

PayPal Holdings, Inc. and PayPal, Inc. v. Fintiv Inc. IPR2023-00744

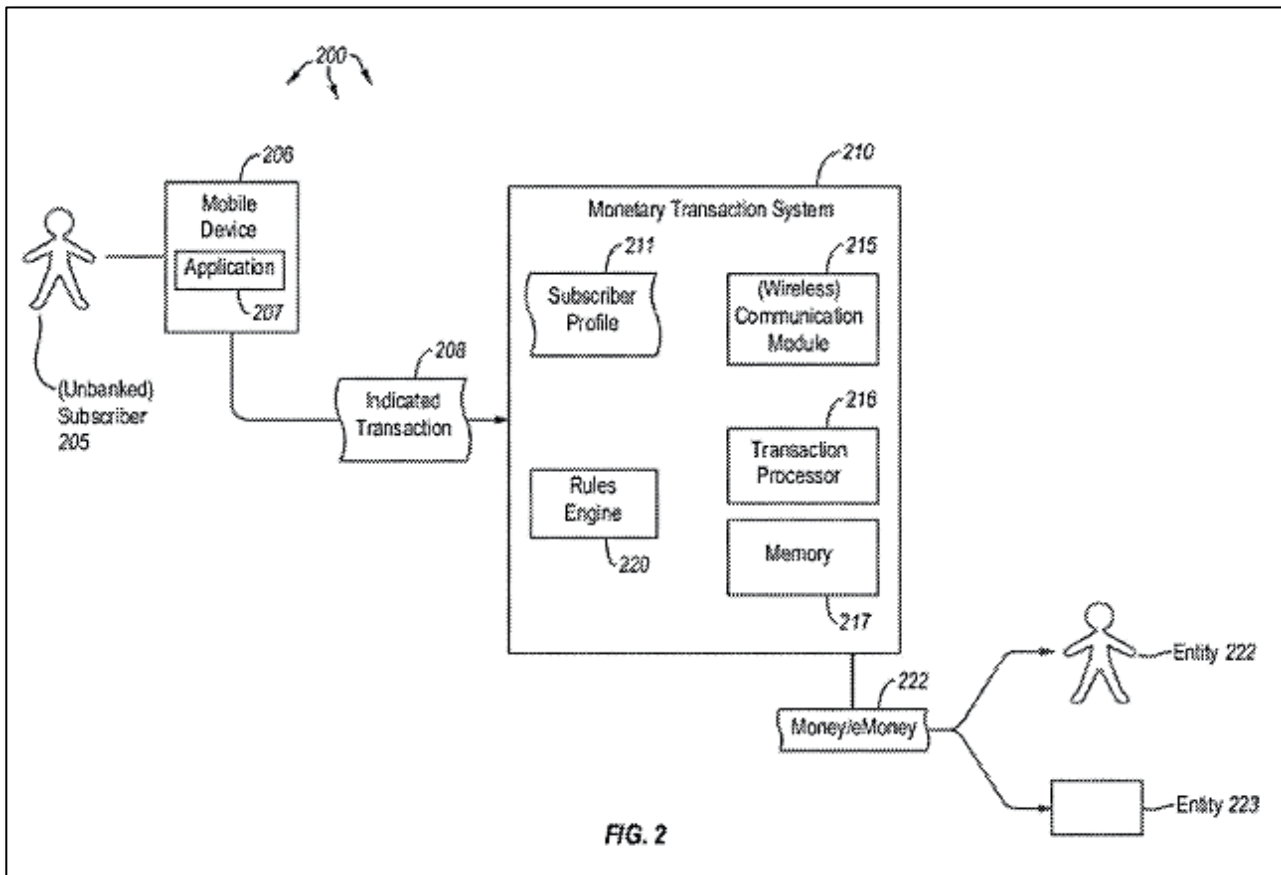
Petitioner's Demonstrative Exhibits

July 18, 2024, Hearing

1) Overview of '845 Patent and Tumminaro

- 2) Construction of “unbanked subscriber” (all claims)
- 3) Construction of “[specified/selected] payment method” (claim 5)
- 4) Construction of “one or more of a velocity check and limit check” (claim 1)
- 5) Fintiv repeatedly mischaracterizes Tumminaro
- 6) Construction of “mobile wallet” (all claims)

The monetary transaction system of the '845 patent



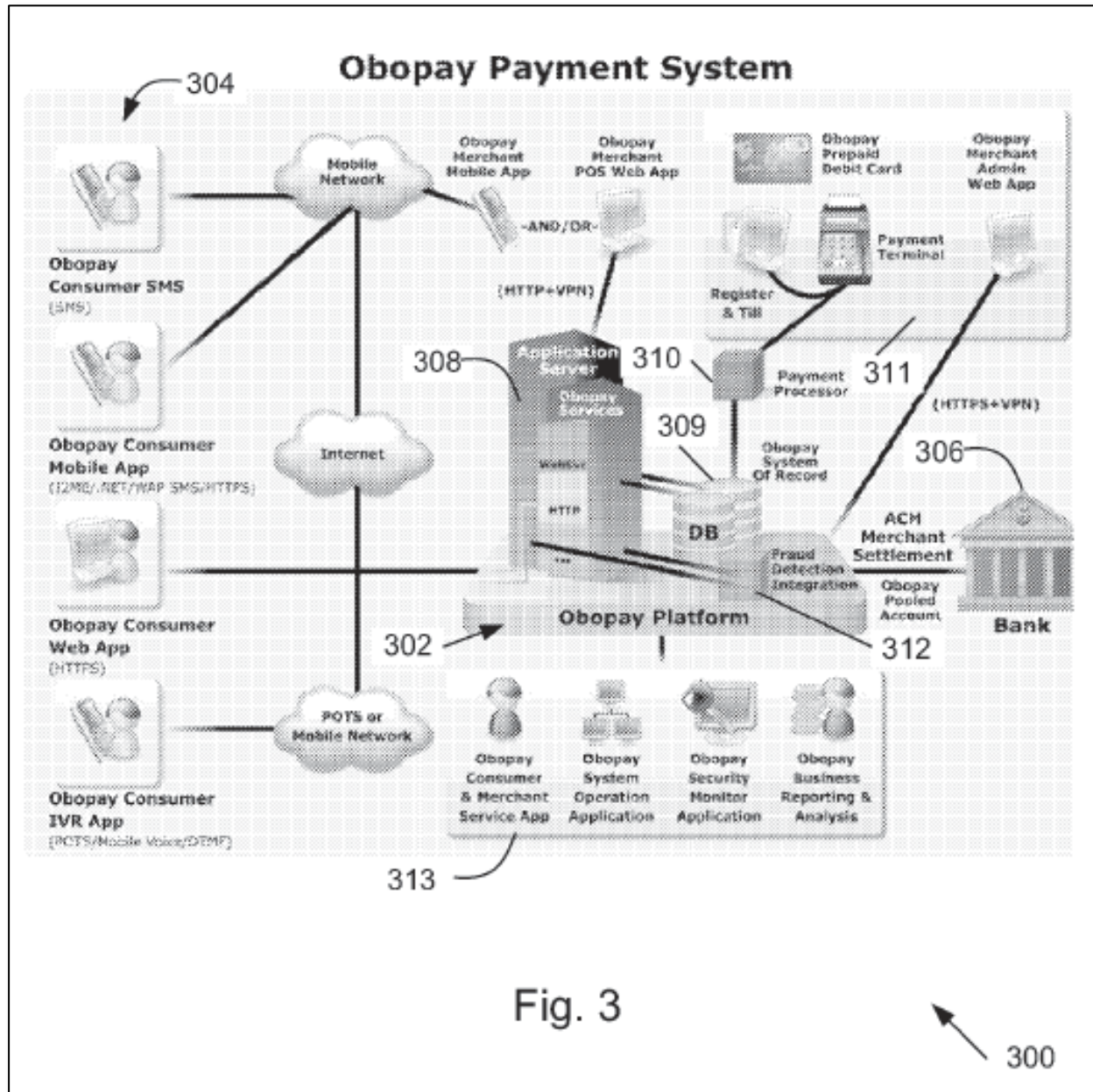
Ex. 1001 at Fig. 2.

FIG. 2 depicts a monetary transaction system **200** similar to that described in FIG. 1. The monetary transaction system **200** may provide a more simplified system structure in which each of the above services may be provided. The system includes a subscriber **205**. The subscriber may have access to a bank account, or may be an unbanked subscriber. The subscriber has a profile **211** with the monetary transaction system **210**. The profile includes the subscriber's KYC information, as well as any associated bank accounts, credit union accounts, bill pay accounts or other accounts. The subscriber has (or has access to) a mobile device **206** such as a phone or tablet. The mobile device runs the mobile wallet application (or mobile wallet application) **207**.

The subscriber can indicate, using the mobile application **207** which transaction or other action he or she would like to perform. The indicated transaction **208** is sent to the mobile wallet platform **210** to be carried out by the platform. The transaction processor **216** (which may be similar to or the same as transaction processor **121** of FIG. 1) performs the transaction(s) specified by the (unbanked) subscriber **205**.

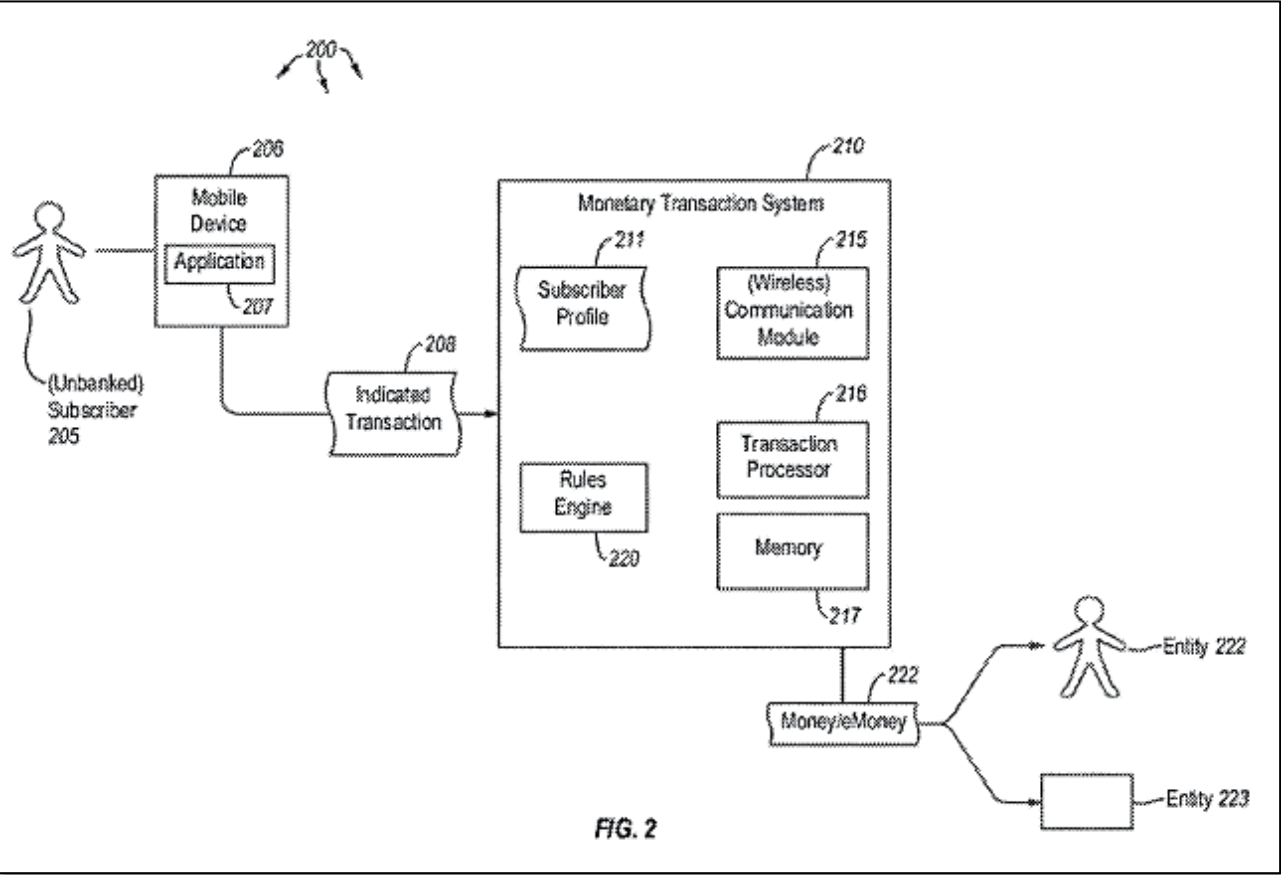
Ex. 1001 at 13:62-14:14.

The mobile payment platform of Tumminaro



[0143] In a specific implementation, the present invention relates to a mobile payment platform and service. An embodiment of the present invention encompasses a payment platform that provides a fast, easy way to make payments by individuals or merchants using their mobile devices to access an account such as a debit account. Further interfaces include IM, Web, and application widgets. Other accounts may include a DDA or a credit card account. The account may also be a stored value account without a card associated with it. Additional embodiments of the present invention encompass a variety of partners that include mobile phone operators, nationally branded merchants, and financial service providers together with a payment platform that provides a fast, easy way to make payments by individuals using their mobile devices.

'845 Patent's "monetary transaction system" vs Tumminaro's "mobile payment platform"



Ex. 1001, Fig. 2

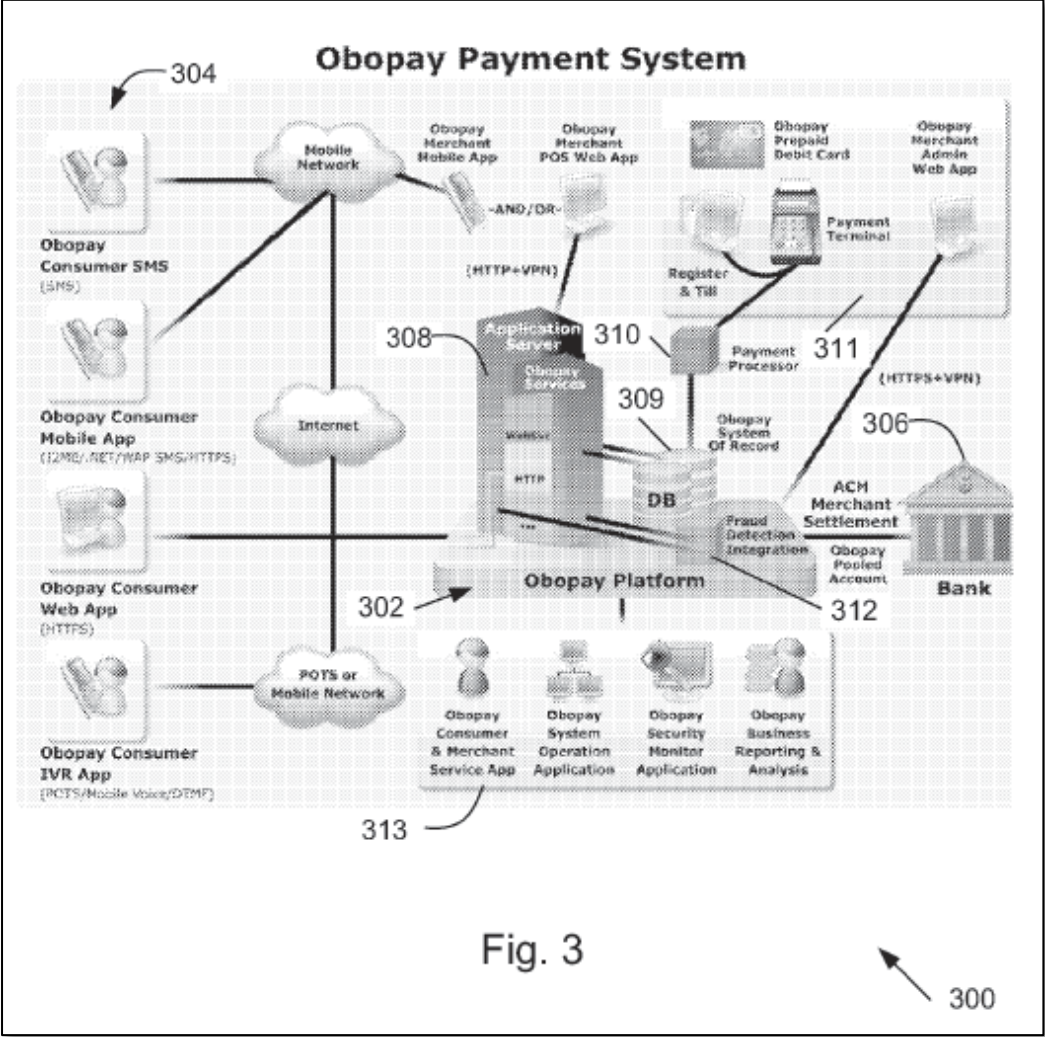


Fig. 3

'845 Patent's "monetary transaction system" vs Tumminaro's "mobile payment platform"

The monetary transaction system may be used for many different tasks including enrolling a customer for a mobile wallet, adding a stored value account (either hosted by a mobile wallet platform or a third party), adding a bank or credit union account to a mobile wallet, adding a debit or credit card account to a mobile wallet, depositing funds in a mobile wallet, withdrawing funds from a mobile wallet, paying bills from a mobile wallet, topping up a prepaid mobile account through a mobile wallet, transferring funds through a mobile wallet (nationally or internationally), making in-store purchases using a mobile wallet, and various other tasks as described herein below.

Ex. 1001 3:51-62

accounts may include a DDA or a credit card account. The account may also be a stored value account without a card associated with it. Additional embodiments of the present

Ex. 1005, ¶143

bank). Need for electronic payments to be accessible to banked and unbanked consumers. Need for electronic payments to be able to be linked to existing financial instruments such as credit, debit, prepaid, payroll, and others. Need to be able to load to and unload from existing financial instruments in real time or near-real-time. Need for electronic payments to work across banks. Need for electronic payments to be accessible via mobile devices.

Ex. 1005, ¶36

[0187] In addition, account holders can either pay their bills or top-off minutes via their service account. This is especially useful for account holders who do not have other financial services available to them.

Ex. 1005, ¶187

[0440] (4) Convenient—the account holder may move money in seconds around the world or across a room.

Ex. 1005, ¶440

digital assistant to make or receive payments. Financial transactions may be conducted on a person-to-person (P2P) or person-to-merchant (P2M) basis where each party is

Ex. 1005, ¶34

Both the '845 patent and Tumminaro serve the unbanked

'845 Patent "Brief Summary"

The monetary transaction system also includes at least one entity that is to be involved in the specified transaction, where the entity has a profile with the monetary transaction system. This entity may be a person, a retail store, an agent or other entity. The subscriber may have access to a bank account, or may be an "unbanked user" that does not have access to a bank account. Each of the terms included above will be described in greater detail below in conjunction with the drawings.

Ex. 1001, 3:47-55

Tumminaro Summary of Invention

[0036] The problems and needs that the invention addresses includes: Cash can be stolen and cash transactions are not traceable. Need to encourage cash to reside in banks rather than consumer's pockets. Need for low-cost or small-deposit cash storage. Need for low cost electronic payments. Need for electronic payments to be available to everyone, any-place, any-time and in near-real-time. Need for electronic payments to result in an instantly usable form (companion prepaid debit card for example, or through a real-time link into a user's demand deposit account (DDA) at a bank). Need for electronic payments to be accessible to banked and unbanked consumers. Need for electronic pay-

[0447] The stand-alone closed loop payment system of the present invention is designed to integrate with a companion bank account. This account can be a preexisting account or, for unbanked users, accounts can be created or held in a pooled account with the partner bank.

Both the '845 patent and Tumminaro use accounts at partner banks

'845 Patent	Tumminaro
“The partner bank is responsible for holding the mFS program master accounts that hold the funds for all mFS services and transactions... A partner bank may elect to maintain a separate bank account for each subscriber... or a single master account may be established that contains the funds for all of the subscriber mobile wallet... accounts.” Ex-1001 at 11:56-12:11.	“The stand-alone closed loop payment system of the present invention is designed to integrate with a companion bank account. This account can be a preexisting account or, for unbanked users, accounts can be created or held in a pooled account with the partner bank.” Ex-1005 at [0447].

[0447] The stand-alone closed loop payment system of the present invention is designed to integrate with a companion bank account. This account can be a preexisting account or, for unbanked users, accounts can be created or held in a pooled account with the partner bank.

User types in Tumminaro

User State	Capability	
"Advanced"	Sign up for a prepaid debit card or credit card. Everything a verified user can do plus be able to instantly spend money wherever the card is accepted	"carded" users (may be banked or unbanked)
"Verified"	Receive, request, add (i.e. load), or withdraw (i.e. unload) money	
"Enrolled"	Receive and request money	"no-card" users (unbanked)

Tumminaro's "No-Card" users

[0276] For the **enrolled state**, the user has entered basic information, such as a confirmed phone. The phone may be confirmed by the system calling the phone number provided by the user at sign-up. This call may be an automated or IVR-type call. There may be an incentive for the user to sign up, such as the user receiving money (e.g., \$5) that is put into the user's account. The incentive may be referred to as a referral bonus and may be any amount. The referral bonus may be paid only to the referrer, only to the referee, or to both. **In this state, the user may receive and request money.**

[0277] For the **verified state**, the user's identity is known. The user provides address or other related contact information. **A user in the verified state may receive, request, add (i.e., load), or withdraw (i.e., unload) money.**

Tumminaro's "Carded" users

[0278] For the advanced state, the user has provided the user's social security number. In this state, for example, the user may sign up for with a particular banking partner to receive a card. This card may be a prepaid debit card. In other embodiments, the card may be a credit card. The user will be able to do everything a verified user can plus be able to instantly spend money wherever the card is accepted. The card may be accepted or usable through one or more networks including Visa, MasterCard, American Express, NYCE, PLUS, or STAR, or any combination of these. The card is linked to the user's account. A user without a card may be called a no-card user, while a user with a card may be called a carded user.

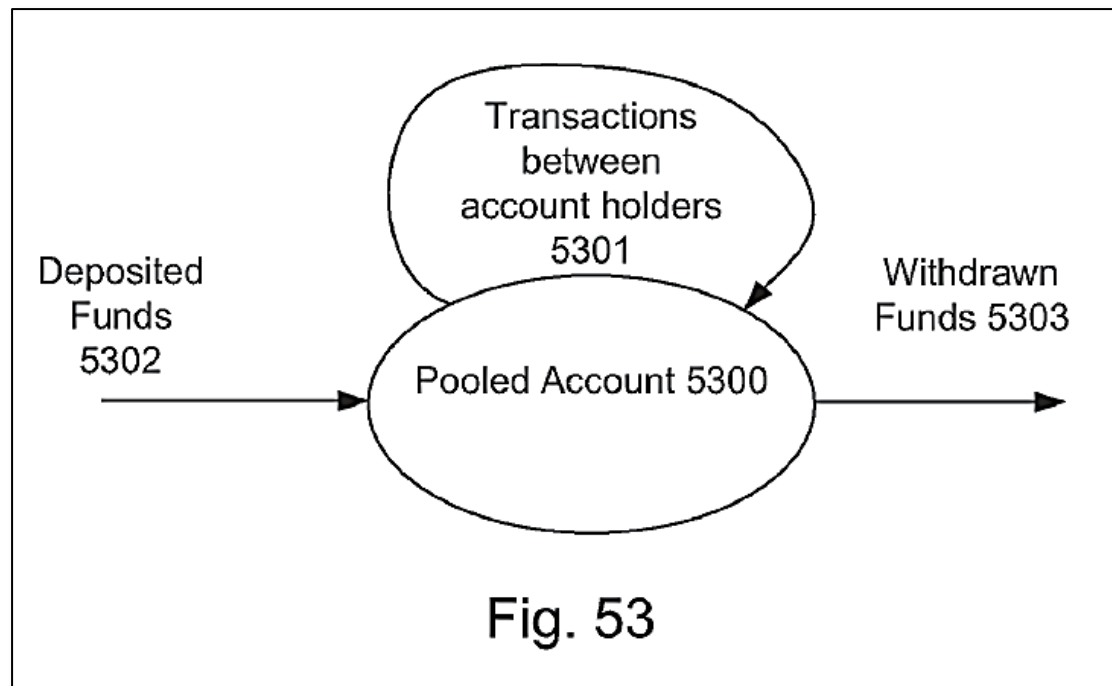
Ex. 1005 at [0278]

“Carded” users may be banked or unbanked

[0279] Some ways a person can get verified when signing up includes: For person information, the system may ask for address and driver’s license number. An alternative is to ask for address and social security number. The information can be checked against a credit reporting agency’s database such as the Equifax database. For a linked bank account, these may be verified using challenge deposits. For example, the system may make any number of small deposits to the user’s account. The user tells the system the amount of those deposits to get verification. Alternatively, the user may verify through on-line instant account verification, where a user provide an on-line screen name and password. For adding credit or debit card, these may also be verified using challenge deposits. Some cards such as Visa and MasterCard may alternatively be verified using security codes and the like.

Ex. 1005 at [0279]

Tumminaro discloses a “pooled prepaid debit” account

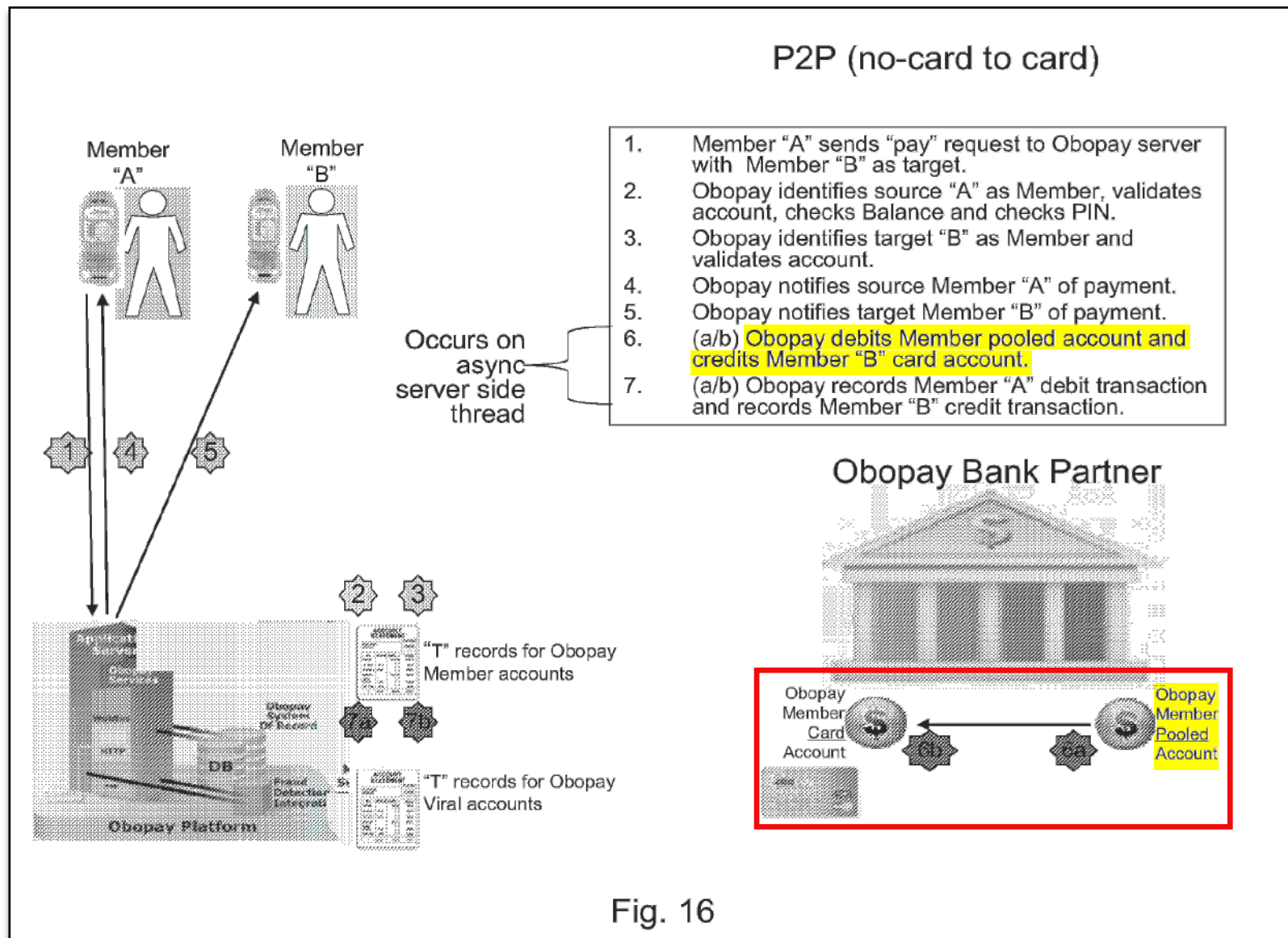


[0603] Refer now to FIG. 53, which shows a pooled account embodiment to minimize ACH and credit card interchange fees. Rather than maintain a separate prepaid debit account for each account holder, the present embodiment utilizes a pooled prepaid debit account 5300. When transactions occur between account holders as indicated at 5301, money is retained in the pooled account 5300 but is moved from one account holder's account to the other account holder's account. The transfer is immediate and does not incur any transaction fees for the system operator. For this reason, the account holder may be charged little or nothing for a transaction fee.

Tumminaro maintains no-card (“unbanked”) users’ funds in a pooled account

[0194] In a specific implementation of the invention, debit card accounts are not held in a pooled account by mobile payment service provider, but in individual debit card accounts at a direct bank partner. The mobile payment service provider holds money in a pooled account for customers without cards is held in trust at the bank.

“No-card” (unbanked) users in Tumminaro use pooled accounts



“No-card” (unbanked) users in Tumminaro use pooled accounts

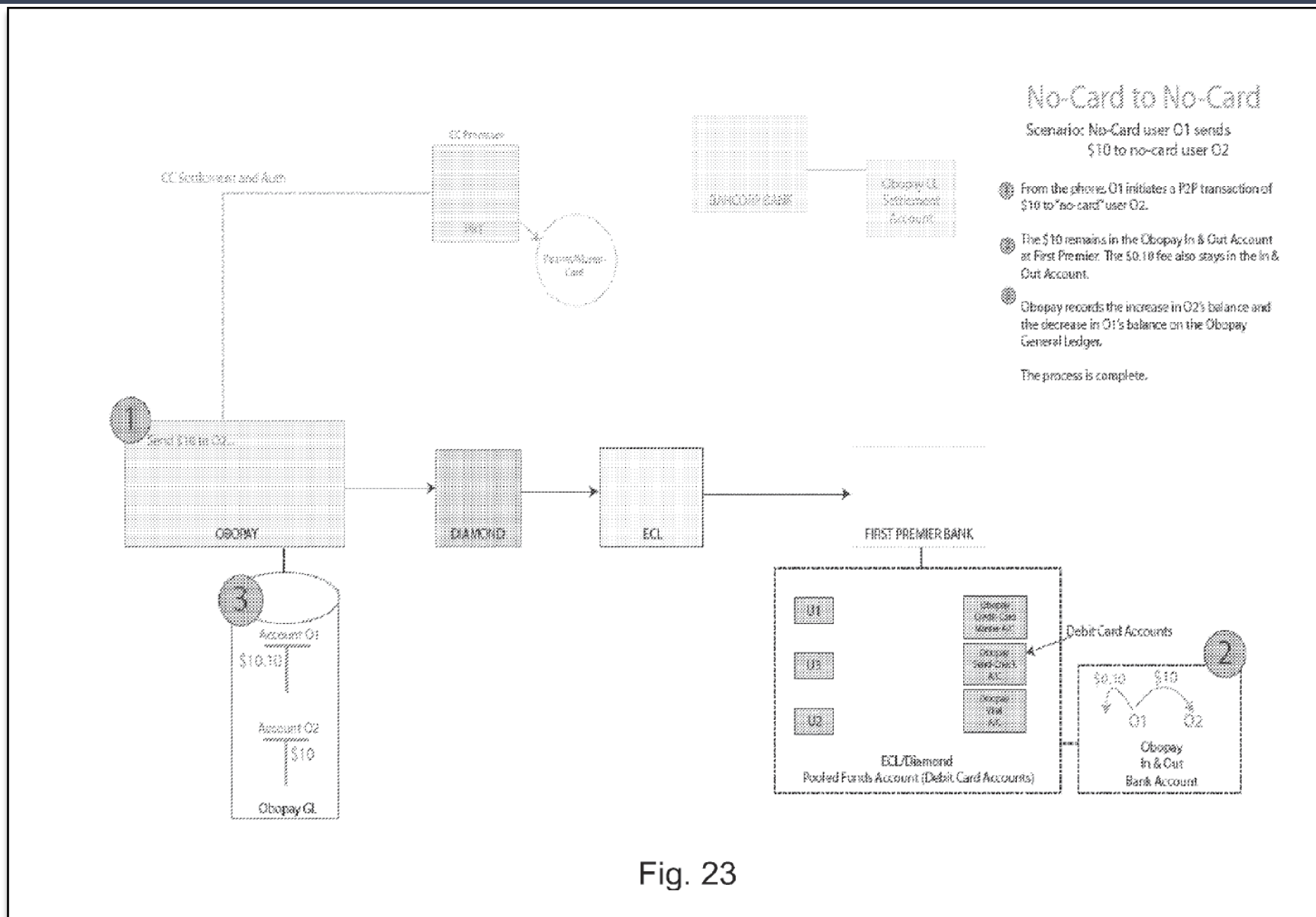


Fig. 23

Carded users may use pooled accounts in Tumminaro

[0586] Registration may occur at any bank partner or on-line at a web page accessed over the Internet as indicated at 5102. The registration process enables the recipient to open a prefunded (using the transferred funds) debit account. This process is similar to opening any other bank account except there is no minimum account balance so even individuals who do not qualify for a checking or savings account at a bank may participate.

Ex. 1005 at [0586]

[0591] If funds for all account holders are held in the pooled account, then when a new account goes “live” the new account holder has full and immediate access to the funds. If funds are held in separate accounts for each account holder, the funds are transferred from the holding account to the account holder’s account when the account goes live. There may be some delay for the funds to appear in the individual account.

Ex. 1005 at [0591]

'845 patent, claim 5: transfer from unbanked subscriber to another subscriber

5. A monetary transaction system for conducting monetary transactions **between unbanked subscribers and other entities**, the system comprising:

a mobile device configured to run a monetary transaction system application;

a monetary transaction system subscriber that has a profile with the monetary transaction system, wherein the subscriber indicates, via the monetary transaction system application, one or more specified transactions that are to be performed using the monetary transaction system;

a monetary transaction system processor that performs the one or more transactions specified by the subscriber, wherein performing the specified transactions includes communicating with a monetary transaction database to determine whether the transaction is permissible based on data indicated in the subscriber's profile;

at least one entity that is to be involved in the specified transaction, the at least one entity having a profile with the monetary transaction system; and

wherein the monetary transaction system is implemented to transfer money between mobile wallets, including performing the following steps:

receiving subscriber communication over one of a plurality of channels connected to the monetary transaction system, **the subscriber communication indicating that an unbanked subscriber desires to transfer a specified amount of funds to specified recipient using a specified payment method from the subscriber's mobile wallet;**

validating the status of the selected payment method;

performing at least one of a limit check and a velocity check on the selected payment method, the limit check determining whether sufficient funds are available to make the deposit amount, the velocity check determining whether the unbanked subscriber has exceeded a specified number of transactions within a specified time period;

validating the status of the specified recipient to ensure the specified recipient has a valid mobile wallet account;

debiting the specified payment method by the specified amount of funds;

transferring the specified amount of funds to the specified recipient over at least one of the plurality of channels connected to the monetary transaction system;

notifying the unbanked subscriber that the specified amount of funds was transferred to the specified recipient over at least one of the plurality of channels connected to the monetary transaction system.

Transfer from unbanked subscriber to another subscriber in the '845 patent

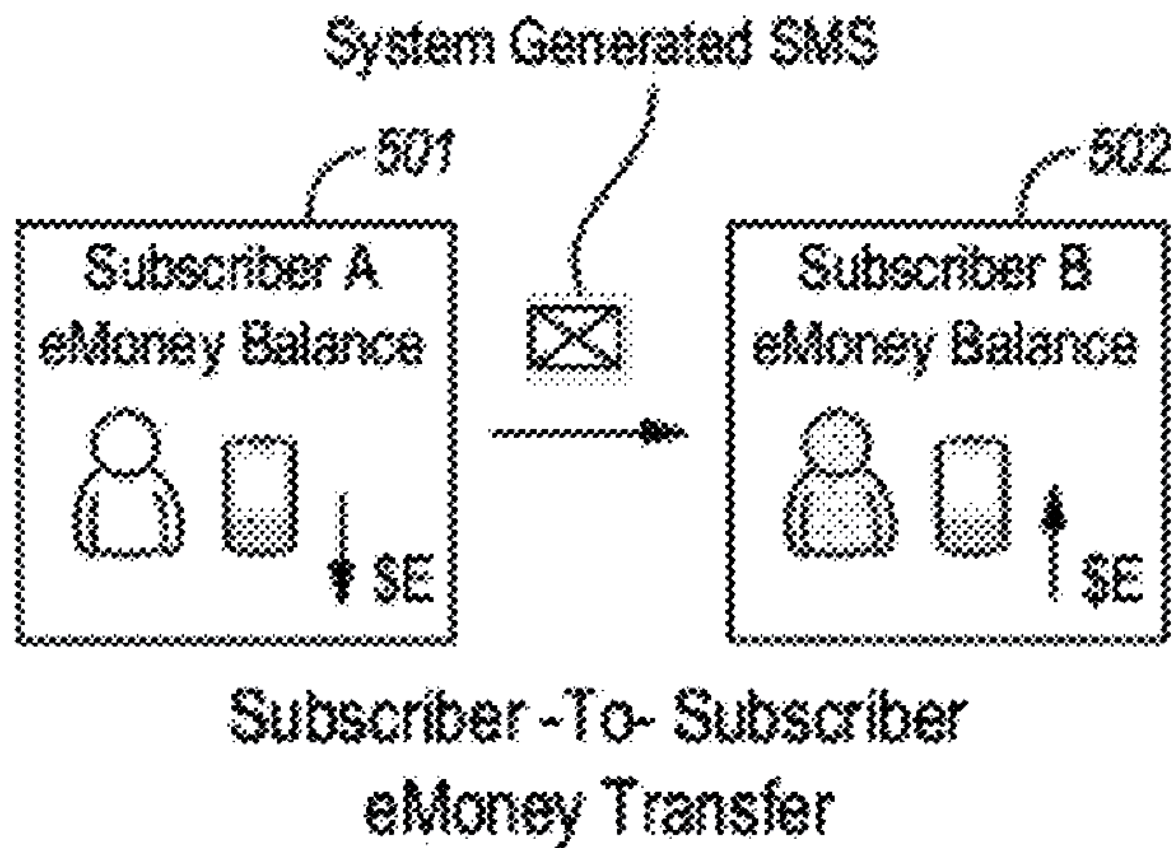


FIG. 5A

FIG. 5A depicts a subscriber-to-subscriber eMoney transfer. To perform such a transfer, subscriber A (501) enters some type of identification information identifying subscriber B (e.g. subscriber B's phone number) and an amount of money he or she wishes to transfer. The transaction processor 216 of the monetary transaction system 210 determines if there are sufficient funds to complete the transfer. If sufficient funds are available, the monetary transaction system 210 decrements subscriber A's account and credits subscriber B's account (502). The system then sends some kind of notification (e.g. SMS) to subscriber B indicating that a certain amount of money was transferred to their account. Subscriber A may also receive a notification that the transfer was successful. **Accordingly, eMoney may be transferred between two mFS platform subscribers, one or both of which may be unbanked.** The monetary transaction system 210 processes the subscribers' requests, updates the subscribers' eMoney balances, logs the transactions, and sends transaction information to a specified bank when needed.

Ex. 1001 at Fig. 5A

Ex. 1001 at 17:9-27

Transfer from unbanked subscriber to another subscriber in Tumminaro

P2P (no-card to no-card)

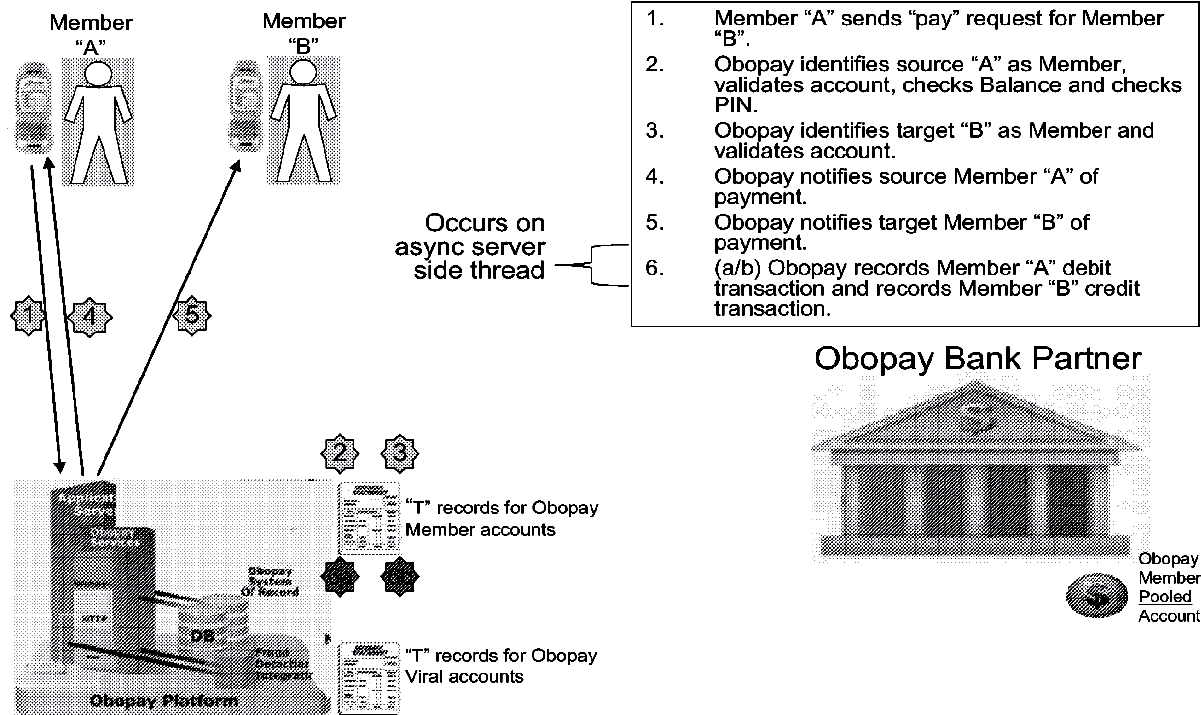


Fig. 13

P2P (no-card to card)

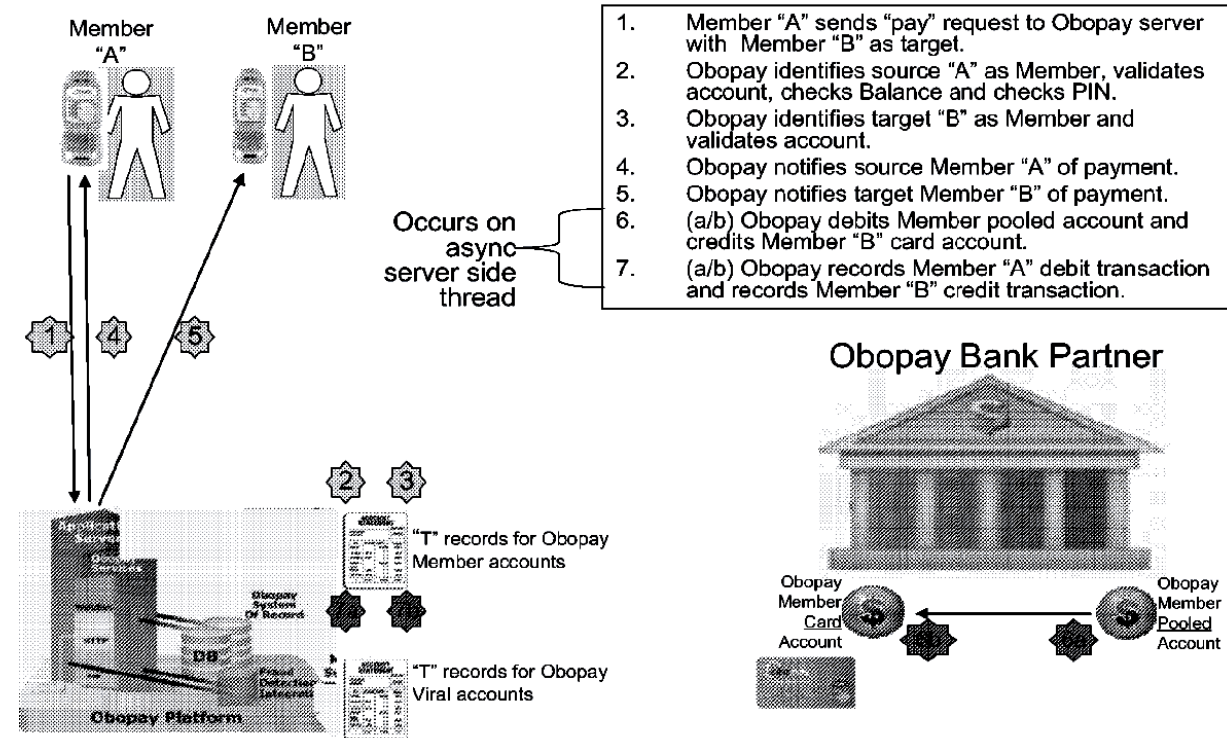


Fig. 16

'845 patent, claim 1: unbanked subscriber deposits into own account

1. A monetary transaction system for conducting monetary transactions between unbanked subscribers and other entities, the system comprising:

a mobile device configured to run a monetary transaction system application;

an unbanked monetary transaction system subscriber that has a profile with the monetary transaction system, wherein the unbanked subscriber indicates, via the monetary transaction system application, one or more specified transactions that are to be performed using the monetary transaction system;

a monetary transaction system processor that performs the one or more transactions specified by the unbanked subscriber, wherein performing the specified transactions includes communicating with a monetary transaction database to determine whether the transaction is permissible based on data indicated in the unbanked subscriber's profile;

at least one entity that is to be involved in the specified transaction, the at least one entity having a profile with the monetary transaction system; and

wherein the monetary transaction system is implemented to deposit funds at an agent branch through a mobile wallet, including performing the following steps:

receiving communication from an agent branch over one of a plurality of channels connected to the monetary transaction system, the agent communication indicating that the unbanked subscriber desires to deposit a specified amount of funds into the unbanked subscriber's mobile wallet account;

validating the status of the unbanked subscriber's mobile wallet account;

determining if the agent branch is authorized to receive deposited money;

performing one or more of a limit check and a velocity check on the unbanked subscriber's mobile wallet account, the limit check determining whether sufficient funds are available to make the deposit amount, the velocity check determining whether the unbanked subscriber has exceeded a specified number of transactions within a specified time period;

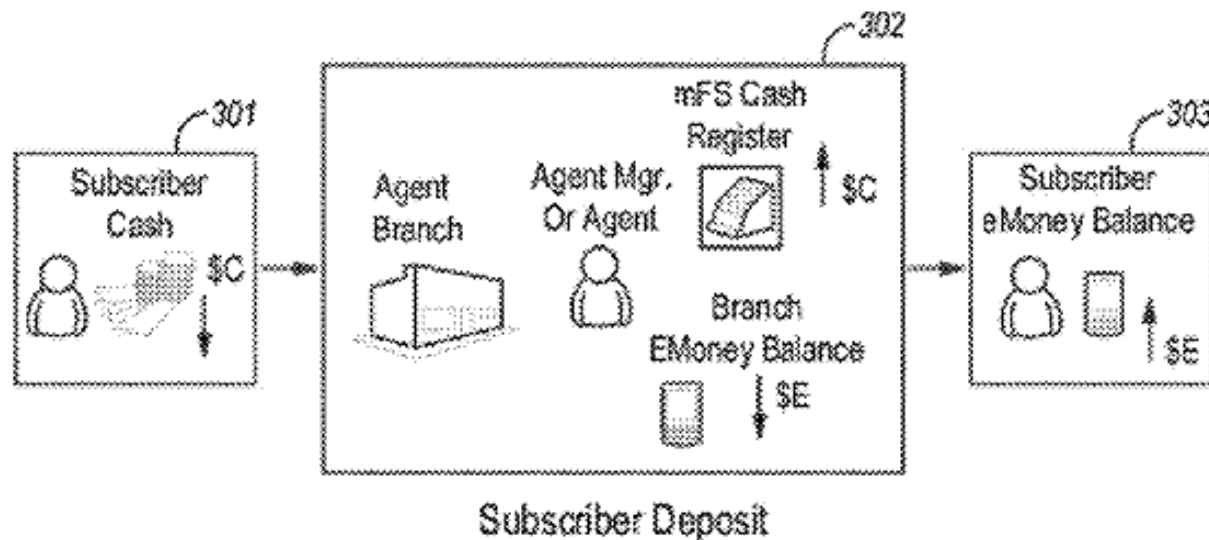
crediting the unbanked subscriber's mobile wallet account with the specified amount of funds when the agent bank is authorized to receive the deposited money;

returning a notification to the agent branch confirming the deposit; and notifying the subscriber that the specified amount of funds was deposited in the unbanked subscriber's mobile wallet account over at least one of the plurality of channels connected to the monetary transaction system.

Unbanked subscriber deposit in the '845 patent

FIG. 3 shows three different graphics (301-303) and corresponding method steps (310-370) that illustrate an unbanked subscriber making a deposit using a mobile wallet (and, by extension, using the mobile wallet transaction system 210).

Ex. 1001 at 15:6-9



Ex. 1001 at Fig. 3

At graphic 301, it is assumed that the unbanked subscriber (e.g. 205) has already registered and activated an eMoney account at an agent branch location (e.g. a retail store, gas station, or other location that has registered to be an agent branch). To deposit cash in order to get eMoney credit, the subscriber informs the agent manager or agent that they want to deposit a certain amount of cash (in 301). The agent manager/agent takes the cash and notifies the mobile wallet transaction system of the deposit using their agent manager or agent application (302). The transaction system 210 then credits the subscriber's eMoney account (303). Accordingly, any location that has registered to accept eMoney payments from subscribers' mobile wallets can also accept cash deposits. The agent branch's eMoney balance is reduced because their actual money balance was increased by the amount of the deposit. The subscriber's mobile wallet account is credited with eMoney in the amount of the deposit. In this manner, a subscriber can deposit cash into their mobile wallet account (in the form of eMoney) at any retail location or other agent branch location.

Ex. 1001 at 15:17-36

Unbanked subscriber deposit in Tumminaro

[0604] At times, account holders may add funds to the pooled account as indicated at 5302. Such funds may be deposited at a partner merchant that has agreed to accept funds from account holders which are then deposited into the pooled account.

Ex. 1005 at [0604]

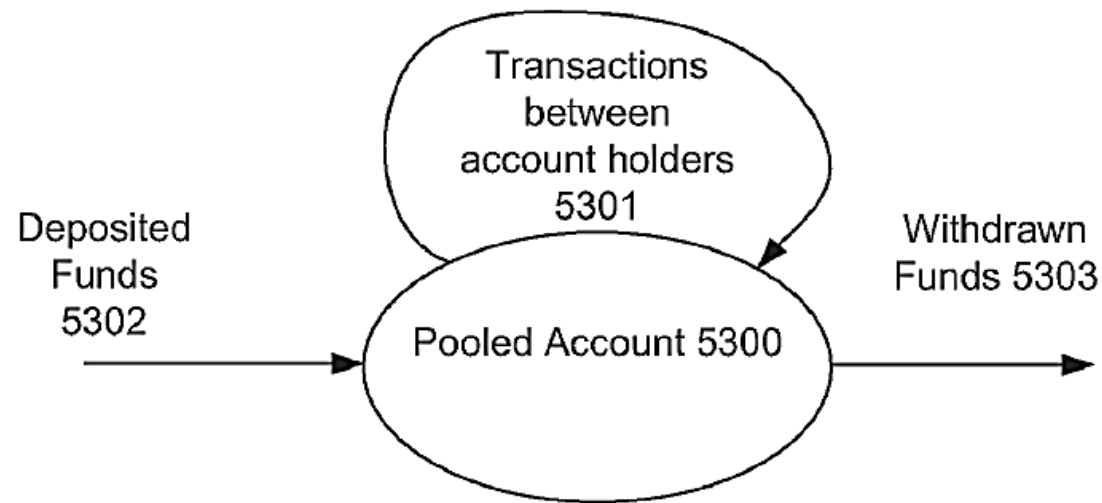


Fig. 53

Ex. 1005 at Fig. 53

Fintiv does not contest that Tumminaro discloses the majority of limitations

5. A monetary transaction system for conducting monetary transactions between **unbanked subscribers** and other entities, the system comprising:

✓ a mobile device configured to run a monetary transaction system application;

✓ a monetary transaction system subscriber that has a profile with the monetary transaction system, wherein the subscriber indicates, via the monetary transaction system application, one or more specified transactions that are to be performed using the monetary transaction system;

✓ a monetary transaction system processor that performs the one or more transactions specified by the subscriber, wherein performing the specified transactions includes communicating with a monetary transaction database to determine whether the transaction is permissible based on data indicated in the subscriber's profile;

✓ at least one entity that is to be involved in the specified transaction, the at least one entity having a profile with the monetary transaction system; and

✓ wherein the monetary transaction system is implemented to transfer money between mobile wallets, including performing the following steps:

receiving subscriber communication over one of a plurality of channels connected to the monetary transaction system, the subscriber communication indicating that an **unbanked subscriber** desires to transfer a specified amount of funds to specified recipient using a **specified payment method** from the subscriber's mobile wallet;

✓ validating the status of the selected payment method;

✓ performing at least one of a limit check and a velocity check on the selected payment method, the limit check determining whether sufficient funds are available to make the deposit amount, the velocity check determining whether the unbanked subscriber has exceeded a specified number of transactions within a specified time period;

✓ validating the status of the specified recipient to ensure the specified recipient has a valid mobile wallet account;

✓ debiting the specified payment method by the specified amount of funds;

✓ transferring the specified amount of funds to the specified recipient over at least one of the plurality of channels connected to the monetary transaction system;

notifying the **unbanked subscriber** that the specified amount of funds was transferred to the specified recipient over at least one of the plurality of channels connected to the monetary transaction system.

1) Overview of '845 Patent and Tumminaro

2) Construction of “unbanked subscriber” (all claims)

3) Construction of “[specified/selected] payment method”
(claim 5)

4) Construction of “one or more of a velocity check and limit
check” (claim 1)

5) Fintiv repeatedly mischaracterizes Tumminaro

6) Construction of “mobile wallet” (all claims)

Construction of “unbanked subscriber”:

1. Fintiv’s construction is contrary to its district court construction, expert testimony, and its opposition to PayPal’s § 101 motion
2. Fintiv’s construction contradicts the intrinsic record by excluding all embodiments of the invention
3. Fintiv’s construction contradicts the extrinsic evidence
4. Fintiv’s expert inconsistently applies his own construction

The patent explicitly defines “unbanked subscriber”

The term “subscriber” refers to a participant of the mFS mobile wallet platform. The subscriber maintains a mobile wallet balance and performs transactions using the mFS application. An “unbanked subscriber” is a subscriber that does not have (or does not have access to) a bank account or credit union account.

Fintiv mischaracterizes precedents on lexicography

- Fintiv points to no authority that requires that when a patentee defines a term in the specification, the Court cannot interpret what that lexicographic definition means.
 - *Martek Biosciences Corp. v. Nutrinova, Inc.*, 579 F.3d 1363, 1380 (Fed. Cir. 2009)
 - the patentee explicitly defined the term “animal” as “any organism belonging to the kingdom Animalia” and “it is undisputed that humans are members of the kingdom Animalia,” thus the Court found “it was error for the district court to limit the claim term ‘animal’ to exclude humans.”
 - *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1583 (Fed. Cir. 1996)
 - did not involve lexicographic definition in the specification, instead the appellant relied on an example in the preferred embodiment, which they said used the disputed term contrary to its ordinary meaning. *Id.* at 1582. Notably, “the trial judge [used] extrinsic evidence to vary or contradict [this] manifest meaning.” *Id.* at 1585.
 - *Sinorgchem Co. v. ITC*, 511 F.3d 1132, 1138 (Fed. Cir. 2007)
 - the dispute was over whether the lexicographic definition included an example appearing at the end of the definition, not the meaning of the undisputed part of the lexicographic definition.

Fintiv: the invention is a new way to conduct transactions "without needing access to traditional bank accounts"

This case is similar to *IOENGINE, LLC v. PayPal Holdings, Inc.*, where the Court distinguished *Universal* and found that when the claims provide for a specific improvement in the operation of a computer, such as a new memory system, a new type of virus scan, or a new type of interface that makes a computer function more accessible, the Federal Circuit has found the claims patent-eligible. 607 F. Supp. 3d 464, 483 (D. Del. 2022). This case is the latter, with a new way to conduct transactions on a mobile device without needing access to a traditional bank account while claiming checks to the transactions that allow the system to effectively operate.

Fintiv argued the '845 Patent provides an *alternative* to “traditional” bank accounts

The novel monetary transaction scheme also leverages a monetary transaction system processor, which, as claimed, communicates with the monetary transaction database to perform the directed transactions in a specific way including checks and authentication steps to allow the mobile wallet to function outside of the traditional banking system. Ex. '845 Patent Ex. A, Claims 1–3, 5–7. The '845 Patent thereby provides an alternative banking method to traditional bank accounts and a technical solution to meet the financial needs of individuals without ready access to a bank account.

Fintiv is estopped from arguing “unbanked” does not refer to those without “*traditional*” bank accounts

Fintiv’s IPR Arguments	Fintiv’s Eligibility Arguments
“[T]he cited passage from the Specification does not precede its recitation of ‘bank account’ with the adjective ‘traditional.’ In fact, nothing in the intrinsic record distinguishes between <u>traditional</u> and other bank accounts.” Paper No. 14 (POR) at 17-18	“[W]hen the claims provide for a specific improvement in the operation of a computer... the Federal Circuit has found the claims patent-eligible... This case is the latter, with a new way to conduct transactions on a mobile device without needing access to a <u>traditional bank account</u> while claiming checks to the transactions that allow the system to effectively operate.” Ex-1033 (Fintiv Opposition Brief) at 15. “The ’845 patent thereby provides an alternative banking method to <u>traditional bank accounts</u> and a technical solution to meet the financial needs of individuals without ready access to a bank account.” Ex-1032 (SAC) at ¶ 17, Ex-1033 at 4.

Fintiv mischaracterizes its prior admissions

PO's response explained how the claims improved upon conventional activities. Ex. 1033, 3 (“[a]s alleged in the Amended Complaint, the '845 Patent's non-traditional, not well-known, and unconventional technical solutions to prior art problems in banking and financial transactions provides at least four benefits ...”) PO's point was that the claims did not extend to conventional activities like “traditional” financial services. However, the fact that the claims do not cover one area does not mean that the claims cover all other areas. Put another way, the fact that the claims do not cover conventional financial services does not mean that the claims extend to all other services.

Fintiv's prior admissions were not limited to distinguishing the invention from "traditional financial services"

See e.g. Ex. A. '845 Patent at 12:45-50 ("An 'unbanked subscriber' is a subscriber that does not have (or does not have access to) a bank account or a credit union account."). **Traditional financial services** prior to the '845 Patent required participants to have conventional bank accounts. Checks are drawn against conventional accounts held by banks. Automated Clearing House ("ACH") transfers are sent from and received by conventional accounts held by banks. Credit cards rely on revolving loan accounts issued by banks. Debit card transactions are settled using conventional accounts held by banks. ATM transactions make deposits or withdrawals using conventional accounts held by banks. In cases where consumers are unable or unwilling to use **conventional banking services**, they are often excluded from making transactions other than using cash. This in turn prevents some of the poorest and most vulnerable from having access to the banking system.

Judicial estoppel applies

***Organic Seed Growers & Trade Ass’n v. Monsanto Co.*, 718 F.3d 1350, 1358 (Fed. Cir. 2013)**

“It is well-established that a party who successfully argues one position is estopped from later adopting a contrary position in a case involving the same patent. The main factors warranting judicial estoppel are (1) a party's later position is ‘clearly inconsistent’ with its prior position, (2) the party successfully persuaded a court to accept its prior position, and (3) the party “would derive an unfair advantage or impose an unfair detriment on the opposing party if not estopped.”

Oleksy v. Gen. Elec. Co., No. 06 C 1245, 2015 WL 5714208, at *5 (N.D. Ill. Sept. 29, 2015), *aff'd*, No. 2015-1186, 2016 WL 9447164 (Fed. Cir. Dec. 21, 2016)

“Oleksy took a position inconsistent with his current argument in his response to GE's motion for summary judgment of invalidity under Section 101... The Court agreed with Oleksy's interpretation of the patent then and rejects Oleksy's current position that the movement of the form cutter is irrelevant for the additional reason that he is judicially estopped from making it.”

Fintiv prevailed in claim construction on the term “unbanked subscriber”

- Fintiv argued “unbanked subscriber” should be given its “plain and ordinary meaning.” Ex-1038, p.10.
- The Court adopted Fintiv’s plain and ordinary meaning construction for the term. Ex-1012, p.2.

Fintiv's expert opined that the “unbanked” may have bank accounts

Upon reviewing the specification of the '845 patent, it provides an explicit definition of the claim term “unbanked subscriber.” That is, the specification states that “[a]n ‘unbanked subscriber’ is a subscriber that does not have (or does not have access to) a bank account or credit union account.” Ex. 1001, 12:25–27.

Institution Decision at 11.

Thus,

Dr. Chatterjee's proposed construction is at odds with the '845 Patent specification that indicates that an unbaked subscriber may have a bank account.

Ex. 1036 at para. 47.

Fintiv's expert contradicts the Board's construction

Ex. 1037, 247:23-249:4

Q. Do you agree with this statement in your previous declaration?

A. Yeah, I suppose so given that it's a 1 year-plus old and I don't recall the specifics, but I -- if I recall, there is a -- **there's a point here that an unbanked subscriber in the context of the '845 patent could be one that has -- that has not disclosed whether they have a bank account**; that is, from the point of view of the mobile financial system, it doesn't know that the **subscriber has a bank account**.

...

Q. So sitting here today, can you reconcile that you say in Paragraph 47 "an unbanked subscriber may have a bank account" [as read], and the board says an unbanked subscriber is one who does not have a bank account; right?

A. Right.

Q. Can you reconcile those two statements?

A. Well, just as I was saying, **from the perspective of the mobile financial service, this could be a subscriber that has a bank account, but that has not disclosed it, which is what this sentence was referring to**. That doesn't seem to me to be particularly at odds with the Board's construction.

Mr. Johnson's attempt to reconcile Fintiv's "lexicographic" construction with his prior declaration directly contradicts his prior testimony

Ex. 1037, 249:21-250:1

Q. Okay. And so the moment I use my bank account with the mFS system, the mFS system knows that I am banked, right, and the -- from the perspective of the mFS system, I am no longer unbanked; fair?

A. Indeed.

Ex. 1035, 287:9-19

9 Q. Okay. And so your opinion of
10 unbanked subscriber is that a user that
11 uses a bank account to deposit a specified
12 amount of funds into its mobile wallet
13 satisfies the limitation unbanked
14 subscriber in claim 1 of the '845 patent,
15 correct?

16 MR. DOWNING: Objection to form.

17 A. Yeah, as I said, you want to
18 look at not only all the claims, but the
19 entire specification.

Fintiv contradicted its position here before the district court

Ex. 1035, 279:11-19

11 Q. What does the term "unbanked"
12 add to the term "subscriber"?

13 MR. DOWNING: Objection to form.

14 A. So I think you read this term in
15 context of the claims and the
16 specifications where it's clear that even
17 an unbanked subscriber may have a bank
18 account and may use a bank account with
19 the services.

Ex. 1035, 283:1-9

1 Q. So, Mr. Johnson, an unbanked
2 subscriber, in your opinion, can have a
3 bank account, fair?

4 A. I think it's clear from the --
5 the way the term is used in the claims and
6 specifications in the patents that there
7 are particular use cases that refer to
8 even unbanked subscribers performing
9 operations with bank accounts.

Fintiv contradicted its position here before the district court

Fintiv argues that Tumminaro's subscribers are not "unbanked" because they have **access to** a pooled account at a bank

Neither of these constructions of "unbanked subscriber" is met by Tumminaro's subscriber, who is *capable of accessing* Tumminaro's pooled *bank account*.

Fintiv's interpretation excludes every embodiment of the '845 patent

The term “mFS program”, like the term “mFS platform” refers to the ecosystem of companies, service providers, and subscribers that participate in providing mobile financial services to their customers. In some embodiments, there may be one mFS program implementation per country. Each program includes a program owner and operator, a program platform, a partner wireless services provider or MNO, and a partner bank.

Ex. 1001 at 11:9-16.

The term “partner bank” refers to the primary bank participating in the mFS program. The partner bank is responsible for holding the mFS program master accounts that hold the funds for all mFS services and transactions.

Ex. 1001 at 11:56-59.

Fintiv's interpretation excludes every embodiment of the '845 patent

The term “mFS program master account” refers to a bank account maintained by the mFS program partner bank to provide funds and float for the operation of the mFS platform. Depending on the type of mFS implementation, the master account can include sub-accounts for each of the agent branches and subscriber mobile wallets, giving the bank visibility into all transactions on a per-user basis.

Ex. 1001 at 11:17-19.

The term “sub-accounts” refers to accounts that are maintained within the mFS platform or by an external card processor. A partner bank may elect to maintain a separate bank account for each subscriber and/or agent branch, or a single master account may be established that contains the funds for all of the subscriber mobile wallet and agent branch accounts (at least within a country or other geographical region). The balance of each individual user may be managed by the mFS transaction processor.

Ex. 1001 at 12:3-11.

Fintiv's interpretation excludes every embodiment of the '845 patent

***Vitronics Corp. v. Conception, Inc.*, 90 F.3d 1576, 1583 (Fed. Cir. 1996)**

“Indeed, if ‘solder reflow temperature’ were defined to mean liquidus temperature, a preferred (and indeed only) embodiment in the specification would not fall within the scope of the patent claim. *Such an interpretation is rarely, if ever, correct and would require highly persuasive evidentiary support, which is wholly absent in this case.*”

Fintiv's new "agent company account" argument is false

In the '845 Patent, the bank account at the partner bank is the "agent company's bank account," and an unbanked subscriber cannot access the agent company's bank account -- only the agent administrator can do that. Ex. 1001, 22:19-22

* * *

The Reply (at 8) offers attorney argument that "all mFS subscribers in the '845 patent have access to funds held in master accounts at a partner bank," *citing* Ex-1003, ¶ 65; Ex-1001, 11:56-12:21, 11:17-23, 16:14-38, 17:9-27, 10:17-26. None of these citations demonstrate that an unbanked subscriber in '845 Patent can access the agent company's bank account (e.g., make deposits/withdrawals).

Fintiv's "agent company bank account" argument mischaracterizes the specification

The term "sub-accounts" refers to accounts that are maintained within the mFS platform or by an external card processor. A partner bank may elect to maintain a separate bank account for each subscriber and/or agent branch, or a single master account may be established that contains the funds for all of the subscriber mobile wallet and agent branch accounts (at least within a country or other geographical region). The balance of each individual user may be managed by the mFS transaction processor.

Ex. 1003 ('845 Patent) at 11:17-26

The term "mFS program master account" refers to a bank account maintained by the mFS program partner bank to provide funds and float for the operation of the mFS platform. Depending on the type of mFS implementation, the master account can include sub-accounts for each of the agent branches and subscriber mobile wallets, giving the bank visibility into all transactions on a per-user basis. The mFS platform can also manage the balance of sub-accounts and interact with the bank's master account when funds need to be deposited or withdrawn from the account.

Ex. 1003 ('845 Patent) at 12:3-11

Fintiv's "agent company bank account" argument mischaracterizes the specification

Only when transactions involving cash (i.e. depositing or withdrawing funds from the mFS program) or the movement of money from mFS participants to non-mFS program participants are funds moved from the master bank accounts.

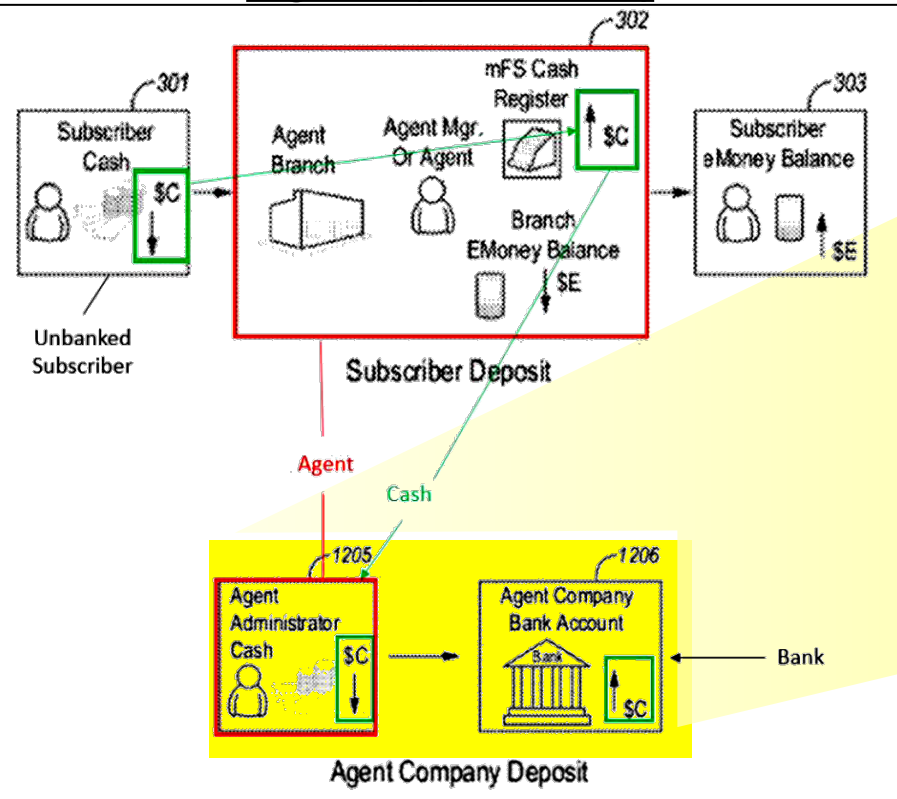
Ex. 1003 ('845 Patent) at 10:24-26

When using a master account, the bank is involved only in transactions that require the movement of funds external to the mFS program. For example, subscriber cash-in and cash-out transactions involve the addition and removal of cash from the mFS program and would consequently include a deposit or withdrawal from the master account.

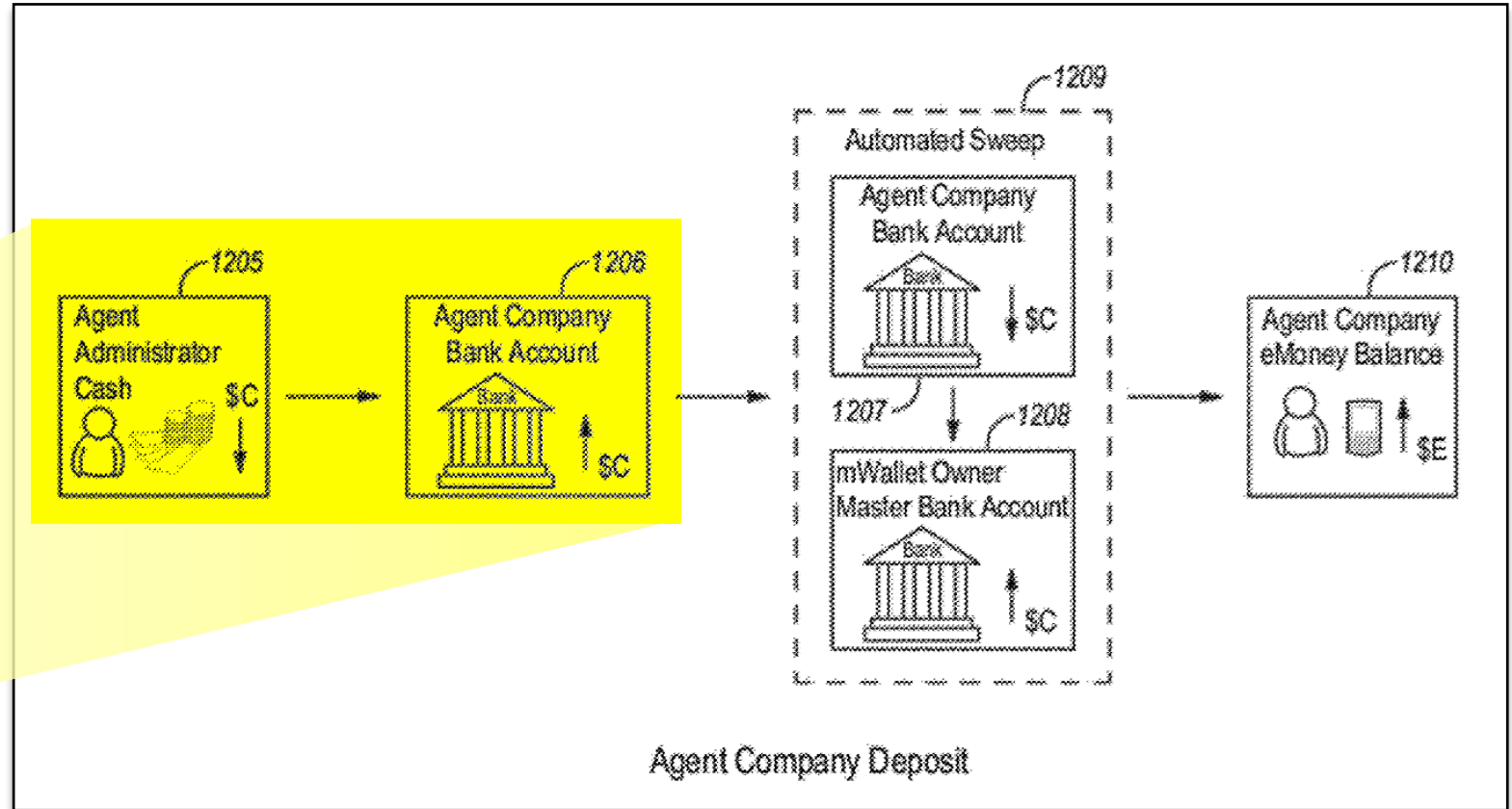
Ex. 1003 ('845 Patent) at 12:12-17

Fintiv's combined figure omits the majority of Figure 12B

Fintiv's "Combined Figure" (POR at 4-7)



'845 Patent (Ex. 1001), Fig. 12B



Fintiv's combined figure omits the majority of Figure 12B

Ex. 1037, 55:6-13

Q. Actually, Mr. Johnson, even before we get to the spec, if you could compare Figure 12B of the '845 patent to the figure you have on -- under Paragraph 41 or on page 17, the combined figure.

A. Okay. Yes.

Q. Your combined figure doesn't include the entirety of Figure 12B; fair?

A. Correct.

Q. Right. It cuts off the right side of the figure; right?

A. Yes.

Q. That includes Steps 1208 and 1210?

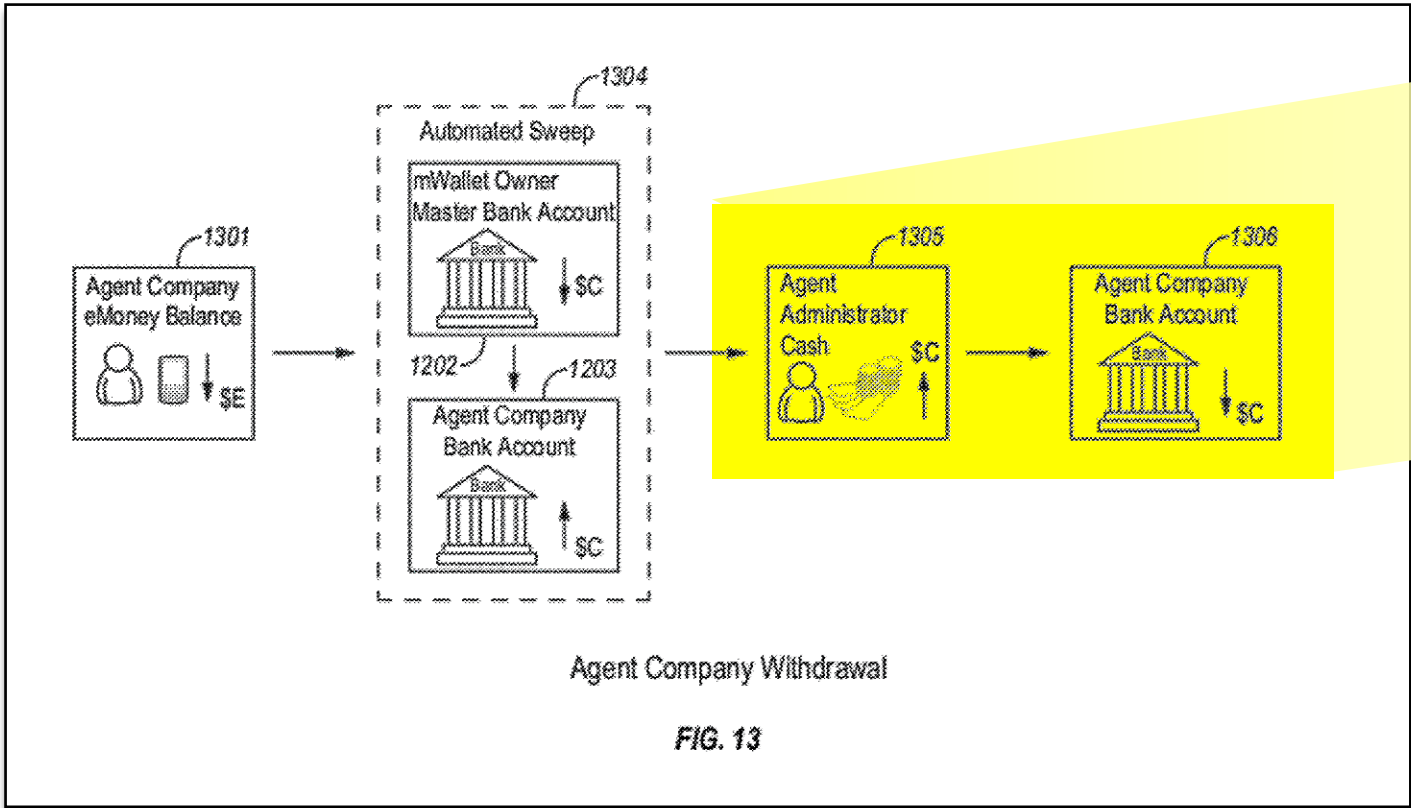
A. What -- yes.

Cash deposited at the “agent company bank account” is swept to the **mFS platform master account**

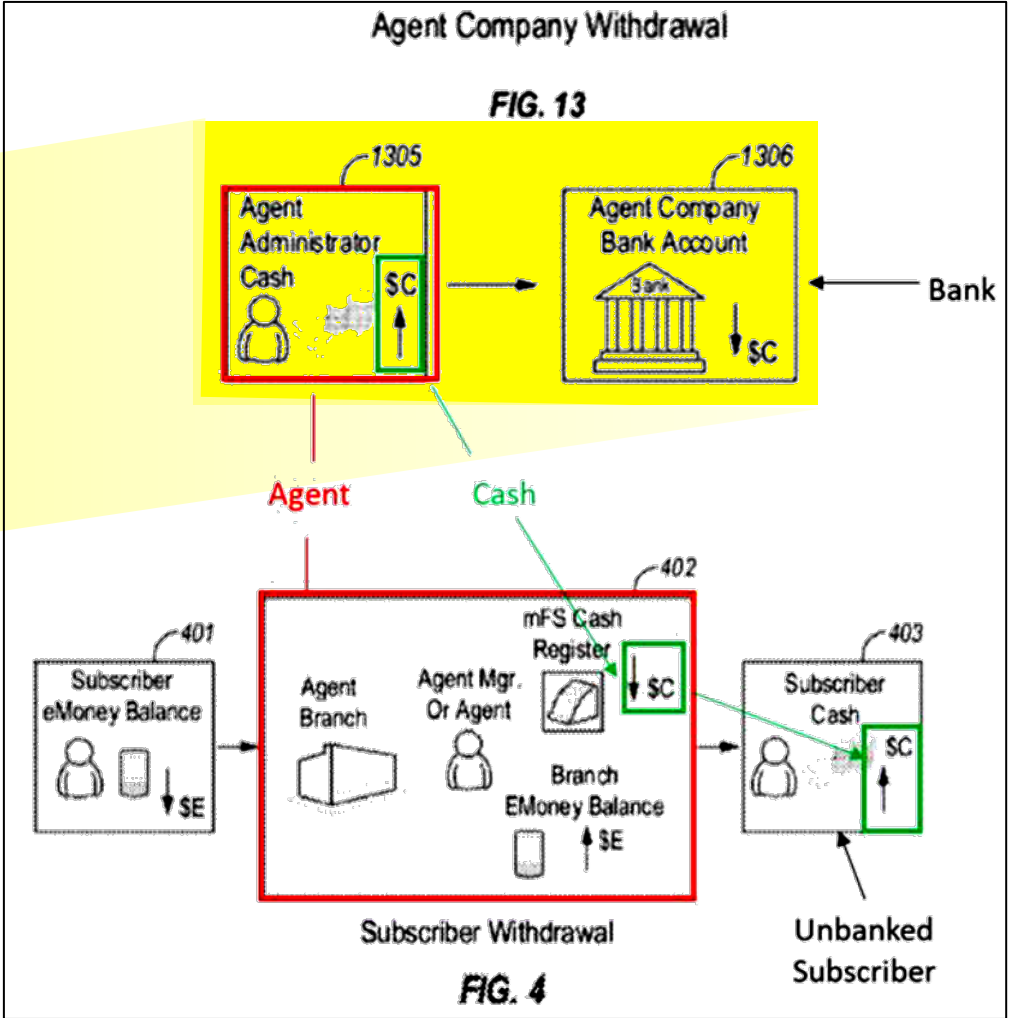
As FIG. 12B shows, once cash (1205) has been deposited into the bank account (1206), it is transferred to a mFS platform master account (1208) that includes all or a part of the mFS platform's funds. The agent company's bank account is decreased by the deposit amount (1207), while the agent company's eMoney account balance is correspondingly increased (1210). At this time, the agent company account is credited with eMoney. The agent company's bank facilitates a physical cash deposit into the agent company's bank account and performs an automated sweep (1209) of recent deposits from the agent company's bank account into the mFS platform's master bank account.

Fintiv's combined figure omits the majority of Figure 13

'845 Patent (Ex. 1001), Fig. 13



Fintiv's "Combined Figure" (POR, 7-10)



Funds in the “agent company bank account” originate from the **mFS platform master account**

FIG. 13 illustrates an agent company withdrawal. To make a cash withdrawal for an agent company, the agent administrator requests a withdrawal using the agent administrator mobile wallet application. The monetary transaction system 210 then notifies the bank that a certain amount of eMoney is to be transferred from the master mFS account (1302) to the agent company bank account (1303). When the money is in the agent company bank account, the agent administrator can withdraw the cash by traditional withdrawal means. The mFS master bank receives transaction details from the monetary transaction system 210 about recent transactions (recent withdrawals in this case). The mFS master bank performs an automated sweep (1304) of the mFS platform's master bank account to reflect the recent withdrawal request from agent the agent company (1301). The agent company's eMoney account is reduced by the amount of the withdrawal.

Johnson admitted that the bank account at the partner bank is *different* from the “agent company bank account”

Ex. 1037, 70:2-8

Q. What this says is that there will be dollars transferred from a master mFS account to the agent company bank account; correct?

A. Yes.

Q. Okay. And that transfer is performed by an automated sweep, 1304; correct?

A. Yes.

The Board correctly distinguished between pre-existing traditional bank accounts and Tumminaro's pooled accounts

In our view, Tumminaro discloses that the pooled accounts are not traditional bank accounts, but rather temporary virtual accounts created for an unbanked user that he/she may use to interact with the payment system.³

Even if we were to agree with Fintiv that Tumminaro's payment system allows an unbanked user to make deposits and withdraws from his/her pooled account using an ATM, this would not change our preliminary view that the pooled account is not a traditional bank account.

Fintiv mischaracterizes lexicography case law

- Fintiv incorrectly argues that “the definition in the specification in those cases was neither clear nor precise.”
 - Nestle USA, Inc. v. Steuben Foods, Inc., 686 F. App'x 917, 919 (Fed. Cir. 2017).
 - “Here, the specification twice defines the term ‘aseptic’ as the United States ‘FDA level of aseptic.’ ***That is a binding lexicography***, and therefore, we construe aseptic to mean the ‘FDA level of aseptic.’”
 - Court then consulted ***extrinsic evidence*** to ascertain “FDA level of aseptic.”
 - Baxter Healthcare Corp. v. Mylan Lab'ys Ltd., 346 F. Supp. 3d 643, 655 (D.N.J. 2016).
 - Specification defined “sterile composition” as “a composition that has been brought to a state of sterility”
 - “The relevant provisions of the specification here, ***though, prove remarkably clear, and squarely demonstrate lexicography.***”
 - Court then consulted extrinsic evidence to define “a state of sterility” (“The array of identified extrinsic authorities uniformly embrace Baxter's view that sterility means freedom from live bacteria or other microorganisms.”)

The Board correctly analyzed “unbanked subscriber” as those lacking, or lacking access to, a traditional bank account

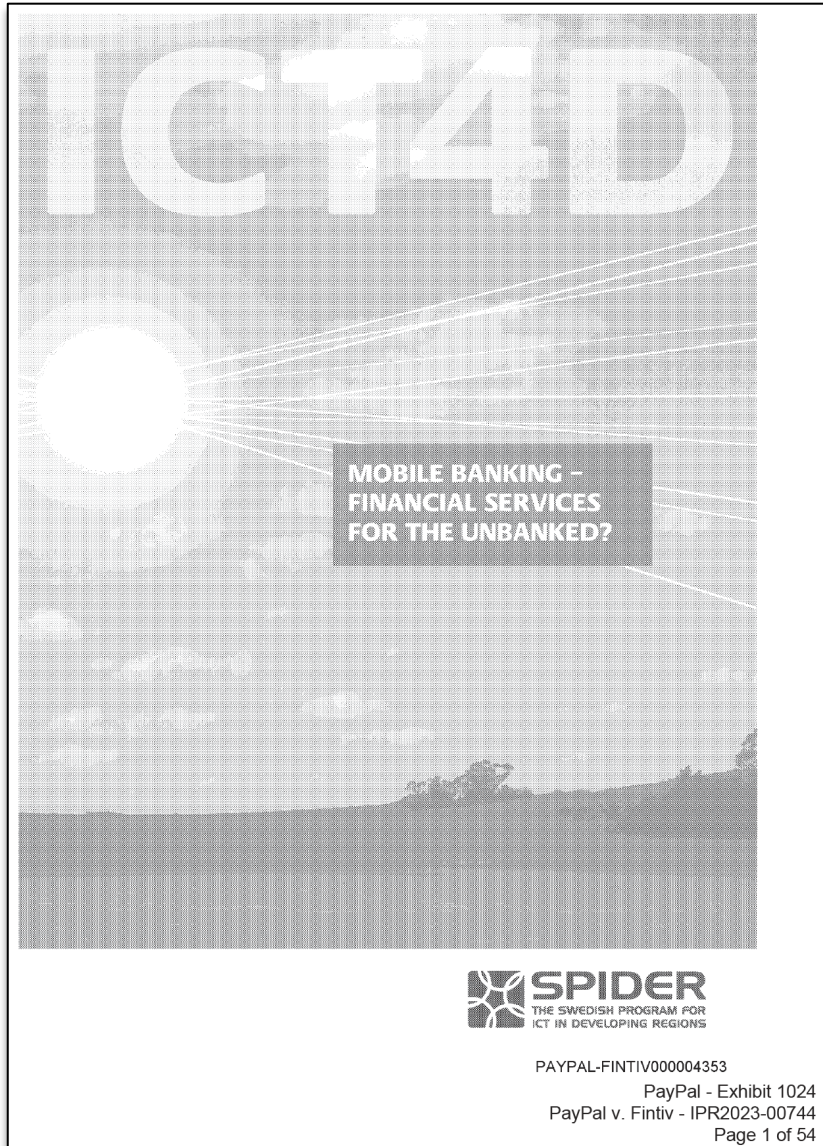
- The Board’s construction is supported by the extrinsic evidence.

81. This construction is consistent with the extrinsic evidence, which consistently refers to the “unbanked” as individuals that cannot get accounts at traditional financial institutions, and typically rely on cash to perform transactions.

Ex. 1003, ¶ 81.

- Fintiv attempts to create an artificial distinction between “accounts at traditional financial institutions” and “traditional bank accounts”

Extrinsic evidence supports the Board's construction



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Uppsala 2008

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A key market driver for the diffusion of mobile banking services is increasing income levels and permanent employment. This is corroborated by literature reviews that show that most unbanked have consequently no formal earnings, rely on farm income, or live on 'welfare' from friends and family (Finscope, 2007). Moreover, irregular income, earnings too small or earnings too small to save are also reasons for not having a bank account (Finscope, 2006). What is demanded across income levels is the need to "move money", i.e. remittance that is a common phenomenon in sub-Saharan Africa which includes remittance from abroad as well as from urban to rural areas.

Extrinsic evidence supports the Board's construction



Unbanked: Customers, usually poor, who do not have bank accounts or transaction accounts at formal financial institutions.

MOBILE MONEY SUMMIT **2010**

Unleashing the Power of Convergence to
Advance Mobile Money Ecosystems

Piya Baptista and Soren Heitmann

Ex. 1025, at 4.

Extrinsic evidence supports the Board's construction



Working Paper
WP-839
Ja



Working Paper
WP-839
January, 2010

BANKING THE UNBANKED USING PREPAID PLATFORMS
AND MOBILE TELEPHONES IN THE UNITED STATES

Francesc Prior
Javier Santomá

AMP'd Mobile, a youth-oriented MVNO with a focus on multimedia content, has announced a partnership with the **mobile payments company Obopay**. Virgin Mobile, another youth-focused carrier, will launch a prepaid Visa debit "Stash" card with prepaid provider NetSpend. The product's mobile-based features include P2P transfers and text-based account alerts. Movida, a **MVNO targeting the Hispanic market, has plans to offer a mobile-linked prepaid debit card that will facilitate top-ups and provide an opportunity to develop credit for the unbanked population**. Movida's m-payments solution will also integrate the prepaid debit card and phone to provide wireless remittance services, in addition to wireless transaction and balance alerts.

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PayPal - Exhibit 1020
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Fintiv mischaracterizes Ex-1020

Fintiv: “Exs. 1020 and 1022 do not refer to unbanked persons in the context of ‘traditional’ bank accounts.” PO Sur-Reply (Paper No. 17) at 11



Working Paper
WP-839
January, 2010

BANKING THE UNBANKED USING PREPAID PLATFORMS
AND MOBILE TELEPHONES IN THE UNITED STATES

Francesc Prior
Javier Santomá

Prepaid platforms have features that make them especially useful for developing low-cost payment systems:

1. Customers using prepaid systems do not need bank accounts, debit or credit cards.

Prepaid cards use accounts to manage funds in real time through host computer systems. The accounts are held in a single concentrator account with different subaccounts for each card. Some are “pooled” accounts and some, for accounting purposes, are actual bank accounts held by the individual consumer, depending on how the issuing financial institution treats the accounts. Like regular debit or credit cards, these cards have POS and ATM functionality. However, prepaid cards have the additional feature of being reloadable in a variety of ways at a range of locations. That is why the functionality of prepaid cards closely resembles that of traditional bank accounts, and why they are the basis of the model proposed.

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PayPal - E
PayPal v. Fintiv - IPR2
Pa

Fintiv mischaracterizes Ex-1022

Fintiv: “Exs. 1020 and 1022 do not refer to unbanked persons in the context of ‘traditional’ bank accounts.” PO Sur-Reply (Paper No. 17) at 11

How does M-PESA work

Although M-PESA does not pay interest on deposits, and does not make loans, it can usefully be thought of as a bank that provides transaction services and that has operated, until recently, in parallel with the formal banking system.

Since the launch of M-PESA in March 2007, wary of regulation by the Central Bank of Kenya, Safaricom has been at pains to stress that M-PESA is not a bank. On the other hand, the ubiquity of the cell phone across both urban and rural parts of the country, and the lack of penetration of regular banking services,¹² led to hopes that M-PESA accounts could substitute for bank accounts, and reach the unbanked population. Our data, presented in more detail in the next section, suggest this is partially true, although M-PESA has been adopted by both the banked and unbanked in roughly equal proportions.¹³

Ex-1022 demonstrates that unbanked may have access to pooled accounts at banks

The Economics of M-PESA¹

WILLIAM JACK²

The cash collected by M-PESA in exchange for e-float is deposited in bank accounts held by Safaricom. Originally, all funds were held in just one account at the Commercial Bank of Africa, but recently Safaricom has opened accounts at an additional bank to diversifying its risk.

¹ We gratefully acknowledge the support and collaboration of Pauline Vaughan and Susie Lonie, and other staff of Safaricom and Vodafone. The survey whose results are reported here was commissioned by the Central Bank of Kenya, managed by Financial Sector Deepening, a Nairobi-based NGO, and administered by the Steadman Group, a local survey firm. Thanks are extended to Peter Mwaura of the CBK, David Ferrand and Caroline Pulver of FSD, and to Carol Matiko and Moses Odhiambo of Steadman, and to seminar participants at MIT Sloan and Safaricom.

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PAYPAL-FINTIV000004407

PayPal - Exhibit 1022
PayPal v. Fintiv - IPR2023-00744
Page 1 of 20

Ex-1025 demonstrates that unbanked may have access to “prepaid accounts” at banks

- The Board’s construction is supported by the extrinsic evidence.



MOBILE MONEY SUMMIT 2010

Unleashing the Power of Converging
Advance Mobile Money Ecosystems

Piya Baptista and Soren Heitmann

YellowPepper, a mobile financial services provider, has created a neutral, universal platform that brings together consumers, retailers, utility companies, banks, MNOs and others to issue, manage and accept mobile payments. YellowPepper has over two million active users and its operations span Ecuador, Guatemala, Bolivia, Peru, Colombia, Haiti, the Dominican Republic and Panama. Banked customers use m-banking services tied to their bank accounts to access electronic banking services, pay bills, transfer

money and top-up airtime among other services. In Ecuador, YellowPepper has partnered with Banco Pichincha and Porta to offer “Pichincha – MONY,” an m-wallet tied to a pre-paid account, to provide similar services to unbanked customers.

Banco Pichincha’s correspondent banking agents open and manage these pre-paid accounts. The company also offers a B2B mobile payments service to fast-moving consumer goods companies to transact electronically with small businesses in their distribution chains. In Ecuador, a

What? Who? How?



WHAT?

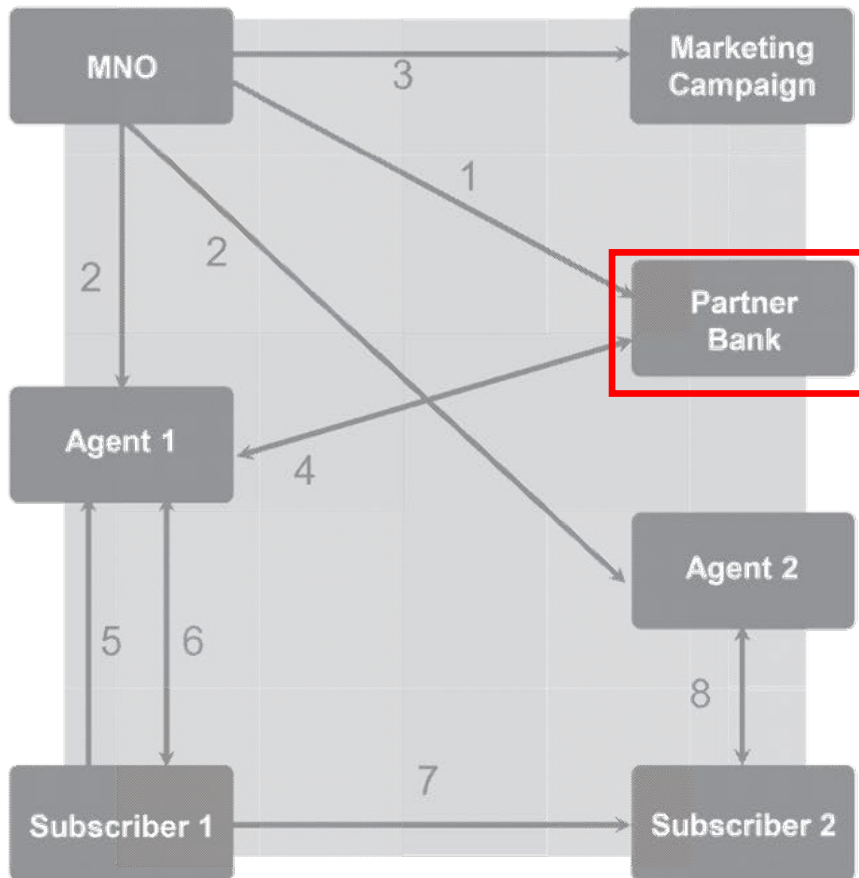
- Mobile Money for the Unbanked uses existing and ubiquitous mobile phone networks to deliver financial services to those peoples without access to financial services via traditional banks or financial institutions
- MNO-led services are the focus of this guide but these exist alongside (and in many cases require) banks and third parties such as retail stores and franchises

WHO?

- 2.7 billion people worldwide have no access to financial services. 1 billion of these people have a mobile phone
- Developing nations have the greatest proportion of these people
- Trust of & dependence on MNOs is already very high in these markets making them viable for launching such a service

Ex-1026 demonstrates that unbanked do not become banked by accessing a mobile wallet that partners with a bank

Mobile Money for the **Unbanked** - The Story



Example Steps to Service Delivery

1. The MNO works with a Partner Bank to offer the service
2. MNO selects and recruits agents for their MM network
3. MNO starts a Mobile Money marketing campaign
4. Agent 1 goes to bank and buys eMoney with cash
5. Subscriber 1 registers for service
6. Subscriber 1 performs cash-in at Agent 1, converting cash to eMoney
7. Subscriber 1 now has eMoney to perform transactions i.e. a P2P transfer
8. Subscriber 2 receives the message and performs a cash-out at Agent 2

The commercial aspects of these steps will be explained in this guide

Modern definitions of “unbanked” are consistent with the Board’s construction

People who do not use mainstream financial services, such as checking or savings accounts, and primarily conduct transaction in cash when using alternative financial services like payday lending or check cashing, are considered unbanked.

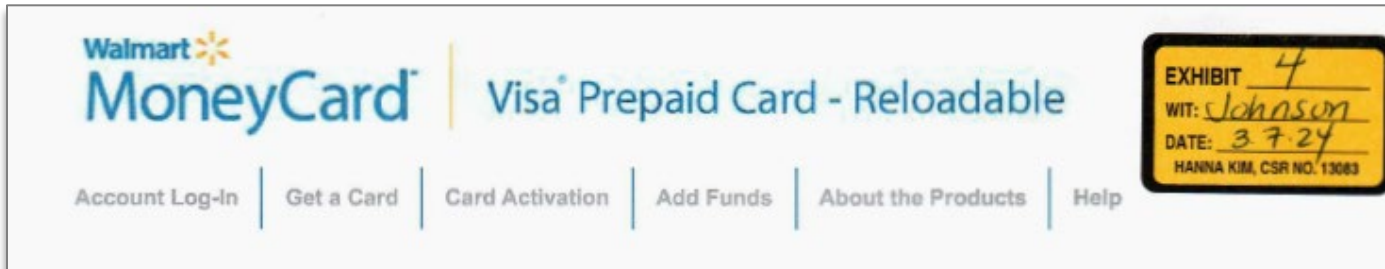
Ex. 1031 at 1.

payday lender. An “unbanked” person is someone that does not have a checking or savings account with an insured (FDIC) institution. The term “underbanked”

Ex. 1049 at 2..

Fintiv: an unbanked individual becomes banked by using a prepaid card ***designed for the unbanked***

Fintiv: “This card is issued by GE Money Bank” which means it is a bank account”
- Fintiv Sur-Reply, p. 12.



† This Card is issued by GE Money Bank, member FDIC, pursuant to a license from Visa U.S.A., Inc. Additional services provided by Green Dot Corporation. The use of this Card is subject to the terms of your Cardholder Agreement.

A screenshot of the Walmart MoneyCard product page. On the left, there is an image of the MoneyCard packaging. Below the image, the text "Walmart MoneyCard†" and "En español también" are visible. To the right of the image, the "Key Features" section is titled, with a link "Find purchase locations" above it. Under "Key Features", there are two sub-sections: "Easy To Get" and "Easy to Use". The "Easy To Get" section contains a list of bullet points: "No credit check*", "No bank account required", and "Instant use Temporary Visa Card in package. Activate with one easy call.*". The "Easy to Use" section contains a list of bullet points: "Use it everywhere Visa debit cards are accepted worldwide", "Shop on the Internet, including at walmart.com", "Get cash from millions of ATMs worldwide.**", and "Pay your bills fast and easy including cable, cell phone & other bills".

Fintiv's construction is arbitrary

Using a “**reloadable**” prepaid debit card renders an unbanked user “banked”, but using a “**non-reloadable**” one does not

Ex. 1037 (Johnson Dep. Tr. at 111:14-25)

14 Q. Okay. So let's talk about the -- the
15 example we talked about earlier. A non-reloadable
16 Visa prepaid debit card. When a user purchases one
17 of those cards, do they become banked?

18 A. Generally, no.

19 Q. Are there situations where they could
20 become banked? 12:12:00

21 A. If they were to convert that to a
22 reloadable prepaid card, sure.

23 Q. Okay. And so, having a reloadable prepaid
24 card renders a user banked in your opinion?

25 A. Yes. 12:12:15

Fintiv's construction is arbitrary

... but a ***reloadable gift card*** does not render its user “banked”

Ex. 1037 (Johnson Dep. Tr. at 112:1-9)

1 Q. Okay. And so, if I have -- does it apply
2 to gift cards? If I have a reloadable Starbucks
3 gift card, am I banked?

4 A. No.

5 Q. And why not? 12:12:35

6 A. 'Cause the gift card is scrip. The gift
7 card is usable only at a certain set of merchants,
8 and what you have there is essentially credit at
9 that merchant, and it's not usable more broadly.

Fintiv's construction leads to absurd results

- Reloadable prepaid cards serve the unbanked

Open-loop prepaid cards, offer consumers the ability to use their cards for multiple purposes in multiple locations. Open-loop prepaid cards are therefore the equivalent of online debit cards for unbanked customers. "Open-loop" cards are accepted in open branded networks such as Visa or MasterCard and therefore are called "branded cards".

Open-loop systems can be grouped into three categories: First, payroll-only cards, which can be used only for direct deposit of paychecks or, in some cases, for receiving other automated clearinghouse (ACH) deposits, such as Social Security Payments; second, reloadable payroll cards, which serve primarily as direct deposit cards for payroll checks but offer consumers other ways to reload the cards; and, third, general-purpose reloadable debit cards, which consumers can reload in a variety of ways at a range of locations.

Fintiv's construction leads to absurd results

Fintiv's construction considers individuals described as "unbanked" in the industry as being "banked"

Ex-1037 at 142:22-143:5

Q. Okay. And so, if I'm an illegal immigrant and I'm on -- I have no Social Security Number, I can't open up a bank account in my name, and a relative gives me their ATM card, am I now banked?

* * *

THE WITNESS: That's someone who has access to a bank account, so under the Board's construction and Petitioner's construction, **that would be a banked person.**

- 1) Overview of '845 Patent and Tumminaro
- 2) Construction of “unbanked subscriber” (all claims)
- 3) Construction of “[specified/selected] payment method” (claim 5)**
- 4) Construction of “one or more of a velocity check and limit check” (claim 1)
- 5) Fintiv repeatedly mischaracterizes Tumminaro
- 6) Construction of “mobile wallet” (all claims)

Recitation of “[specified/selected] payment method” in claim 5

wherein the monetary transaction system is implemented to transfer money between mobile wallets, including performing the following steps:

receiving subscriber communication over one of a plurality of channels connected to the monetary transaction system, the subscriber communication indicating that an unbanked subscriber desires to transfer a specified amount of funds to specified recipient using a specified payment method from the subscriber's mobile wallet;

validating the status of the selected payment method;

performing at least one of a limit check and a velocity check on the selected payment method, the limit check determining whether sufficient funds are available to make the deposit amount, the velocity check determining whether the unbanked subscriber has exceeded a specified number of transactions within a specified time period;

Fintiv takes inconsistent positions on whether the “specified payment method” includes debit cards

In other words, the '845 Patent teaches a novel banking system where the claimed mobile wallet can have multiple accounts, including a “mobile wallet balance,” or accounts connected to credit cards, debit cards, or bank accounts. The claimed monetary transaction architecture enables transfers regardless of whether these accounts are of the same type and where conventional means of making transfers may not exist.

Ex. 1032 at ¶ 20.

The claimed invention utilizing, among other things, the mobile wallet account and the direct connections with payment processors, makes it technically possible to conduct direct person-to-person transactions through the mobile wallet or other funding sources such as debit cards and bank accounts, resulting in safer, more efficient, more cost-effective transactions. *See* '845 patent, Ex. A at 17:9-27 (person-

Ex. 1032 at ¶ 22.

Fintiv's "specified recipient" argument is incorrect

Claim 5 does not require the "specified recipient" to be "unbanked." Instead, the claim permits the "specified recipient" to be banked. As a result, the claimed mobile wallet of a banked specified recipient "can have multiple accounts, including a "mobile wallet balance," or accounts connected to credit cards, debit cards, or bank accounts," as set forth in PO's Second Amended Complaint. Ex. 1032, ¶ 20.

Fintiv argued the *sender* (“unbanked subscriber”) of the “’845 patent can execute a person-to-person transaction using funds from debit cards

1

The claimed invention utilizing, among other things, the mobile wallet account and the direct connections with payment processors, makes it technically possible to conduct direct person-to-person transactions through the mobile wallet or other funding sources such as debit cards and bank accounts, resulting in safer, more efficient, more cost-effective transactions. *See* ’845 patent, Ex. A at 17:9-27 (person-to-person transfers using eMoney accounts); 25:19-41 (person-to-person transfers using funds from debit cards); and 17:55-18:15(international person-to-person transfers).

Significantly, the requirement in claim 5 that there be more than one potential payment method available for selection in the mobile wallet, must be read in conjunction with the other limitations of claim 5 requiring the subscriber to be an “unbanked subscriber.” Thus, the payment options cannot include options like a pooled bank account or debit card that would nullify a subscriber’s status as an “unbanked subscriber.” Ex. 2007, ¶¶ 104-105.

Claim 5 does not require *the subscriber* to select a payment method

There is no express requirement that the subscriber “selects” a payment option

wherein the monetary transaction system is implemented to transfer money between mobile wallets, including performing the following steps:

receiving subscriber communication over one of a plurality of channels connected to the monetary transaction system, the subscriber communication indicating that an unbanked subscriber desires to transfer a specified amount of funds to specified recipient using a specified payment method from the subscriber's mobile wallet;

The specification does not disclose *the subscriber* selecting a payment method

177. To the extent that Fintiv argues limitation 5[f] requires that the *user* specify or select a particular payment method for the transfer, there is nothing in the claim that requires that functionality under the plain and ordinary meaning of its terms. Importantly, the specification of the '845 patent does not disclose a user selecting the specified payment method.

Ex. 1003, ¶177;

In one embodiment, the monetary transaction system 210 is implemented to make a purchase from a mobile wallet. The communications module 215 of the monetary transaction system 210 receives a communication from a subscriber over a communication channels 111 (step 910). The subscriber communication indicates that an unbanked subscriber 205 desires to purchase an item for a specified amount of funds using a specified payment method from the unbanked subscriber's mobile wallet.

Ex. 1001, 20:7-15

The ***specified payment method*** is not part of the claimed method in claim 5

Uniloc 2017 LLC. v. Netflix, No. 2021-2085, 2022 WL 17688150 (Fed. Cir. Dec. 15, 2022)

“‘selected’ is ‘not a step in the claimed method,’ but is a ‘phrase that characterizes the claimed’ use of a known coding technique to code the pixel information of the object region... The known coding technique must have been selected at some point—just not as part of the encoding method.”

Specified/Selected Payment Option

- Fintiv tries to distinguish *Uniloc* on the basis that “the claim language did not connect the “selected known coding technique” with the user’s desire. Paper No. 17 at 21-22. Fintiv provides no explanation for why this distinction, even if true, is relevant.
- Fintiv mischaracterizes *Uniloc* and asserts that the Court did not “read ‘selected’ out of the claim.” But the Court determined that selecting a known coding technique is “not [] part of encoding method,” for determining invalidity. *Uniloc 2017 LLC*. 2022 WL 17688150 *6.
- Fintiv does not explain how the other elements of claim 5 are rendered superfluous if there is only one “specified payment method” to choose from.

No requirement for there to be **more than one payment method** available for selection

- Fintiv interprets claim 5 to require **two stored value accounts** in the unbanked subscriber's mobile wallet for selection.

The Specification of the '845 Patent describes multiple payment methods that may be added to an unbanked subscriber's mobile wallet, including a stored value account from the platform or a stored value account from a third-party:

In one embodiment, the monetary transaction system 210 is implemented to add a mobile wallet platform stored value account to a mobile wallet. Ex. 1001 at 27:28-30 (emphasis added).

In another embodiment, the monetary transaction system 210 is implemented to add a third party stored value account to a mobile wallet. Ex. 1001 at 27:51-53 (emphasis added).

- Fintiv's construction excludes embodiments where **only the default eMoney stored value account** is provided by the system (i.e. "mobile wallet platform stored value account").

No requirement for there to be **more than one** payment method available for selection

Fintiv knew how to use language to indicate a selection of one from several options, but did not do so for “specified/selected payment method”

wherein the monetary transaction system is implemented to transfer money between mobile wallets, including performing the following steps:
receiving subscriber communication over **one of a plurality of channels** connected to the monetary transaction system, the subscriber communication indicating that an unbanked subscriber desires to transfer a specified amount of funds to specified recipient using **a specified payment method** from the subscriber's mobile wallet;
validating the status of **the selected payment method**;
performing at least one of a limit check and a velocity check on **the selected payment method**, the limit check determining whether sufficient funds are available to make the deposit amount, the velocity check determining whether the unbanked subscriber has exceeded a specified number of transactions within a specified time period;

Other Fintiv patents expressly claim the ability to use a third-party mobile wallet. See e.g., U.S. Patent No. 9,208,488 at claim 1:

the computing system receiving communication from an agent terminal over one of a plurality of communication channels connected to the cloud-based transaction platform, the agent communication indicating that a customer desires to perform a transaction comprising a mobile wallet transaction **using a third party mobile wallet**, the mobile wallet transaction comprising at least one of a mobile wallet transfer in which funds are transferred from the mobile wallet of the customer to a third party mobile wallet, a mobile wallet withdrawal in which funds are withdrawn from the third party mobile wallet and provided to the customer, or a mobile wallet deposit in which funds are deposited into the third party mobile wallet;

Fintiv’s arguments overlook definitions for “specify”

“**spec·i·fy**...1: to name or state explicitly or in detail 2: to include as an item in a specification.”

Ex. 1048 at 3

wherein the monetary transaction system is implemented to transfer money between mobile wallets, including performing the following steps:
receiving subscriber communication over one of a plurality of channels connected to the monetary transaction system, the subscriber communication indicating that an unbanked subscriber desires to transfer a specified amount of funds to specified recipient using a specified payment method from the subscriber’s mobile wallet;
validating the status of the selected payment method;
performing at least one of a limit check and a velocity check on the selected payment method, the limit check determining whether sufficient funds are available to make the deposit amount, the velocity check determining whether the unbanked subscriber has exceeded a specified number of transactions within a specified time period;

Ex. 1001 31:31-32:14

Tumminaro discloses or renders obvious the “specified payment method” even under Fintiv’s construction

[0242] In an embodiment of the invention, a mobile device is associated to one or more bank accounts (checking, savings, credit, prepaid, or a pooled account, and the like) and the account holder can transfer funds in real time from one account to another without any access to a service center and without any internet or computer access. Advantageously, the account holder can select the account from which funds are obtained to make a purchase in real time.

Fintiv does not rebut PayPal's obviousness argument

Fintiv offers no rebuttal to PayPal's argument that Tumminaro renders the "specified/selected" term under their interpretation

180. To the extent that Tumminaro's person-to-person transfers do not explicitly disclose a "subscriber communication indicating . . . a specified payment method" by allowing the *user* to select the account from which funds are obtained in a P2P transfer, such a feature would have been an obvious modification of Tumminaro to a POSA at the time of invention. First, Tumminaro explicitly discloses a subscriber communication (e.g., from Member "A") that specifies a payee (e.g., member "B") and an amount to be paid that causes a transfer of funds from member A's account to member B's. *See, e.g.*, Fig. 16 [0348] ("The mobile payment service debits member [A's] pooled account and credits member B card account.") And as discussed above, Tumminaro expressly discloses permitting a user to select the account from which funds are obtained to make a purchase, and characterizes this feature as "advantageous[.]" *Id.*, [0242].

181. Likewise, a POSA would have been motivated to permit a payor to specify a particular funding source, such as another prepaid debit card or a gift card, to the system as part of communicating a transaction request for a P2P transfer. Such a predictable modification would further Tumminaro's goal of providing "a payment platform that provides a fast, easy way to make payments by individuals or merchants using their mobile devices to access [various] account[s]." *Id.*, [0143].

Fintiv does not rebut PayPal's obviousness argument

Instead, Fintiv asserts that, with respect to **ground 1** (***anticipation by Tumminaro***) (citing Ex. 1003 ¶157) that Tumminaro does not disclose a gift card, which Dr. Chatterjee merely opined was a type of a “prepaid account.”

Petitioners' expert further alleges that “[w]here a given user has two or more accounts associated, for example, a pooled account and a separate prepaid account such as a gift card or prepaid debit card, the user would typically pick one of the multiple accounts to use as a funding source.” (Ex. 1003, ¶ 157). This assertion has no supporting citation to Tumminaro, and the term “gift card” does not appear anywhere in Tumminaro. Ex. 2007, ¶ 130.

Johnson admits that gift cards are prepaid cards and existed before the priority date

Ex. 1037, 238:25-239:5

25 Q. Okay. Would you agree that gift cards
1 were known in 2007?

2 A. Yeah, I suppose so.

3 Q. Okay. Would you agree that reloadable
4 gift cards were known before 2007?

5 A. Yes. 04:35:19

Fintiv erroneously argues that Tumminaro must disclose that the payment method is selected *for the transfer*

and (2) in all of the transfers to specified recipients in Tumminaro (i.e., P2P transfers and payments to merchants), the source of funds is always implicitly either the pooled account or an individual card account and there is never an opportunity to specify a payment method from the subscriber's mobile wallet.

Fintiv's expert admits that user selection is not a required part of the method of claim 5

Ex-1037 at 195:6-15

6 Q. Okay. And so if I have two payment
7 methods in my mobile wallet and one is selected by
8 default and I didn't make the selection, does that
9 satisfy this claim limitation under your
10 interpretation? 03:22:05

11 A. I guess it's kind of a fine point. But in
12 that case, the subscriber has approved that default
13 selection and -- by not changing it. And so that is
14 the selected payment method or the specified payment
15 method of Claim 5. 03:22:27

- 1) Overview of '845 Patent and Tumminaro
- 2) Construction of “unbanked subscriber” (all claims)
- 3) Construction of “[specified/selected] payment method” (claim 5)
- 4) Construction of “one or more of a velocity check and limit check” (claim 1)**
- 5) Fintiv repeatedly mischaracterizes Tumminaro
- 6) Construction of “mobile wallet” (all claims)

Fintiv only contests “unbanked subscriber” and “limit check”

1. A monetary transaction system for conducting monetary transactions between **unbanked subscribers** and other entities, the system comprising:

✓ a mobile device configured to run a monetary transaction system application;

an **unbanked monetary transaction system subscriber** that has a profile with the monetary transaction system, wherein the unbanked subscriber indicates, via the monetary transaction system application, one or more specified transactions that are to be performed using the monetary transaction system;

a monetary transaction system processor that performs the one or more transactions specified by the **unbanked subscriber**, wherein performing the specified transactions includes communicating with a monetary transaction database to determine whether the transaction is permissible based on data indicated in the **unbanked subscriber's** profile;

✓ at least one entity that is to be involved in the specified transaction, the at least one entity having a profile with the monetary transaction system; and

✓ wherein the monetary transaction system is implemented to deposit funds at an agent branch through a mobile wallet, including performing the following steps:

receiving communication from an agent branch over one of a plurality of channels connected to the monetary transaction system, the agent communication indicating that the **unbanked subscriber** desires to deposit a specified amount of funds into the unbanked subscriber's mobile wallet account;

validating the status of the **unbanked subscriber's** mobile wallet account;

✓ determining if the agent branch is authorized to receive deposited money;

performing one or more of a **limit check** and a velocity check on the **unbanked subscriber's** mobile wallet account, **the limit check determining whether sufficient funds are available to make the deposit amount**, the velocity check determining whether the unbanked subscriber has exceeded a specified number of transactions within a specified time period;

crediting the **unbanked subscriber's** mobile wallet account with the specified amount of funds when the agent bank is authorized to receive the deposited money;

returning a notification to the agent branch confirming the deposit; and notifying the subscriber that the specified amount of funds was deposited in **the unbanked subscriber's** mobile wallet account over at least one of the plurality of channels connected to the monetary transaction system.

“performing one or more of a limit check and a velocity check”

wherein the monetary transaction system is implemented to deposit funds at an agent branch through a mobile wallet, including performing the following steps:

- receiving communication from an agent branch over one of a plurality of channels connected to the monetary transaction system, the agent communication indicating that the unbanked subscriber desires to deposit a specified amount of funds into the unbanked subscriber's mobile wallet account;
- validating the status of the unbanked subscriber's mobile wallet account; determining if the agent branch is authorized to receive deposited money; performing one or more of a limit check and a velocity check on the unbanked subscriber's mobile wallet account, the limit check determining whether sufficient funds are available to make the deposit amount, the velocity check determining whether the unbanked subscriber has exceeded a specified number of transactions within a specified time period;

***Power-One, Inc. v. Artesyn Techs., Inc.*, 2007 WL 896093, at *14 (E.D. Tex. Mar. 22, 2007).**

“However, even if the Court were to agree that *Superguide* holds that the ordinary meaning of ‘at least one’ is as Artesyn suggests, **nothing in *Superguide* dictates that this term must be construed in this manner *no matter what the specification teaches***. In *Superguide*, the specification taught that the user must choose a value for each designated category... Here, as noted above, ***the specification teaches embodiments that do not require each category of the enumerated set***. Thus, the Court holds that although one of each of the enumerated data categories may be used, the ‘at least one’ language only requires that one of the categories be selected.”

Fig. 3 only describes performing a single limit check and/or velocity check during a deposit transaction

The monetary transaction system may then use rules engine 220 to perform a limit check (to determine whether sufficient funds are available) and/or a velocity check (to determine whether the user has exceeded a specified number of (hourly, daily, or weekly) transactions) on the unbanked subscriber's mobile wallet account (step 340). The transaction system then credits the unbanked subscriber's mobile wallet account with the specified amount of funds (step 350)

Ex. 1001 ('845 Patent) at 15:60-65

Ex-1037 at 171:23-172:7

Q. Okay. This sentence means that a system could perform both a limit check and a velocity check when depositing funds; fair?

A. At Step 340, yes.

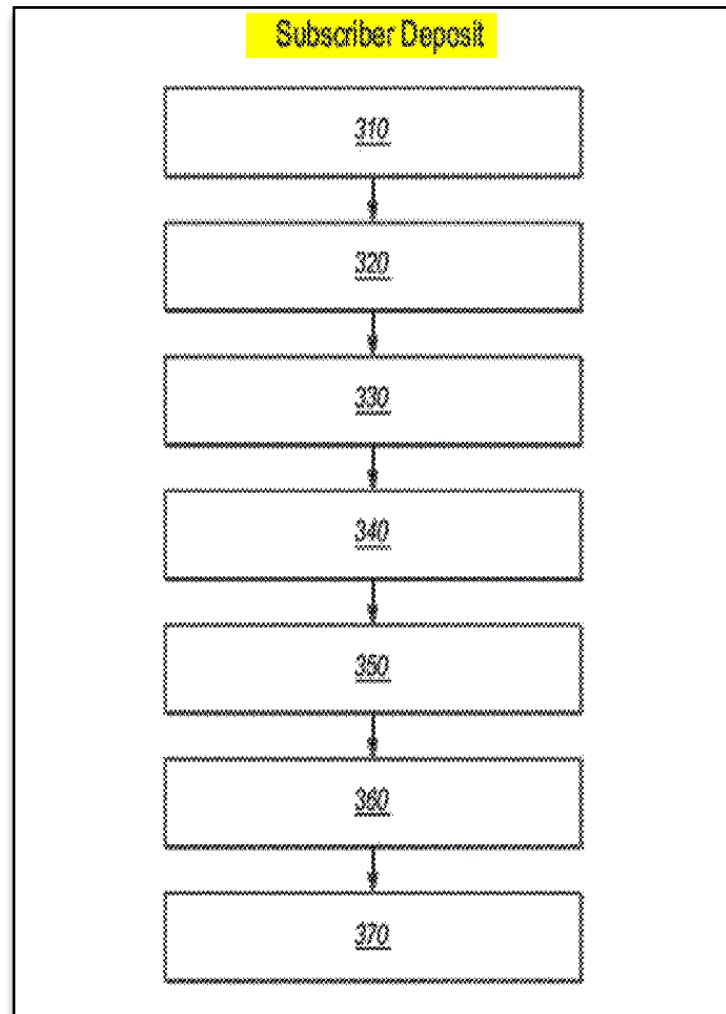
Q. All right. It also means the system could perform **just a limit check**; right?

A. **At Step 340, yes.**

Q. It also means the system could -- could -- could perform **only a velocity check**; right?

A. **At Step 340, yes.**

Fig. 3 only describes performing a single limit check and/or velocity check during a deposit transaction



Ex. 1001 ('845 Patent) at Fig. 3

Ex-1037 at 173:13-22

Q. Okay. And so, **Figure 3 as a whole**, not just Step 340, Mr. Johnson —... the patent describes you could perform **just a limit check; fair?**

A. Yes.

Q. Okay. And similarly, **Figure 3 as a whole**, not just Step 340, the patent describes you could **perform just a velocity check; right?**

A. Yes.

SuperGuide is inapplicable

Apple, Inc. v. Evolved Wireless LLC, 2017 WL 6543970, at *4 (P.T.A.B. Dec. 20, 2017)

“Courts *have not interpreted SuperGuide as setting forth a per se rule* that the use of ‘at least one of’ followed by ‘and’ connotes a conjunctive list, however.... In particular, courts have found *SuperGuide inapplicable when the listed items following ‘at least one of’ are not categories containing many possible values.*”

SuperGuide is inapplicable

The monetary transaction system may then use rules engine 220 to perform a limit check (to determine whether sufficient funds are available) and/or a velocity check (to determine whether the user has exceeded a specified number of (hourly, daily, or weekly) transactions) on the unbanked subscriber's mobile wallet account (step 340). The transaction system then credits the unbanked subscriber's mobile wallet account with the specified amount of funds (step 350)

Ex. 1001 ('845 Patent) at 15:60-65

Embodiments of the invention can perform Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT) checks. AML and CFT checks can be performed using transaction monitoring methods to flag names and suspicious transactions for further investigation. The mobile wallet platform can perform AML and CFT checks on all electronic financial transactions to ensure that electronic funds are not being used for money laundering or terrorism. Transaction limits can be placed on user accounts. The transaction limits are fully configurable for each particular use case, channel and payment method that allows maximum flexibility to restrict higher risk use cases. Velocity checks can also be performed. Velocity Checks ensure that subscribers are not abusing the mobile wallet platform within the allowable limits.

Ex. 1001 ('845 Patent) at 29:8-22

Fintiv admits that the specification only refers to a ***single*** limit check

143. In its Institution Decision, the Board suggested that Figure 7 discloses two limit checks, one at Step 3 and another at Step 5. There is no support for this in either the '845 Patent or its prosecution history. The '845 Patent refers to “a limit check” in the singular and never refers to multiple limit checks.

Johnson could not identify anywhere in the specification that describes performing multiple velocity checks for a single deposit transaction.

Ex. 1037 at 176:9-20

9 And so, does the specification described
10 in Figure 3 talk about performing multiple velocity
11 checks for a single deposit transaction?

12 A. Not in the context of Figure 3.

13 Q. Okay. And this is an important point for
14 us, so can you identify anywhere else in the
15 specification where multiple velocity checks are
16 performed in a single deposit transaction?

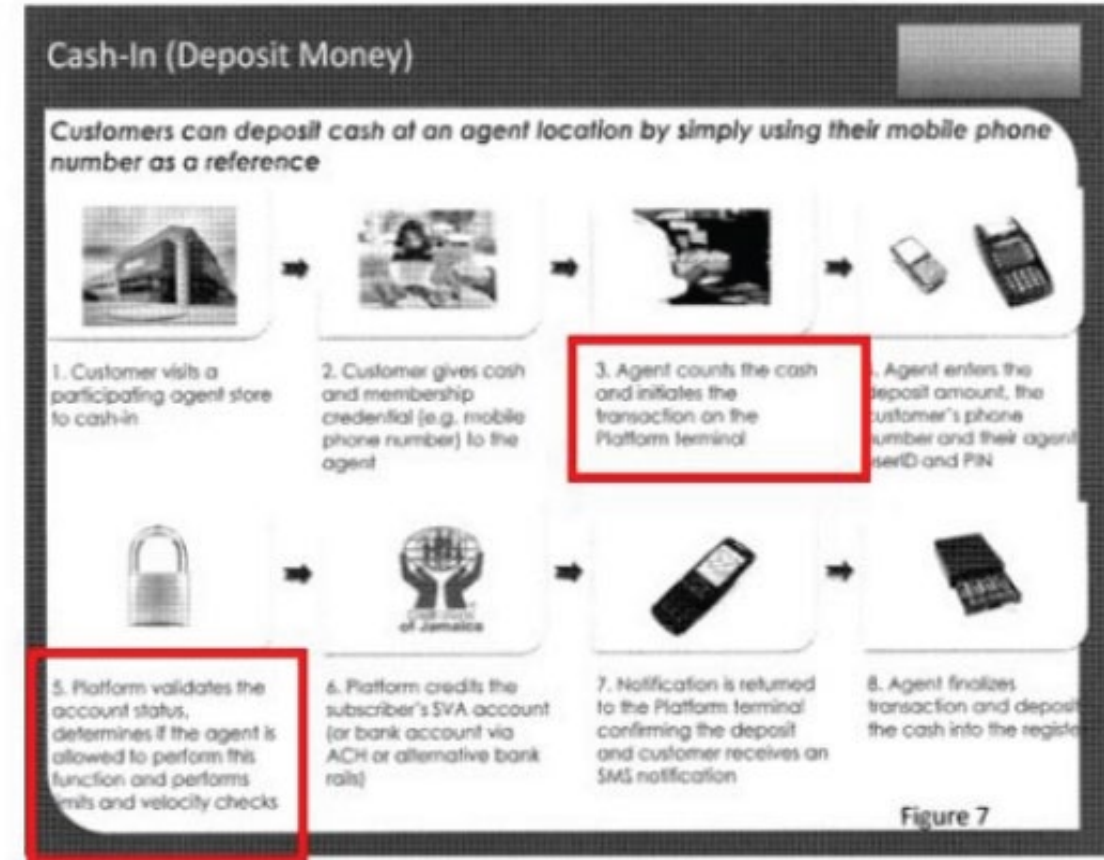
17 A. Oh, I -- I don't know. I haven't looked
18 to see if there's multiple velocity checks in a
19 single deposit transaction.

20 Q. Okay. All right. 02:32:46

The Board correctly determined counting cash satisfies the "limit check" term

As an initial matter, we look to the plain language of independent claim 1 and the specification of the '845 patent to determine what it means to perform a limit check when depositing funds into the unbanked subscriber's mobile wallet account. In our view, the plain language of independent claim 1 is controlling because it explicitly states that performing "the limit check" involves nothing more than "determining whether sufficient funds are available to make the deposit amount."

Ex. 1001, 29:65–67. The specification reinforces our preliminary



Johnson's interpretation of a "limit check" in claim 1 is unsupported

Claim 1: "...the limit check determining *whether sufficient funds are available to make the deposit amount.*"

Ex. 1037 (Johnson Dep. Tr.) at 187:7-23

7 Q. So you just read to me the claim
8 limitation; right? I'm asking what it means to
9 perform a limit check to determine whether
10 sufficient funds are available to make the deposit
11 amount in the context of a cash deposit?

12 A. Again, it's a check on the subscriber's
13 mobile wallet account.

14 Q. Can you give me an example?

15 A. Well, yeah, I don't know that this is
16 particularly in the '845 patent. But, you know,
17 just off the top of my head, something that might
18 satisfy this claim would be looking at the mobile
19 wallet account to determine whether the account
20 balance is already over or whether the account
21 balance would be over a specified limit if the
22 deposit were accepted. And making a determination
23 to accept or decline the deposit based on that.

Ex. 1037 (Johnson Dep. Tr.) at 188:10-25

10 Q. Okay. Can you -- maybe before we go down
11 this rabbit hole, can you give me an example of a
12 limit check that determines whether sufficient funds
13 are available to make the deposit amount in a cash
14 deposit in the '845 patent?

15 A. Well, if we broaden that a little bit, I
16 can give you a specific real world example, because
17 we were talking about Google Wallet accounts before.
18 Google Wallet has a deposit limit of \$10,000.
19 You're not allowed to have an account in the U.S. of
20 more than that. Now, I don't know that Google
21 Wallet accepts cash deposits, but Google Wallet
22 certainly accepts deposits of funds as required by
23 Claim 1. There is a limit, there is a limit check,
24 and that would be used to determine whether or not
25 the deposit could be made.

202. Additionally, it would have been obvious at the time of invention to a POSA to implement either or both of limit and velocity checks. As discussed with respect to limitation 5[h], Tumminaro describes both limit checks and velocity checks. It would have been obvious to a POSA at the time of invention to implement one or both checks for a deposit, in order to safeguard against fraud and maintain compliance with AML regulations.

Tumminaro's transaction limits are not restricted to transfers

Checking the balance on carded member A's ("unbanked subscriber") account serves as *"performing ... a limit check ... on the selected payment method, the limit check determining whether sufficient funds are available to make the deposit amount."* Tumminaro also discloses user-specified limits against which transactions are checked. See, e.g., [0598] ("the account holder can also preauthorize purchases at each of the merchants appearing on the white list while *setting a per transaction limit* on the other numbers on the white list."), [0600] ("The account holder may also *specify the maximum amount for each transaction* and the number of transactions that may be processed on a cell phone in a selected period.") Tumminaro also discloses spending limits that are applied based on fraud checks. [0602] ("A fraud and risk rules engine (not shown) controls risks by *applying spending limits* and determining the acceptability of requested transactions from a risk perspective.")

Tumminaro's velocity checks are not restricted to transfers

Tumminaro discloses a “velocity settings” parameter stored in each user’s profile. Ex-1005, [0271]. “The velocity of participation is a setting that sets certain restrictions or limits on the account. Some examples on limits of an account are how many transactions a day a user may perform or amount of money that may be transferred in a transaction.” *Id.* at [0280]. For example, “after the user has remained a member for six months, the user may be automatically allowed five transactions a day when the user’s previous limit for some number fewer than five.”).

- 1) Overview of '845 Patent and Tumminaro
- 2) Construction of “unbanked subscriber” (all claims)
- 3) Construction of “[specified/selected] payment method” (claim 5)
- 4) Construction of “one or more of a velocity check and limit check” (claim 1)

5) Fintiv repeatedly mischaracterizes Tumminaro

- 6) Construction of “mobile wallet” (all claims)

Tumminaro does not require funds to come from banked sources

- **Fintiv:** “Tumminaro’s system ultimately relies on funds that are deposited into accounts from external sources... all these methods require Tumminaro’s users to have external bank accounts” (POR at 36-37)

Ex. 1037 (Johnson Dep. Tr.) at 225:11-226:12

Q. **Tumminaro also discloses that a user can deposit cash into her -- his or her mobile wallet account; right?**

A. **Yes.**

Q. Okay. And so they -- Tumminaro also discloses that he could -- sorry, a user could make a deposit using a check; right?

A. Oh, perhaps. I don't recall. **It sounds reasonable.**

Q. Okay. And so **where a user deposits using cash or a check, they are not necessarily banked; fair?**

A. **Correct.**

Money may be transferred from an existing account at a financial service provider partner (such as a banking institution) or by depositing cash or a check to the prepaid debit account (at a participating merchant or other third party).

Ex-1005 at [0196]

Tumminaro does not require funds to come from banked sources

- **Fintiv**: “Tumminaro’s system ultimately relies on funds that are deposited into accounts from external sources... all these methods require Tumminaro’s users to have external bank accounts” (POR at 36-37)

Ex-1037 at 225:24-226:2

Q. Okay. And another way a user could get money into his or her mobile wallet account is to receive it from another user, right?

A. Yes.

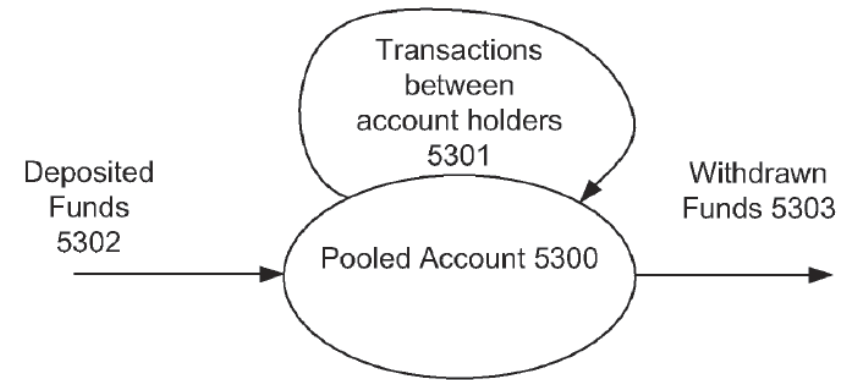


Fig. 53

Ex-1005 at Fig. 53

Tumminaro's individual card accounts do not require that the user be "banked"

[0586] Registration may occur at any bank partner or on-line at a web page accessed over the Internet as indicated at 5102. The registration process enables the recipient to open a prefunded (using the transferred funds) debit account. This process is similar to opening any other bank account except there is no minimum account balance so even individuals who do not qualify for a checking or savings account at a bank may participate.

Ex. 1005, ¶ 586

[0603] Refer now to FIG. 53, which shows a pooled account embodiment to minimize ACH and credit card interchange fees. Rather than maintain a separate prepaid debit account for each account holder, the present embodiment utilizes a pooled prepaid debit account 5300.

Ex. 1005, ¶ 603

Fintiv's expert admitted not all embodiments require ATM capability

[0261] The mobile payment system allows many different financial services for the user. Examples of some services includes credit card load, debit card load, Automated Clearing House (ACH) load, ACH unload, person-to-person (P2P) payment, remote pay (RPAY), viral, person-to-merchant (P2M), and referrals. Other services may include automated teller machine (ATM) network load and unload such as through the NYCE, PLUS, or STAR ATM system.

Ex. 1037 (Johnson Dep. Tr.) at 228:15-19

Ex. 1005, ¶ 261

Q. Okay. And so is it a fair interpretation of Paragraph 261 that not all embodiments of Tumminaro include network load and unload through ATM as a service?

A. Okay. **That's possible.**

Fintiv's arguments are premised on the system operator of Tumminaro *itself being a bank*

Ex. 1037, 230:22-231:10.

Q. Does Tumminaro actually describe pooled accounts as something different than accounts at partner banks, or was the para- -- the statement in 82 correct?

A. Oh. Maybe the conclusion in 82 could be a little clearer, **that Tumminaro describes its pooled accounts as accounts at partner banks. And there's this one option in Paragraph 606 where Tumminaro describes the pooled account being held by the system operator.**

Q. And that is when the system operator is itself a bank?

A. Correct.

Ex. 1037, 232:9-12

Q. And is it your opinion that in Tumminaro, the Tumminaro system itself issues the debit card?

A. **When Tumminaro is the bank holding the pooled accounts, yes.**

- 1) Overview of '845 Patent and Tumminaro
- 2) Construction of “unbanked subscriber” (all claims)
- 3) Construction of “[specified/selected] payment method” (claim 5)
- 4) Construction of “one or more of a velocity check and limit check” (claim 1)
- 5) Fintiv repeatedly mischaracterizes Tumminaro
- 6) Construction of “mobile wallet” (all claims)**

Fintiv’s construction of “mobile wallet” is incorrect

- Fintiv improperly limits “mobile wallet” to a “stored value account”
- Fintiv’s construction is contrary to the district court’s construction

Ex. 1037 (Johnson Dep. Tr.) at 118:5-8

Q. Your opinion -- well, you just confirmed that the definition you applied for mobile wallet for the '845 patent is a stored value account and not a prepaid access account. Do you remember that?

A. Yeah.

Q. All right. And so, your interpretation of mobile wallet for the '845 patent is different than the Court's; fair?

A. In this context, in the matter of the IPR, yes.

Claim Term	Court’s Final Construction
“mobile wallet” All Claims.	“A stored value account or prepaid access account (PPA) that allows the owner (or ‘subscriber’) to pay for goods and services of the mFS platform from his or her mobile wallet account.”

Ex. 1012 at 1.

Fintiv's construction of "mobile wallet" is incorrect

- Fintiv's construction of "mobile wallet" contradicts its own proposed construction in district court

The claims themselves show that the patentee did not intend to limit the term "mobile wallet" to "a stored value account or prepaid access account (PPA)." Only the '413 Patent, Claim 2

Ex. 1038 (Fintiv Claim Construction Br) at 4

account balance"). Thus, PayPal's proposed construction that imports unnecessary additional limitations based on the type of account limitations, *i.e.*, "stored value account or prepaid access account" improperly imports limitations into the claims.

Ex. 1038 (Fintiv Claim Construction Br) at 5

Fintiv's construction of "mobile wallet" is incorrect

- The claims do not recite transferring "eMoney" or "stored value"

Ex. 1037 (Johnson Dep. Tr.) at 119:17-120:10

Q. Claim 5 of the '845 patent actually recites transferring money; right?

A. Yes.

Q. And it also recites debiting the specified payment method by the specified amount of funds; right?

A. Yes.

Q. And it recites transferring the specified amount of funds to the specified recipient; fair?

A. Yes.

Q. And so, the claims recite transferring money and funds; correct?

A. Yes.

Q. And not scrip?

A. Correct.

Q. Not eMoney?

A. Correct.

Q. Not stored value?

A. Correct.

Ex. 1037 (Johnson Dep. Tr.) at 120:11-121:1

Q. All right. But you're interpreting the claims to require transferring stored value; fair?

A. (Witness reviews.)

Oh. The way I'd read Claim 5 in relation to unbanked subscribers is that the transfer is of eMoney.

...

Q. Okay. And so, you're **limiting** Claim 5 to transferring eMoney; fair?

A. Correct.

Fintiv's construction of "mobile wallet" is incorrect

- The specification does not limit mobile wallets for unbanked subscribers to "stored value accounts" containing eMoney

The monetary transaction system may be used for many different tasks including enrolling a customer for a mobile wallet, adding a stored value account (either hosted by a mobile wallet platform or a third party), adding a bank or credit union account to a mobile wallet, adding a debit or credit card account to a mobile wallet, depositing funds in a mobile wallet, withdrawing funds from a mobile wallet, paying bills from a mobile wallet, topping up a prepaid mobile account through a mobile wallet, transferring funds through a mobile wallet (nationally or internationally), making in-store purchases using a mobile wallet, and various other tasks as described herein below.

Ex. 1001 at 3:56-60

Fintiv's construction of "mobile wallet" is incorrect

- Mr. Johnson directly contradicts the specification

As subscribers, agents, and other mFS program participants conduct business in the mFS program, value is transferred from one account to the next as payment for services rendered or goods purchased. This value can be in the form of real currency or the electronic representation referred to herein as eMoney.

Ex. 1001 at 10:30-32

Ex. 1037 (Johnson Dep. Tr.) at 76:17-77:1

Q. And do you agree with the statement that eMoney is the electronic representation of real currency?

A. I think we were just discussing that before the break. And let's go back here because I've said some things specifically in the declaration.

Your question is, is eMoney specifically the representation of real currency? And the answer is no.

Tumminaro invalidates the claims even under Fintiv's erroneous construction

- Tumminaro discloses stored value accounts

[0143] In a specific implementation, the present invention relates to a mobile payment platform and service. An embodiment of the present invention encompasses a payment platform that provides a fast, easy way to make payments by individuals or merchants using their mobile devices to access an account such as a debit account. Further interfaces include IM, Web, and application widgets. Other accounts may include a DDA or a credit card account. The account may also be a stored value account without a card associated with it. Additional embodiments of the present invention encompass a variety of partners that include mobile phone operators, nationally branded merchants, and financial service providers together with a payment platform that provides a fast, easy way to make payments by individuals using their mobile devices.

Ex. 1005 at 0143

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 16th day of July 2024, “PETITIONER'S DEMONSTRATIVE EXHIBITS” was served by email on the following counsel for Patent Owner:

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