

Tidal Escapes Patent Suit Over Music Playlist Tech

By **Jasmin Jackson**

Law360 (January 25, 2023, 8:08 PM EST) -- A New York federal judge has snuffed out a patent owner's infringement suit against music streaming giant Tidal over a system that generates user-specific playlists, finding that the asserted claims are directed toward an abstract idea and ineligible for patenting.

U.S. District Judge Jesse Furman dismissed EscapeX IP LLC's infringement litigation in an opinion issued Tuesday, ending claims that Tidal owner Block Inc. swiped music technology that can generate playlists based on users' listening patterns. According to the filing, EscapeX's asserted claims are unpatentable under the Supreme Court's 2014 decision in *Alice Corp. v. CLS Bank* — which established a two-part eligibility test for technological inventions.

The Supreme Court's *Alice* decision held that technology-based patents can't be directed toward an abstract idea, requiring the systems to include an added inventive element. Judge Furman held that EscapeX's asserted claims "are directed to the abstract idea of remotely updating content on a user device."

"None of the patent claims, either separately or as an ordered combination, adds an inventive concept to this abstract idea," he ruled.

In May 2022, EscapeX hit technology conglomerate Block — which had acquired Tidal for around \$300 million the previous year — with a patent suit in the Southern District of New York. According to the complaint, Tidal incorporated technology that infringed a patent issued by the U.S. Patent and Trademark Office in April 2015.

The patent owner filed an amended complaint later that month, saying the Tidal owner had directly infringed the playlist generating system as well as indirectly infringed the patent through alleged inducement.

"Tidal, from at least the filing date of the lawsuit, has continued to encourage and instruct others on how to use the products showing specific intent," EscapeX said.

Tidal urged Judge Furman to toss the suit the following August. According to the dismissal bid, the asserted system was ineligible for patenting and "merely describe their purported invention in almost entirely functional terms."

"The patent nowhere suggests that the patentee invented any of the computer components and

techniques mentioned in the specification," Tidal said. "Music buffs have been curating and updating mixtapes of their favorite artists since at least the invention of the cassette player; the patent here simply carries out that process on a computer."

Judge Furman agreed to ax the dispute Tuesday, also finding that the patent "describes basic computer functions — changing computer code in response to programmed instructions."

"Lacking such specification, the claims sweep too broadly; they monopolize the result of remote control over content stored on a user device rather than claiming one way of achieving that result," Judge Furman added.

A representative for Tidal, its counsel and counsel for Escape X did not immediately respond to requests for comment Wednesday.

The patent-in-suit is U.S. Patent No. 9,009,113.

EscapeX is represented by William P. Ramey III of Ramey LLP and David J. Hoffman of the Law Office of David J. Hoffman.

Tidal is represented by Chandrika Vira, Daniel Block, Michael Specht and William Milliken of Sterne Kessler Goldstein & Fox.

The suit is EscapeX IP LLC v. Block Inc., case number 1:22-cv-03575, in the U.S. District Court for the Southern District of New York.

--Editing by Stephen Berg.