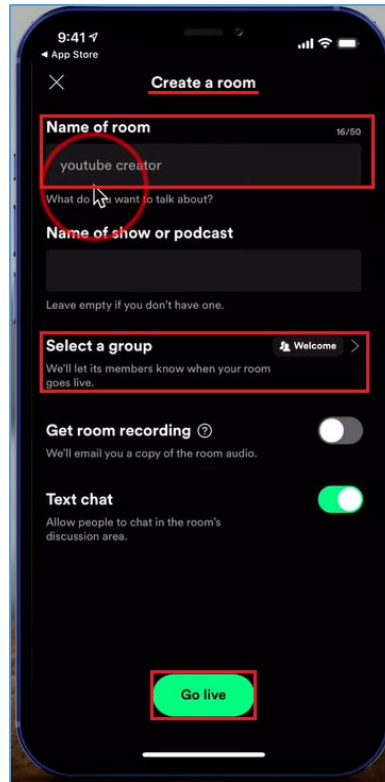
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Source: <https://www.spotify.com/us/greenroom/>



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Who can speak in a Room?

Anyone can speak in a Room. Each Room has a host, speakers, and listeners.

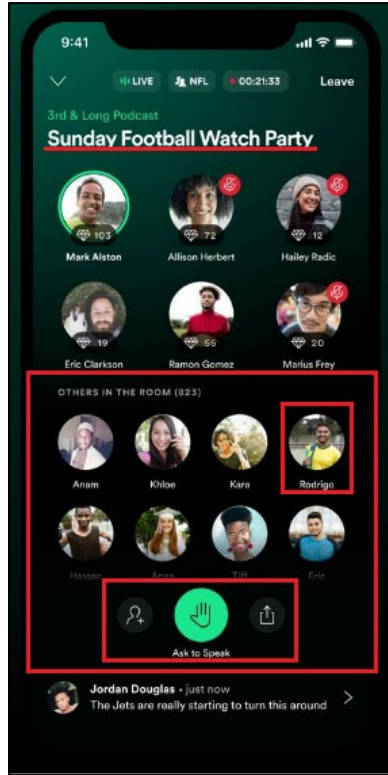
The host is the person who started the Room. They control requests to speak on stage, and when the discussion ends. Hosts can also switch the Discussions tab (chat message function) on/off.

The speaker is the person on stage speaking.

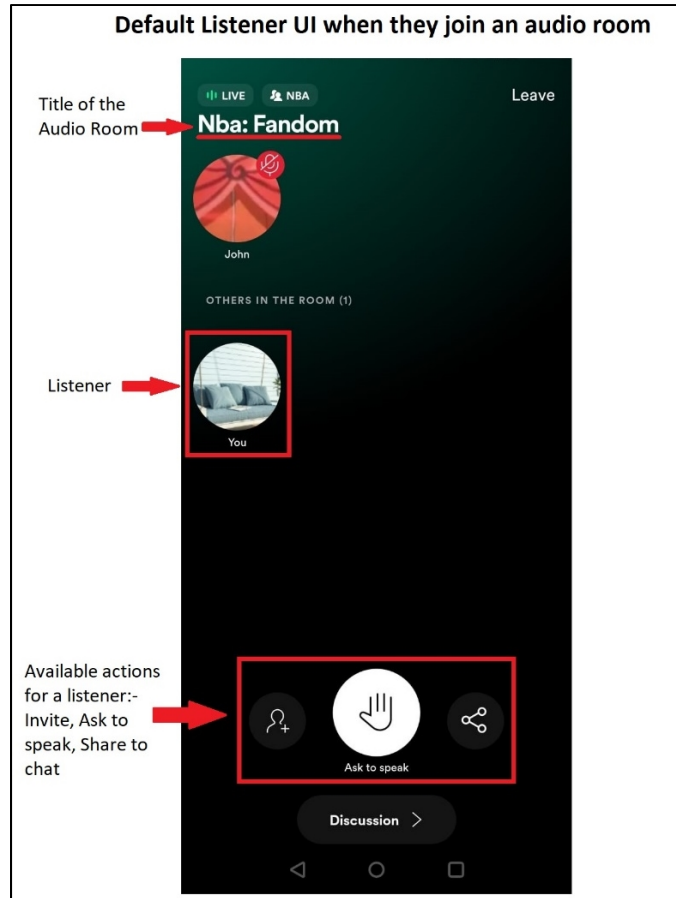
The listeners are those listening to the discussion. A listener can participate by raising their hand to speak or ask questions.

Anyone in the Room can post a message in the Room's Discussions tab, unless the host switches it off.

Source: <https://www.spotify.com/us/greenroom/>

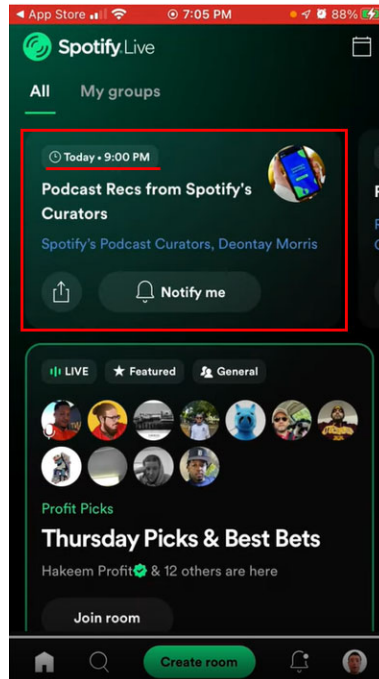


Source: <https://www.spotify.com/us/greenroom/>



Source: Screenshot showing the perspective of a user that joins an audio room as a listener.

Spotify Live



Source: <https://www.youtube.com/watch?v=ClIttUK2o7Zg> (0:08)

Join the discussion on the Spotify Live app
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Source: <https://www.spotify.com/us/live/>

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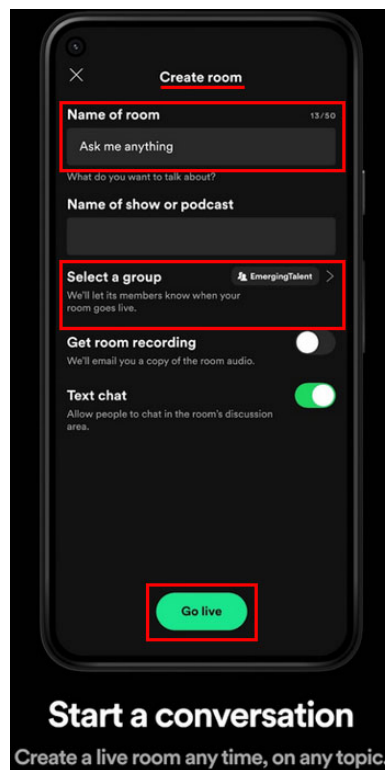
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Note: You need Spotify Live installed on your phone.

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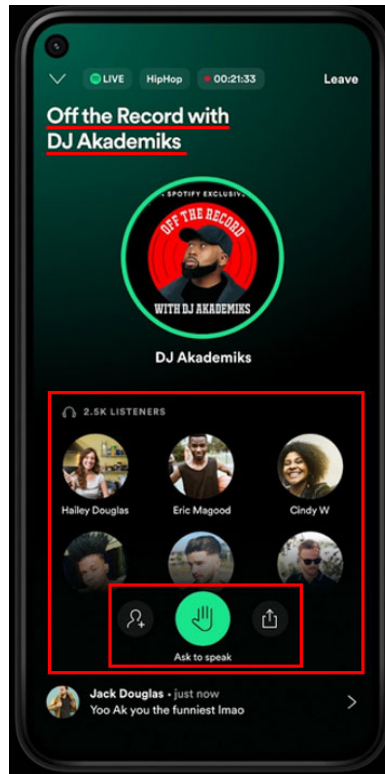


Source: https://play.google.com/store/apps/details?id=io.bettylabs.disco&hl=en_US&gl=US

Who can speak in a Room?

Anyone using the Spotify Live app can speak. Each room has a host, speakers, and listeners. The host is the person who started the room. They control requests to speak on stage, and when the discussion ends. Hosts can also switch the discussions tab (chat message function) on/off. The speaker is the person on stage speaking. The listeners are those listening to the discussion. A listener can participate by raising their hand to speak or ask questions if they are using the Spotify Live app.

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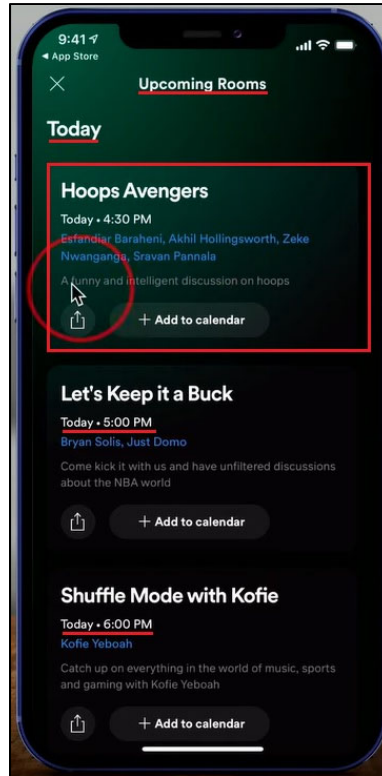
32. The method practiced using the accused products includes the step of granting access to the selecting participant into the conference call as a participant.

33. For example, Spotify Live (formerly Spotify Greenroom) is a social audio mobile platform that allows a user to set up and join audio rooms. A user can select and join a room from a list of scheduled or ongoing rooms. When a user taps on the “join” button of the room they want to join, the user joins the room as a listener. If a user creates a room, the user automatically joins as a speaker or host of that room. Other users that subsequently join the room will join as listeners. The platform receives a user’s designation in the audio room, and grants access to the user with that designation.

34. As one example, when a user joins a room, they (“selecting participant”) are granted access to the audio room (“into the conference call”) as a listener—that is, a participant that cannot talk to other participants (“participant”). When a user joins a room as a host (after

the creation of the room), that user will be granted access as a participant with a “speak” option, “hand requests approval” option, etc.

Spotify Greenroom



Source: https://youtu.be/uFPS_4tp95U?t=163

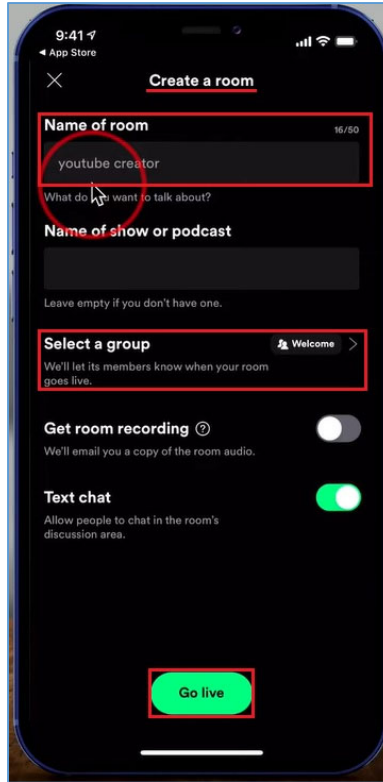
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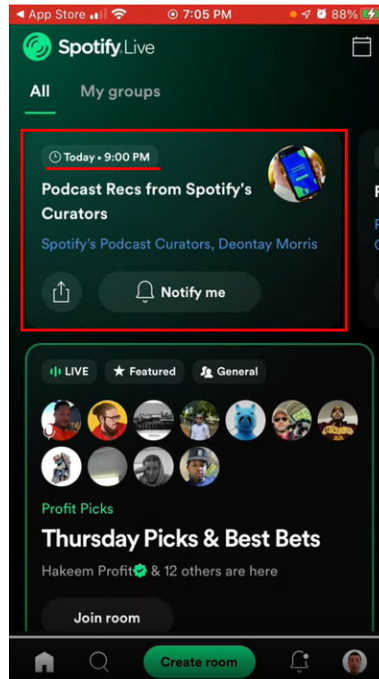
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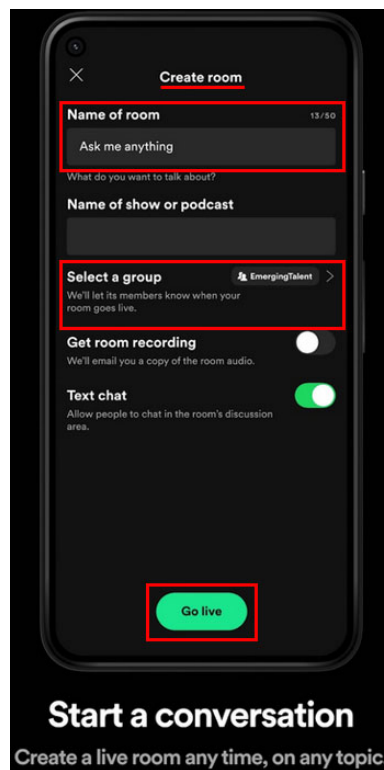
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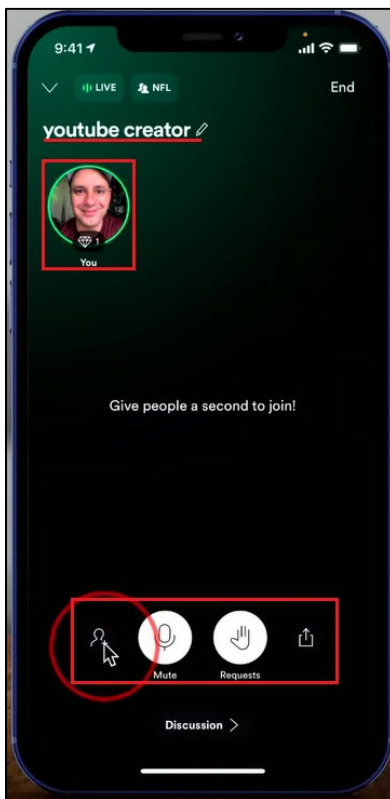
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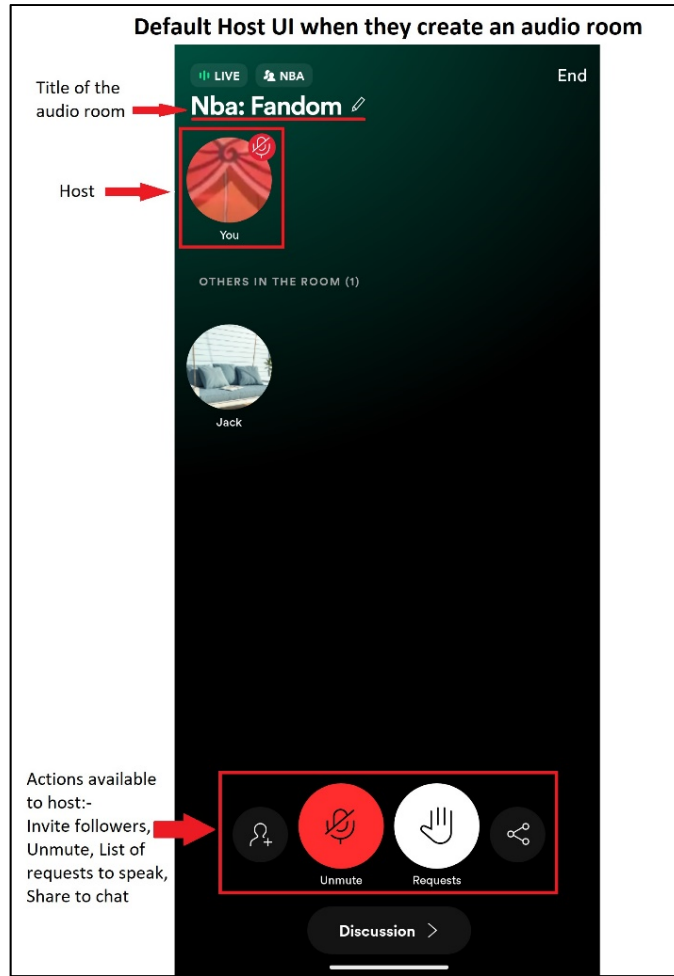
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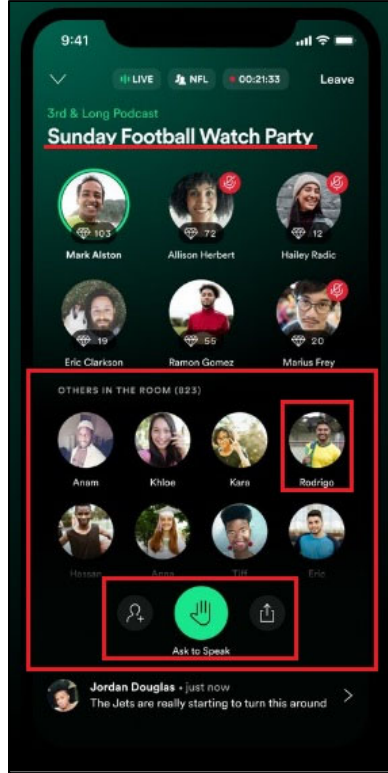
35. The citations below show that the user interface (UI) can differ depending on whether a user joins a room as a host or as a listener. Accordingly, a participant is granted access to a conference call depending on the selected designation.



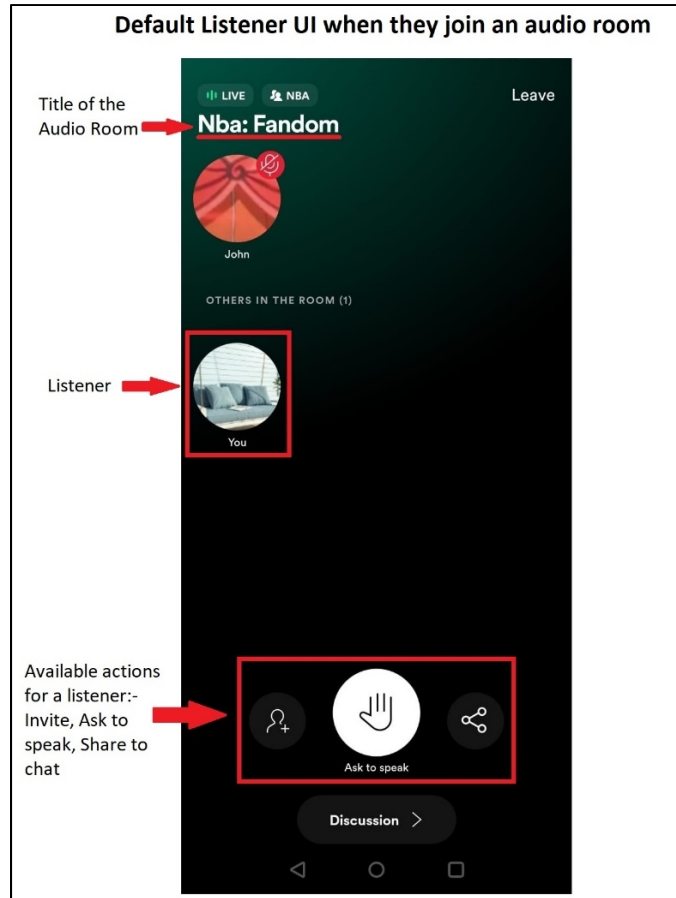
Source: https://youtu.be/uFPS_4tp95U?t=358



Source: Screenshot showing the host's perspective after creating an audio room.



Source: <https://www.spotify.com/us/greenroom/>



Source: Screenshot showing the perspective of a user that joins an audio room as a listener.

36. Spotify has directly infringed at least through its use of the accused products through its own testing of the accused products, and through joint infringement with its affiliates, with its subsidiaries, with its business partners, with other agents of Spotify, and/or with its customers and end-users, at least using the claimed method. Such acts of infringement include directing or controlling other persons to engage in conduct satisfying one or more elements of the asserted claims, deriving a financial or other benefit from doing so. Spotify's direction or control of its affiliates and end-users includes regularly contracting with those affiliates and end-users. Also, as explained further below, Spotify took active steps and advised or directed customers and end-users to use the accused products in an infringing manner. *See, e.g., supra* ¶¶ 21, 28, 31, 34.

37. Spotify has had knowledge of the '417 Patent at least as of the date when it was notified of the filing of this action, and as early as February 2, 2022, when Spotify received a letter from Buffalo notifying it of the '417 Patent.

38. Buffalo Patents has been damaged as a result of the infringing conduct by Spotify alleged above. Thus, Spotify is liable to Buffalo Patents in an amount that adequately compensates it for such infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

39. Buffalo Patents has neither made nor sold unmarked articles that practice the '417 Patent, and is entitled to collect pre-filing damages for the full period allowed by law for infringement of the '417 Patent.

**ADDITIONAL ALLEGATIONS REGARDING INFRINGEMENT
AND PERSONAL JURISDICTION**

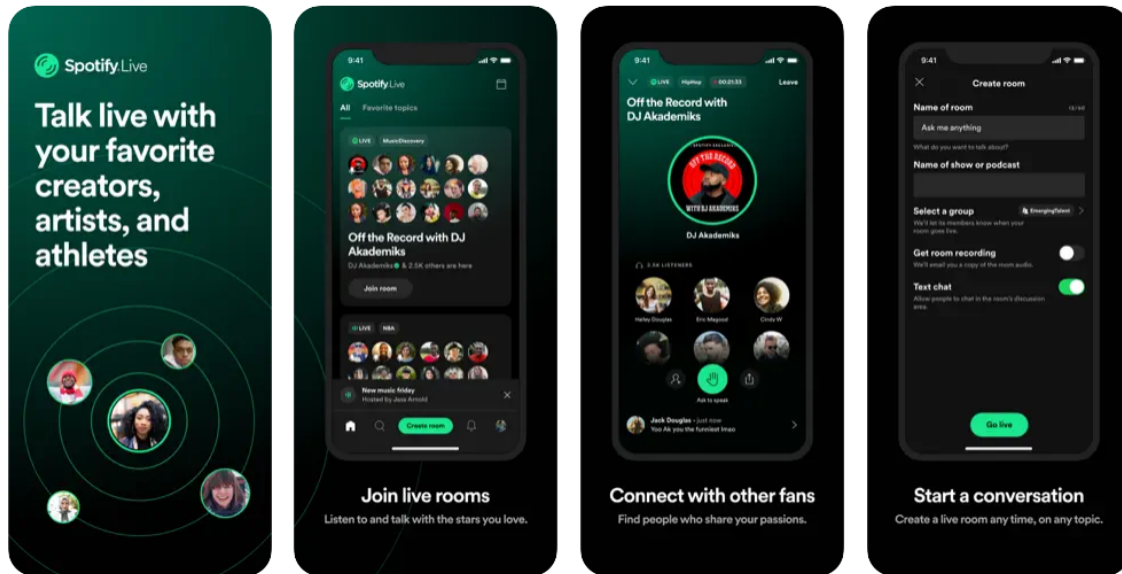
40. Spotify has also indirectly infringed the '417 Patent by inducing others to directly infringe the '417 Patent.

41. Spotify has induced the end users and/or Spotify's customers to directly infringe (literally and/or under the doctrine of equivalents) the '417 Patent by using the accused products.

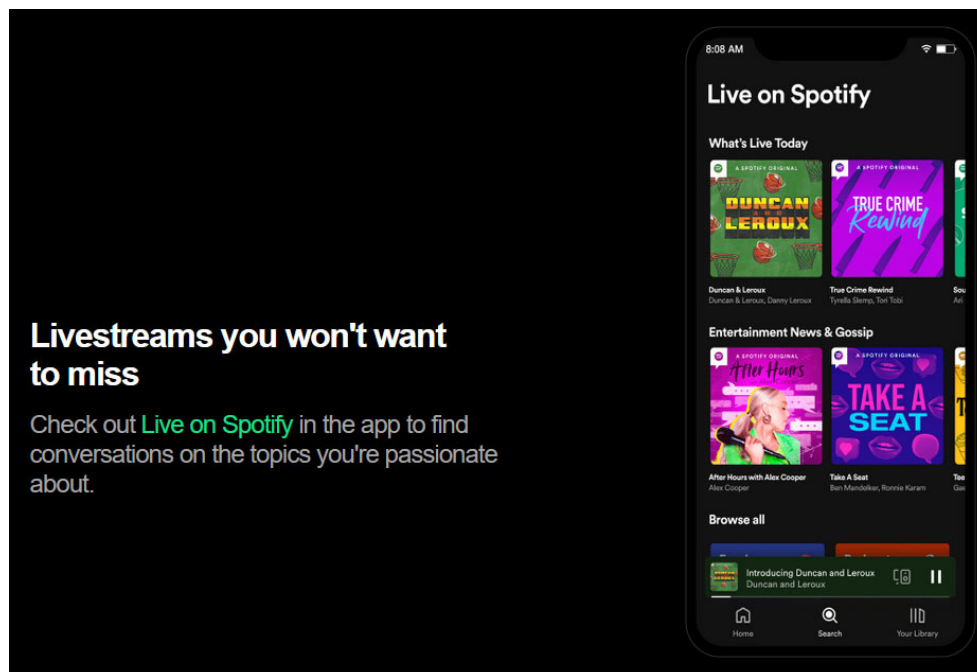
42. Spotify took active steps, directly and/or through contractual relationships with others, with the specific intent to cause them to use the accused products in a manner that infringes one or more claims of the '417 Patent, including, for example, Claim 38 of the '417 Patent.

43. Such steps by Spotify included, among other things, advising or directing customers, end users, and others to use the accused products in an infringing manner; advertising and promoting the use of the accused products in an infringing manner; and/or distributing

instructions that guide users to use the accused products in an infringing manner. Examples of the steps Spotify has taken include the following:⁴



Source: <https://apps.apple.com/us/app/spotify-live/id1517524960>



Source: <https://www.spotify.com/us/live/>

⁴ See also *supra* ¶¶ 28, 31, 34.

44. Spotify performed these steps, which constitute joint and/or induced infringement, with the knowledge of the '417 Patent and with the knowledge that the induced acts constitute infringement.

45. Spotify was and is aware that the normal and customary use of the accused products by Spotify's customers would infringe the '417 Patent. Spotify's inducement is ongoing.

46. Spotify has also indirectly infringed by contributing to the infringement of the '417 Patent. Spotify has contributed to the direct infringement of the '417 Patent by the end user of the accused products.

47. The accused products have special features that are specially designed to be used in an infringing way and that have no substantial uses other than ones that infringe the '417 Patent, including, for example, Claim 38 of the '417 Patent.

48. The special features include, for example, hardware and/or software features that provide a participant in a conference call with a list of available conference calls, used in a manner that infringes the '417 Patent.

49. These special features constitute a material part of the invention of one or more of the claims of the '417 Patent, and are not staple articles of commerce suitable for substantial non-infringing use.

50. Spotify's contributory infringement is ongoing.

51. Spotify has had actual knowledge of the '417 Patent at least as of the date when it was notified of the filing of this action, and as early as February 2, 2022, when Spotify received a letter notifying it of the '417 Patent. Since at least that time, Spotify has known the scope of

the claims of the '417 Patent, the products that practice the '417 Patent, and that Buffalo Patents is the owner of the '417 Patent.

52. By the time of trial, Spotify will have known and intended (since receiving such notice) that its continued actions would infringe and actively induce and contribute to the infringement of one or more claims of the '417 Patent.

53. Spotify's customers have infringed the '417 Patent. Spotify encouraged its customers' infringement.

54. Spotify's direct and indirect infringement of the '417 Patent has been, and/or continues to be willful, intentional, deliberate, and/or in conscious disregard of Buffalo Patents' rights under the patent-in-suit.

55. Buffalo Patents has been damaged as a result of Spotify's infringing conduct alleged above. Thus, Spotify is liable to Buffalo Patents in an amount that adequately compensates it for such infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

JURY DEMAND

Buffalo Patents hereby requests a trial by jury on all issues so triable by right.

PRAYER FOR RELIEF

Buffalo Patents requests that the Court find in its favor and against Spotify, and that the Court grant Buffalo Patents the following relief:

a. Judgment that one or more claims of the '417 Patent have been infringed, either literally and/or under the doctrine of equivalents, by Spotify and/or all others acting in concert therewith;

b. A permanent injunction enjoining Spotify and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in

concert therewith from infringement of the '417 Patent; or, in the alternative, an award of a reasonable ongoing royalty for future infringement of the '417 Patent by such entities;

c. Judgment that Spotify account for and pay to Buffalo Patents all damages to and costs incurred by Buffalo Patents because of Spotify's infringing activities and other conduct complained of herein, including an award of all increased damages to which Buffalo Patents is entitled under 35 U.S.C. § 284;

d. That Buffalo Patents be granted pre-judgment and post-judgment interest on the damages caused by Spotify's infringing activities and other conduct complained of herein;

e. That this Court declare this an exceptional case and award Buffalo Patents its reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285; and

f. That Buffalo Patents be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: October 11, 2022

Respectfully submitted,

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