PTO/SB/05 (02-07)
Approved for use through 02/28/2007. OMB 0651-0032
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UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 C.F.R. 1.53(b))

Attorney Docket No.	30071-002002
First Inventor	Paul Poniatowski
Title	Mobile Payment System
Express Mail Label No.	

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. ☐ **Fee Transmittal Form (e.g., PTO/SB/17)**
   (Submit an original and a duplicate for fee processing)
2. ☒ **Applicant claims small entity status.**
   See 37 CFR 1.27.
3. ☒ **Specification** [*Total Pages* 17]
   Both the claims and abstract must start on a new page
   (For information on the preferred arrangement, see MPEP 608.01(a))
4. ☒ **Drawing(s)** (*35 U.S.C.113*) [*Total Sheets* 10]
5. **Oath or Declaration** [*Total Sheets* 2]
   a. ☐ Newly executed (original or copy)
   b. ☒ A copy from a prior application (37 CFR 1.63 (d))
   (for a continuation/divisional with Box 18 completed)
   i. ☐ DELETION OF INVENTOR(S)
   Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. ☒ **Application Data Sheet.** See 37 CFR 1.76
7. ☐ **CD-ROM or CD-R** in duplicate, large table or Computer Program *(Appendix)*
   ☐ Landscape Table on CD
8. **Nucleotide and/or Amino Acid Sequence Submission**
   (if applicable, items a.-c. are required)
   a. ☐ Computer Readable Form (CRF)
   b. Specification Sequence Listing on:
   i. ☐ CD-ROM or CD-R (2 copies); or
   ii. ☐ Paper
   c. ☐ Statements verifying identity of above copies

ADDRESS TO: **Commissioner for Patents**
P.O. Box 1450
Alexandria VA 22313-1450

ACCOMPANYING APPLICATIONS PARTS

9. ☐ **Assignment Papers** (cover sheet & document(s))
   Name of Assignee _____
10. ☐ **37 C.F.R. 3.73(b) Statement** ☐ **Power of Attorney**
    (when there is an assignee)
11. ☐ **English Translation Document** *(if applicable)*
12. ☒ **Information Disclosure Statement** (PTO/SB/08 or PTO-1449)
    ☐ Copies of citations attached
13. ☐ **Preliminary Amendment**
14. ☐ **Return Receipt Postcard** (MPEP 503)
    (Should be specifically itemized)
15. ☐ **Certified Copy of Priority Document(s)**
    (if foreign priority is claimed)
16. ☐ **Nonpublication Request** under 35 U.S.C. 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35 or equivalent.
17. ☐ Other: _____

18. If a CONTINUING APPLICATION, *check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:*

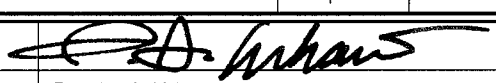
☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No: 12 / 596,531

Prior application information: *Examiner* Anwah, Olisa *Art Unit:* 2614

19. CORRESPONDENCE ADDRESS

☒ The address associated with Customer Number 69713 *OR* ☐ Correspondence address below

Name					
Address					
City		State		Zip Code	
Country		Telephone		Email	

Signature		Date	July 26, 2012
Name (Print/Type)	Faustino A. Lichauco	Registration No. (Attorney/Agent)	41,942

This collection of information is required by 37 CFR 1.53(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Substitute PTO/SB/14 (06-07)
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Application Data Sheet 37 CFR 1.76	Attorney Docket No.	30071-002002
	Application No.	Not Yet Assigned
Title of Invention	Mobile Payment System	

The application data sheet is part of the provisional or nonprovisional application for which it is being submitted. The following form contains the bibliographic data arranged in a format specified by the United States Patent and Trademark Office as outlined in 37 CFR 1.76. This document may be completed electronically and submitted to the Office in electronic format using the Electronic Filing System (EFS) or the document may be printed and included in a paper filed application.

Secrecy Order 37 CFR 5.2

☐ Portions of all of the application associated with the Application Data Sheet may fall under a Secrecy Order pursuant to 37 CFR 5.2 (Paper filers only. Applications that fall under Secrecy Order may not be filed electronically.)

Applicant Information:

Applicant 1					
Applicant Authority ☒ Inventor		☐ Legal Representative under 36 U.S.C. 117		☐ Party of Interest under 36 U.S.C. 118	
Prefix	**Given Name**	**Middle Name**		**Family Name**	**Suffix**
	Paul			Poniatowski	
Residence Information (Select One)	☐ US Residency ☒ Non US Residency ☐ Active US Military Service				
City	Toronto	**State/ Province**	Ontario	**Country of Residence**	Canada
Citizenship under 37 CFR 1.41(b)	Canada				
Mailing Address of Applicant:					
Address 1	23 Manitoba St.				
Address 2					
City	Toronto	**State/Province**	Ontario		
Postal Code	M8Y 1C8	**Country**	Canada		

Correspondence Information:

Customer Number	69713

Application Information:

Title of the Invention	Mobile Payment System		
Attorney Docket No.	30071-002002	**Small Entity Status Claimed** ☒	
Application Type	Non-provisional		
Subject Matter	Utility		
Suggested Class (if any)		**Sub Class (if any)**	
Suggested Technology Area (if any)			
Total Number of Drawing Sheets (if any)	10	**Suggested Figure for Publication (if any)**	1

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APPLE EX1009 Page 2

Application Data Sheet 37 CFR 1.76	Attorney Docket No.	30071-002002
	Application No.	Not Yet Assigned
Title of Invention	Mobile Payment System	

Publication Information:

☐ **Request Early Publication** (Fee required at time of Request 37 CFR 1.219)

☐ **Request NOT TO PUBLISH.** I hereby request that the attached application not be published under 35 U.S.C. 122(b) and certify that the invention disclosed in the attached application has not been and will not be subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing.

Representative Information:

Representative information should be provided for all practitioners having a power of attorney in the application. Providing this information in the Application Data Sheet does not constitute a power of attorney in the application (see 37 CFR 1.32).

Customer Number	69713

Domestic Priority Information:

This section allows for the applicant to claim benefit under 35 U.S.C. 119(e), 120, 121, or 365(c). Providing this information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and 37 CFR 1.78(a)(2) or CFR 1.78(a)(4), and need not otherwise be made part of the specification.

Prior Application Status			
Application Number	**Continuity Type**	**Prior Application Number**	**Filing Date (YYYY-MM-DD)**
	Continuation application of	12/596,531	2009-10-19
12/596,531	CIP application of	12/087,539	2008-07-09
12/087,539	371 Application of	PCT/CA2004/00513	2004-04-07
12/087,539	CIP application of	10/407,222	2003-04-07

Foreign Priority Information:

This section allows for the applicant to claim benefit of foreign priority and to identify any prior foreign application for which priority is not claimed. Providing this information in the application data sheet constitutes the claim for priority as required by 35 U.S.C. 119(b) and 37 CFR 1.55(a).

Application Number	**Country**	**Parent Filing Date (YYYY-MM-DD)**	**Priority Claimed**	
			☐Yes	☐No
			☐Yes	☐No
			☐Yes	☐No

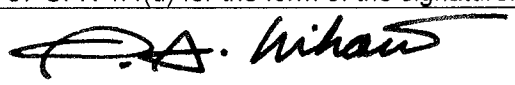
Substitute PTO/SB/14 (06-07)
Approved for use through 06/30/2007. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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Application Data Sheet 37 CFR 1.76	Attorney Docket No.	30071-002002
	Application No.	Not Yet Assigned
Title of Invention	Mobile Payment System	

Assignee Information:

Providing this information in the application data sheet does not substitute for compliance with any requirement of part 3 of Title 37 of the CFR to have an assignment recorded in the Office.			
Assignee			
If the Assignee is an Organization, check here. ☐			
Organization Name			
Mailing Address Information:			
Address 1			
Address 2			
City		**State/Province**	
Country		**Postal Code**	
Phone Number		**Fax Number**	
Email Address			

Signature:

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature			
First Name	Faustino	**Last Name**	Lichauco
Registration Number	41,942	**Date (YYYY-MM-DD)**	2012-07-26

This collection of information is required by 37 CFR 1.76. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 23 minutes to complete, including gathering, preparing, and submitting the completed application data sheet form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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APPLE EX1009 Page 4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Paul Poniatowski	Art Unit	: Not Yet Assigned
Serial No.	: Not Yet Assigned	Examiner	: Not Yet Assigned
Filed	: Herewith	Conf. No.	: Not Yet Assigned
Title	: Mobile Payment System		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

Applicant discloses the documents listed in the attached form PTO-1449.

Under 37 C.F.R 1.98(a)(2)(ii), copies of U.S. patents and patent application publications are not required. Accordingly, documents AA-AU are not provided. Applicant will provide copies at the Examiner's request.

The present application relies on the following application for an earlier effective filing date under 35 U.S.C. 120:

- U.S. Serial No. 12/596,531, filed October 19, 2009.

Under 37 C.F.R. 1.98(d), copies of all patent, publication, pending U.S. application or other information that was previously submitted to, or cited by the USPTO in an earlier application are not required. Accordingly, documents AA-ABB are not provided. Applicant will provide copies at the Examiner's request.

This statement is being filed with the filing of the application. No fee is believed due. Please apply any charges to Deposit Account No. 50-4189, referencing Attorney Docket Number 30071-002002.

Respectfully submitted,

Date: July 26, 2012

Faustino A. Lichauco
Reg. No. 41,942

Customer No. 69713
Occhiuti Rohlicek & Tsao LLP
321 Summer St., Boston, MA 02210
Telephone: (617) 500-2533
Facsimile: (617) 500-2499

297308.doc

Substitute Form PTO-1449 (Modified)	U.S. Department of Commerce Patent and Trademark Office	Attorney's Docket No. 30071-002002	Application No. Not Yet Assigned
Information Disclosure Statement by Applicant (Use several sheets if necessary) (37 CFR §1.98(b))		Applicant Paul Poniatowski	
		Filing Date Herewith	Group Art Unit Not Yet Assigned

U.S. Patent Documents

Examiner Initial	Desig. ID	Document Number	Publication Date	Patentee	Class	Subclass	Filing Date If Appropriate
	AA	5,896,129	4/20/1999	Murphy, et al.			
	AB	2002/0194264	12/2002	Uchiyama, et al.			
	AC	6,222,826	4/2001	Faynberg, et al.			
	AD	7,149,549	12/2006	Ortiz, et al.			
	AE	5,412,708	5/2/1998	Katz			
	AF	5,774,534	6/30/1998	Mayer			
	AG	2001/0032131	10/18/2001	Mowry			
	AH	2002/0022476	2/21/2002	Go			
	AI	2002/0094787	7/18/2002	Avnet, et al.			
	AJ	2002/0130967	9/19/2002	Sweetser			
	AK	2002/0162113	10/31/2002	Hunter			
	AL	2002/0194622	12/19/2002	Lord			
	AM	6,577,861	06/10/2003	Ogasawara, Nobuo			
	AN	8,135,798	03/13/2012	Welingkar et al.			
	AO	6,112,984	09/05/2000	Snavely, John D.			
	AP	7,388,578	06/17/2008	Tao, Di			
	AQ	6,169,911	01/02/2001	Wagner et al.			
	AR	7,040,541	05/09/2006	Swartz et al.			
	AS	6,078,806	06/20/2000	Heinonen et al.			
	AT	7,308,254	12/11/2007	Rissanen, Jussi			
	AU	2005/0017068	01/27/2005	Zalewski et al.			

Foreign Patent Documents or Published Foreign Patent Applications

Examiner Initial	Desig. ID	Document Number	Publication Date	Country or Patent Office	Class	Subclass	Translation Yes	Translation No
	AV	98/11686	3/19/1998	WIPO				
	AW	02/084909	10/24/2002	WIPO				
	AX	2179993	10/19/1994	China				

Examiner Signature	Date Considered
EXAMINER: Initials citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.	

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APPLE EX1009 Page 6

Substitute Form PTO-1449 (Modified) U.S. Department of Commerce Patent and Trademark Office	Attorney's Docket No. 30071-002002	Application No. Not Yet Assigned
Information Disclosure Statement by Applicant (Use several sheets if necessary) (37 CFR §1.98(b))	Applicant Paul Poniatowski	
	Filing Date Herewith	Group Art Unit Not Yet Assigned

Foreign Patent Documents or Published Foreign Patent Applications

Examiner Initial	Desig. ID	Document Number	Publication Date	Country or Patent Office	Class	Subclass	Translation Yes	Translation No
	AY	01/33859	5/10/2001	WIPO				
	AZ	2344009	5/24/2000	Great Britain				
	AAA	01/27899	4/19/2001	WIPO				
	ABB	02/093544	11/21/2002	WIPO				

Examiner Signature	Date Considered
EXAMINER: Initials citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.	

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APPLE EX1009 Page 7

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Paul Poniatowski
Application Serial No.: 12/596,531
Filed: October 19, 2009
Title: Mobile Payment System

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION BY THE INVENTOR

As a below-named inventor(s), I hereby declare that:

My residence, post office address and citizenship are as stated next to my name.

I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

MOBILE PAYMENT SYSTEM

the specification of which:

[x] was filed on October 19, 2009, as Application Serial No. 12/596,531.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I hereby claim the benefit under Title 35, United States Code, §119(e)(1) of the United States provisional application listed below:

U.S. Serial No.	Filing Date	Status

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose all information I know to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

U.S. Serial No.	Filing Date	Status
10/407,222	April 7, 2003	Issued
12/087,539	July 9, 2008	Pending

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of

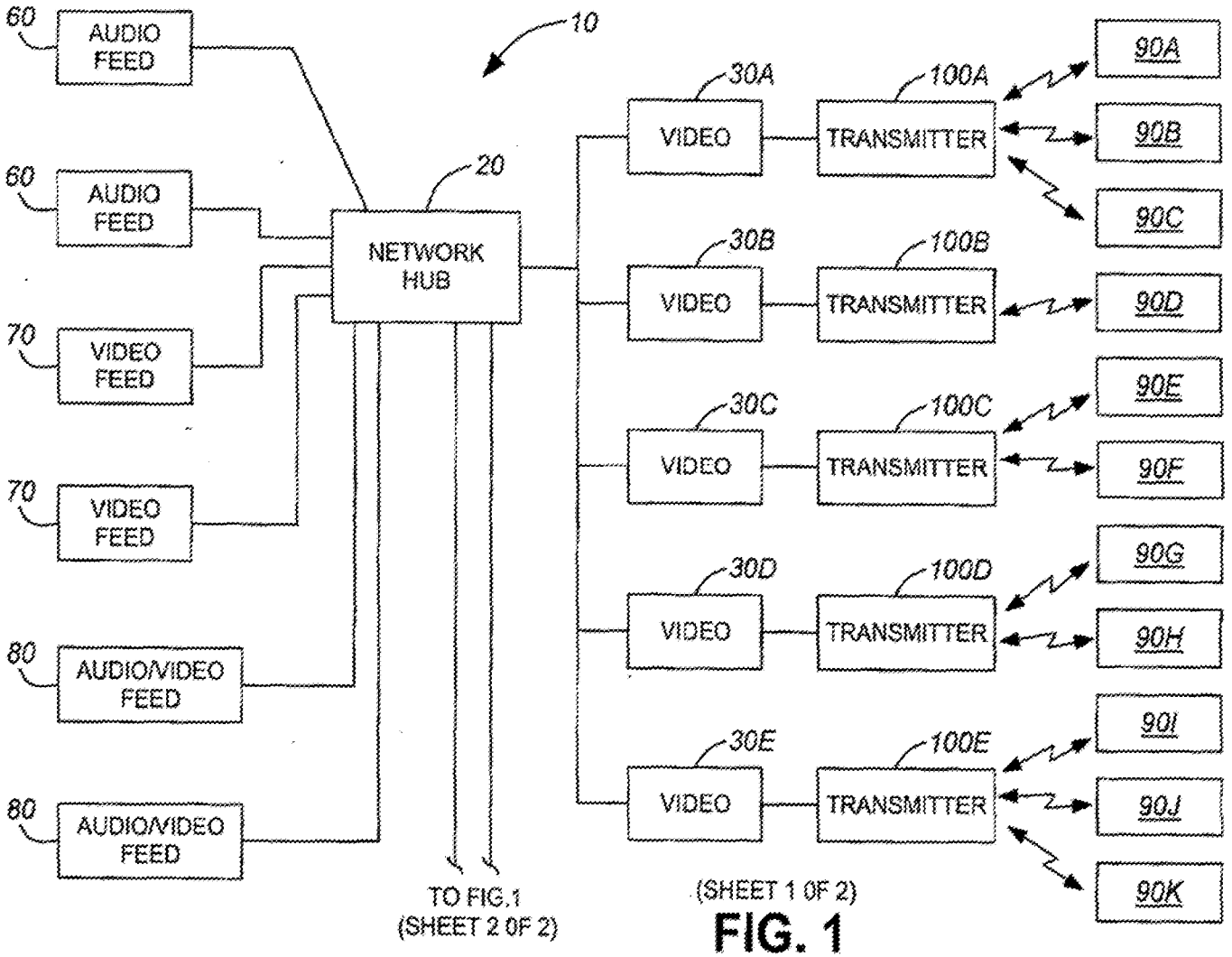
America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

Country	Application No.	Filing Date	Priority Claimed
PCT	PCT/CA2004/00513	April 7, 2004	[x] Yes [ ]
			[ ] Yes [ ]

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

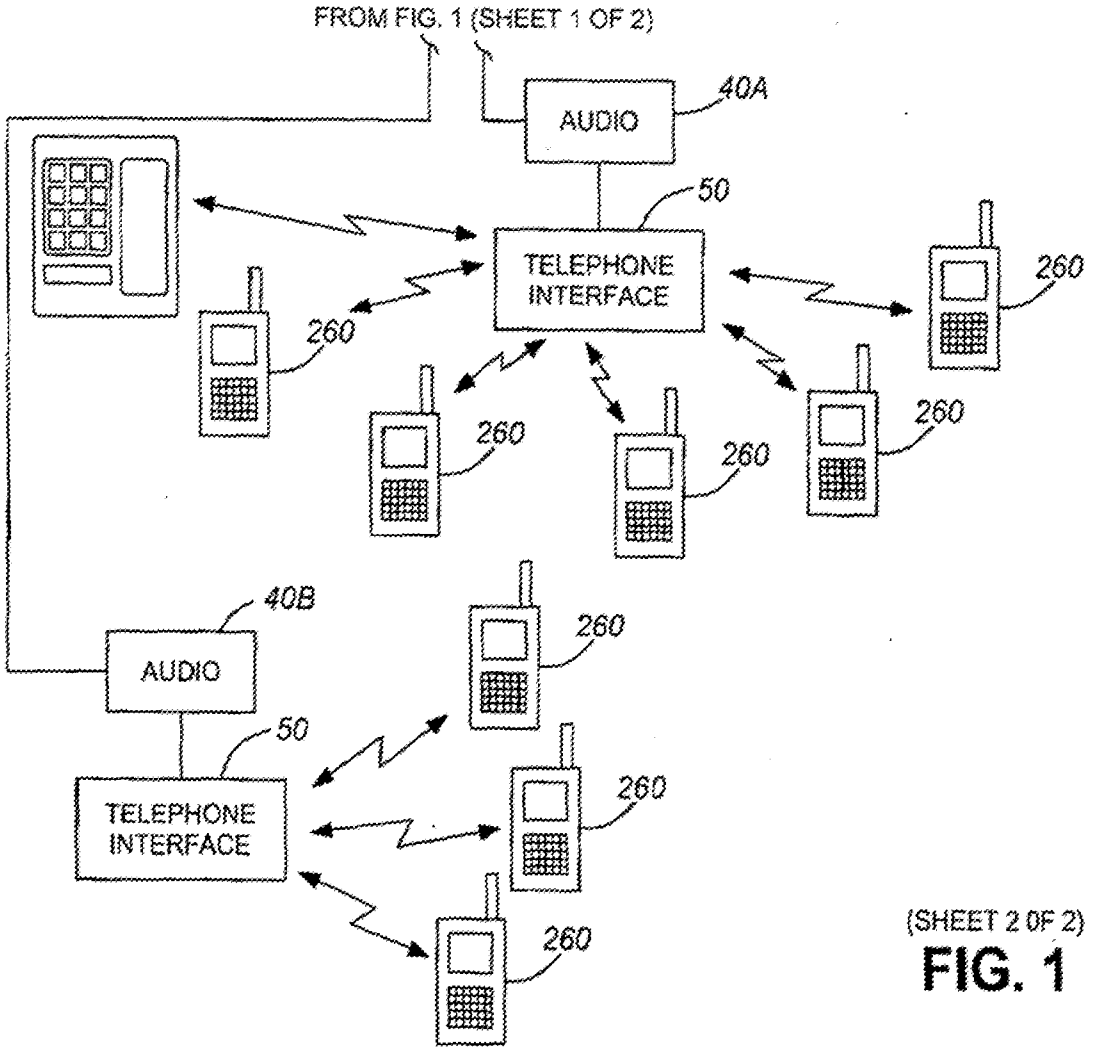
Date: May 24, 2011	/ Paul Poniatowski /
Full name:	Paul Poniatowski
Residence:	Toronto, Ontario, Canada
Country of Citizenship:	Canada
Post Office Address:	23 Manitoba st. Toronto, ON Canada M8Y 1C8

DECLARATION BY THE INVENTOR
Attorney Docket No. 30071-002001



(SHEET 1 OF 2)

FIG. 1



(SHEET 2 OF 2)

FIG. 1

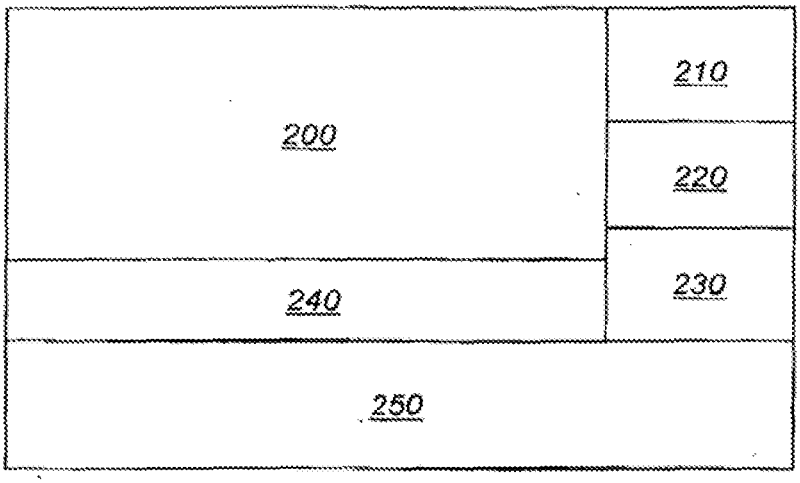

200
210
220
230
240
250

FIG. 2

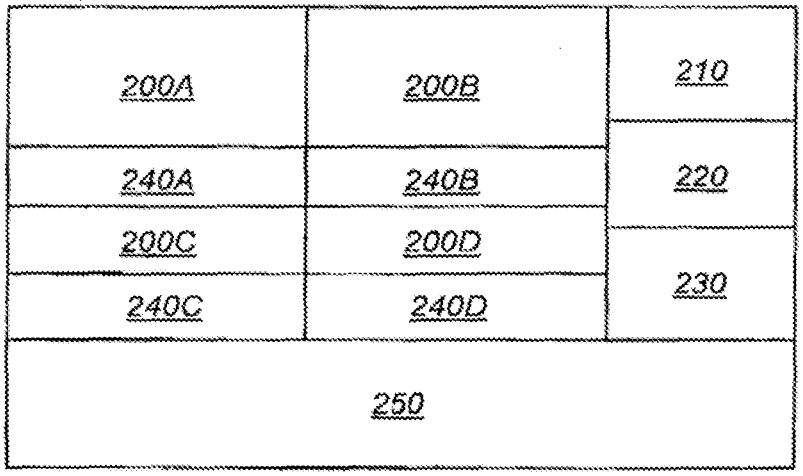

200A
200B
210
240A
240B
220
200C
200D
230
240C
240D
250

FIG. 3

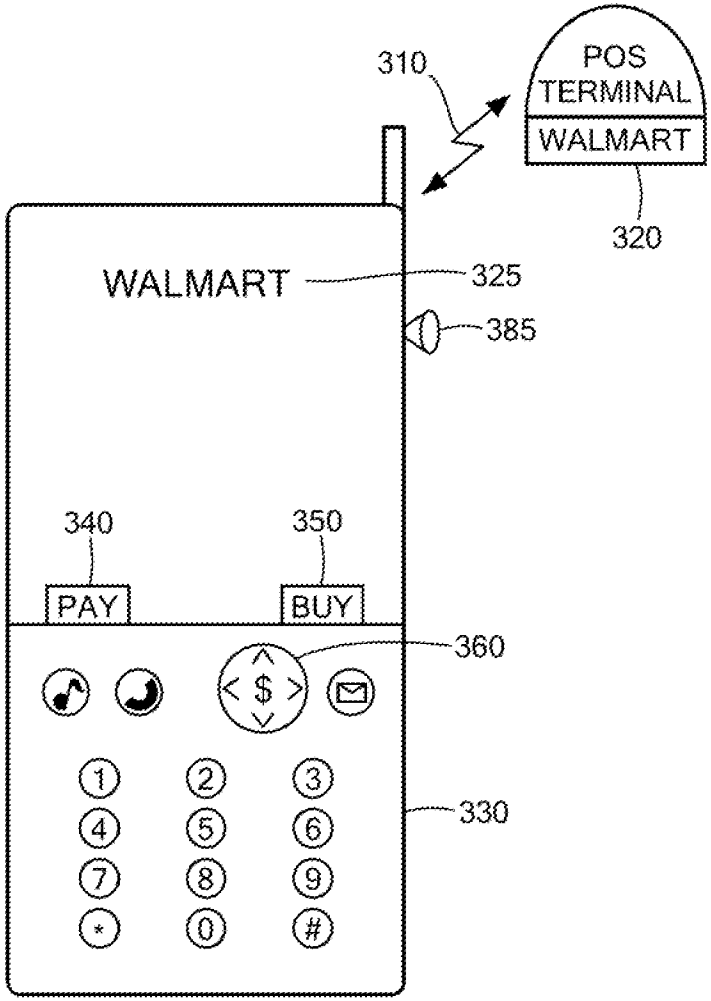

310
POS TERMINAL
WALMART
320
WALMART
325
385
340
350
PAY
BUY
360
330

FIG. 4

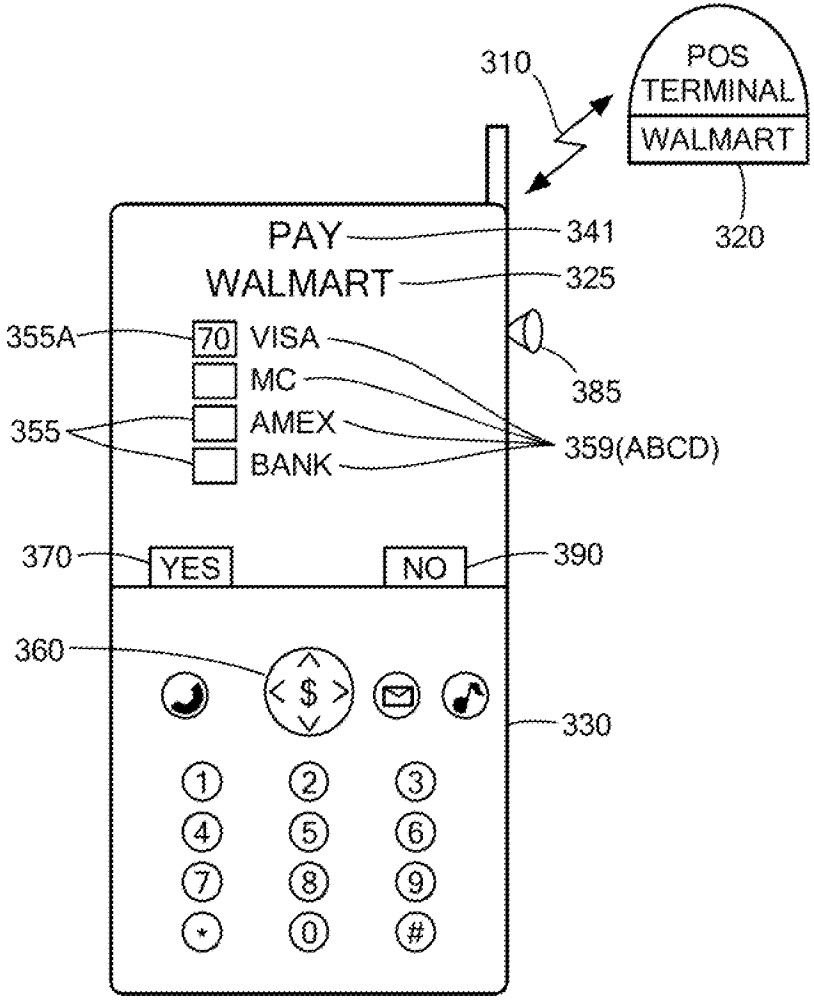

310
POS TERMINAL
WALMART
320
PAY
341
WALMART
325
355A
70
VISA
MC
AMEX
BANK
355
359(ABCD)
385
370
YES
NO
390
360
330

FIG. 5

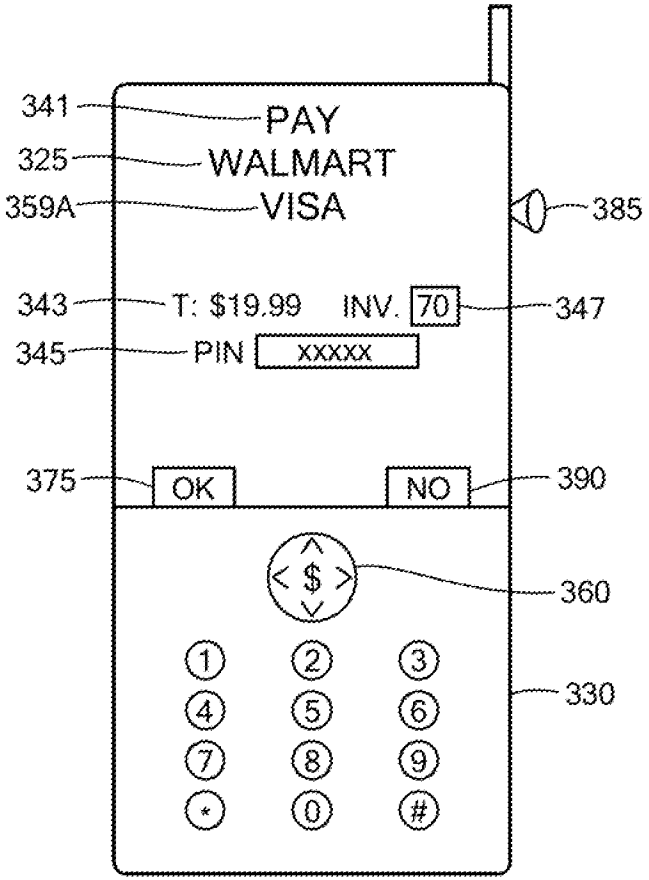

341
PAY
325
WALMART
359A
VISA
385
343
T: $19.99
INV.
70
347
345
PIN
XXXXX
375
OK
NO
390
360
330

FIG. 6

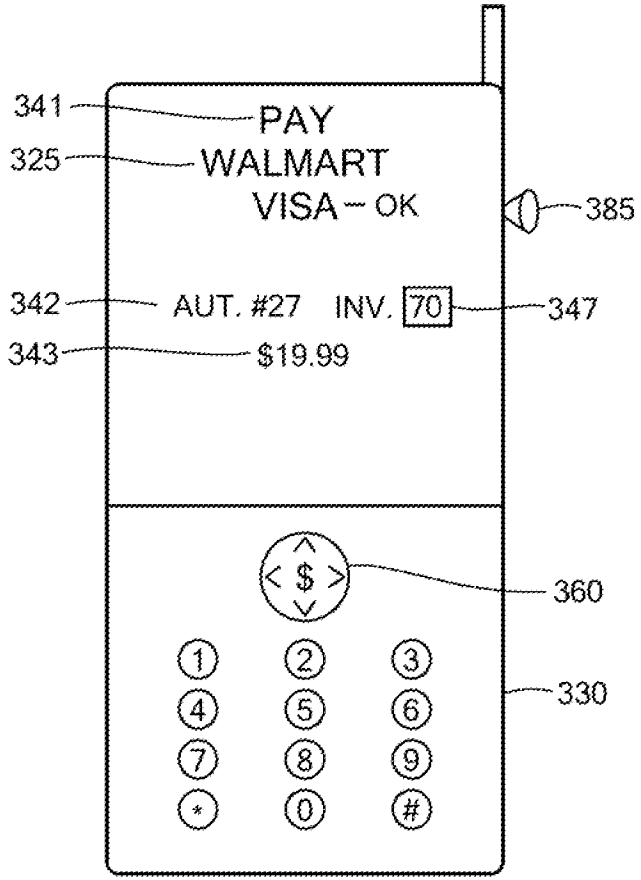

341
PAY
325
WALMART
VISA – OK
385
342
AUT. #27
INV.
70
347
343
$19.99
360
330

FIG. 7

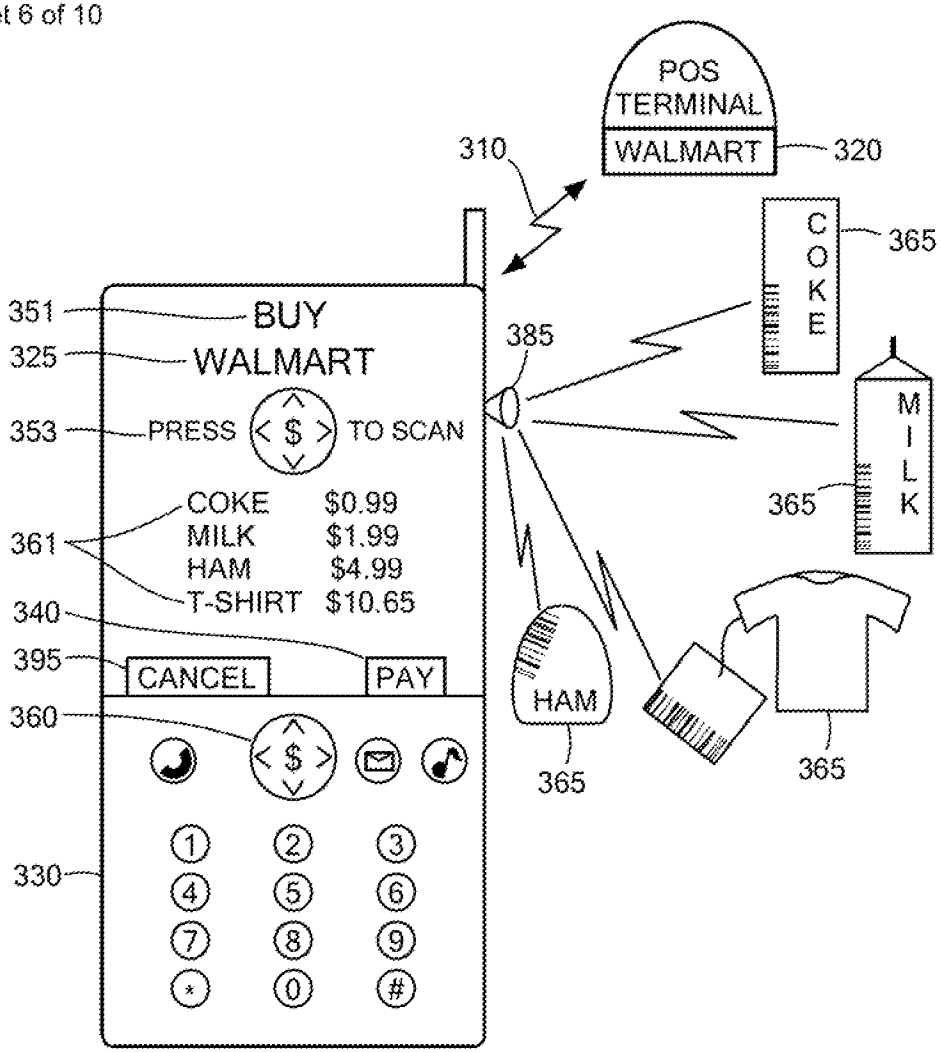

POS
TERMINAL
WALMART
310
320
365
C
O
K
E
385
351
BUY
325
WALMART
353
PRESS
$
TO SCAN
M
I
L
K
365
361
COKE $0.99
MILK $1.99
HAM $4.99
T-SHIRT $10.65
340
395
CANCEL
PAY
HAM
360
365
365
330
1
2
3
4
5
6
7
8
9
*
0
#

FIG. 8

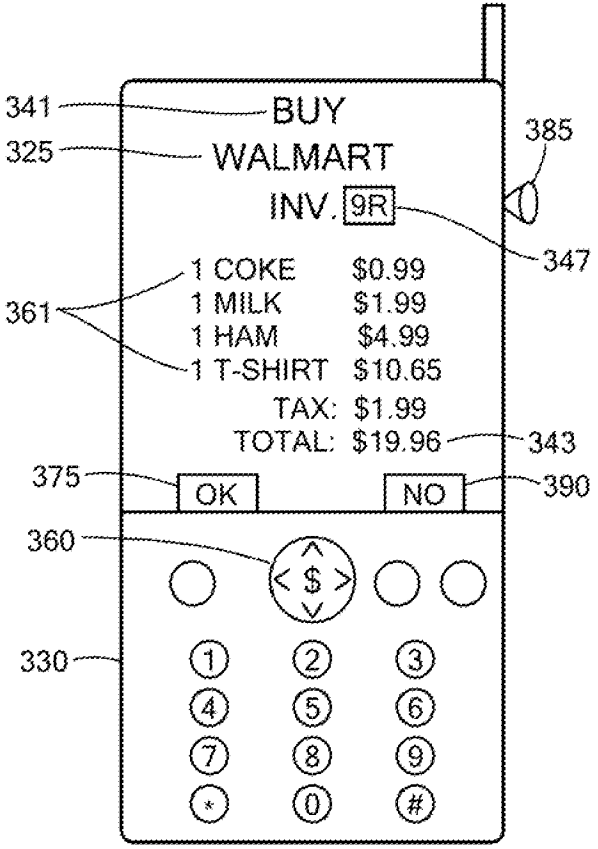

341
BUY
385
325
WALMART
INV.
9R
347
361
1 COKE $0.99
1 MILK $1.99
1 HAM $4.99
1 T-SHIRT $10.65
TAX: $1.99
TOTAL: $19.96
343
375
OK
NO
390
360
$
330
1
2
3
4
5
6
7
8
9
*
0
#

FIG. 9

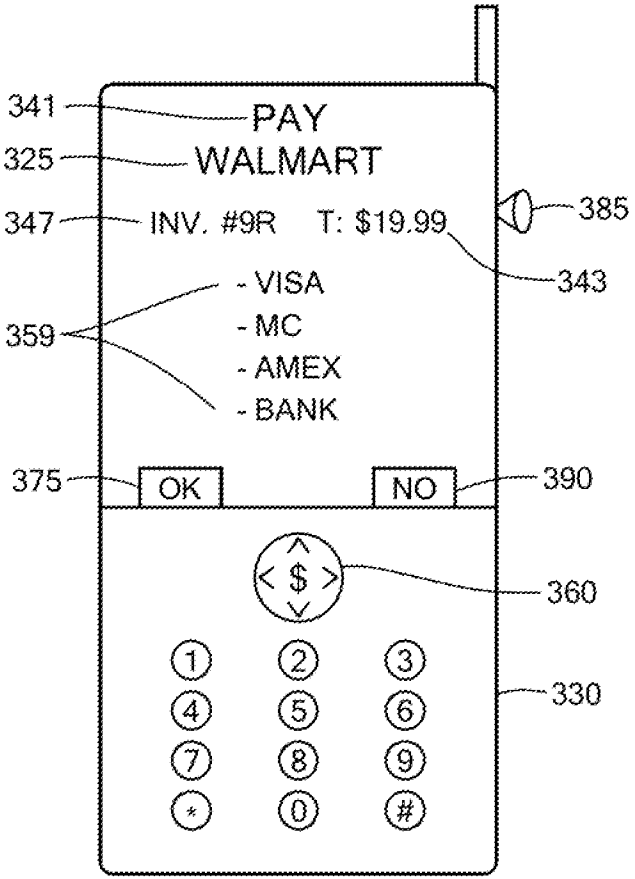

341
PAY
325
WALMART
347
INV. #9R
T: $19.99
385
343
359
- VISA
- MC
- AMEX
- BANK
375
OK
NO
390
$
360
330
1
2
3
4
5
6
7
8
9
*
0
#

FIG. 10

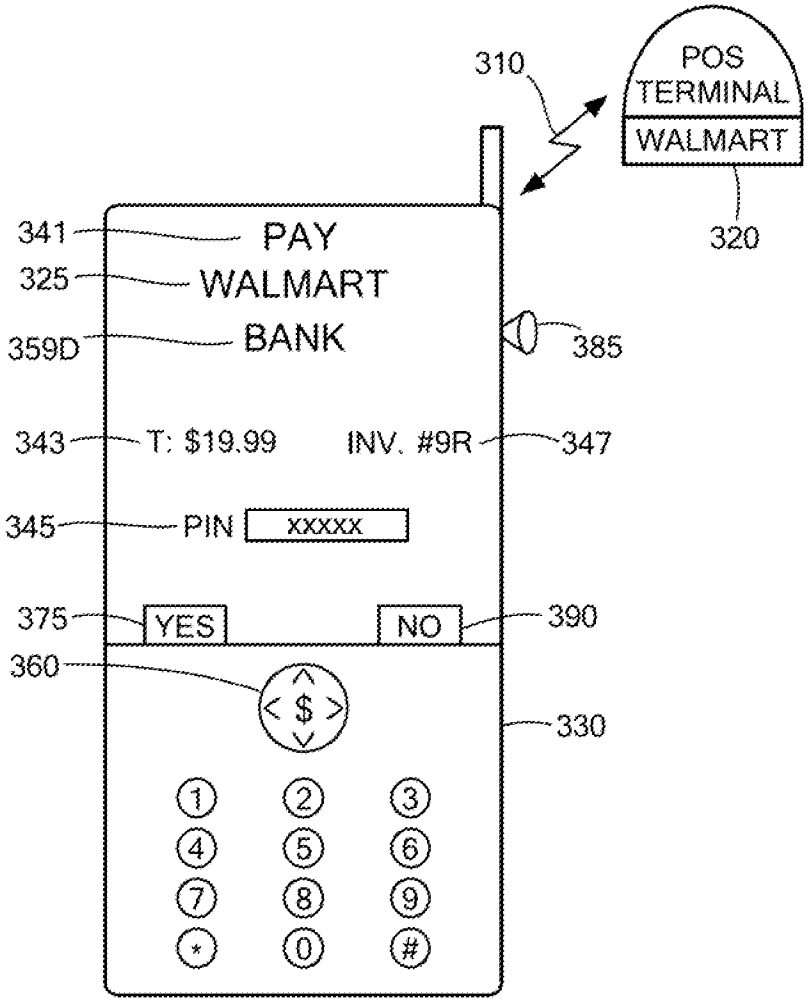

310
POS
TERMINAL
WALMART
320
341
PAY
325
WALMART
359D
BANK
385
343
T: $19.99
INV. #9R
347
345
PIN
xxxxx
375
YES
NO
390
360
$
330
1
2
3
4
5
6
7
8
9
*
0
#

FIG. 11

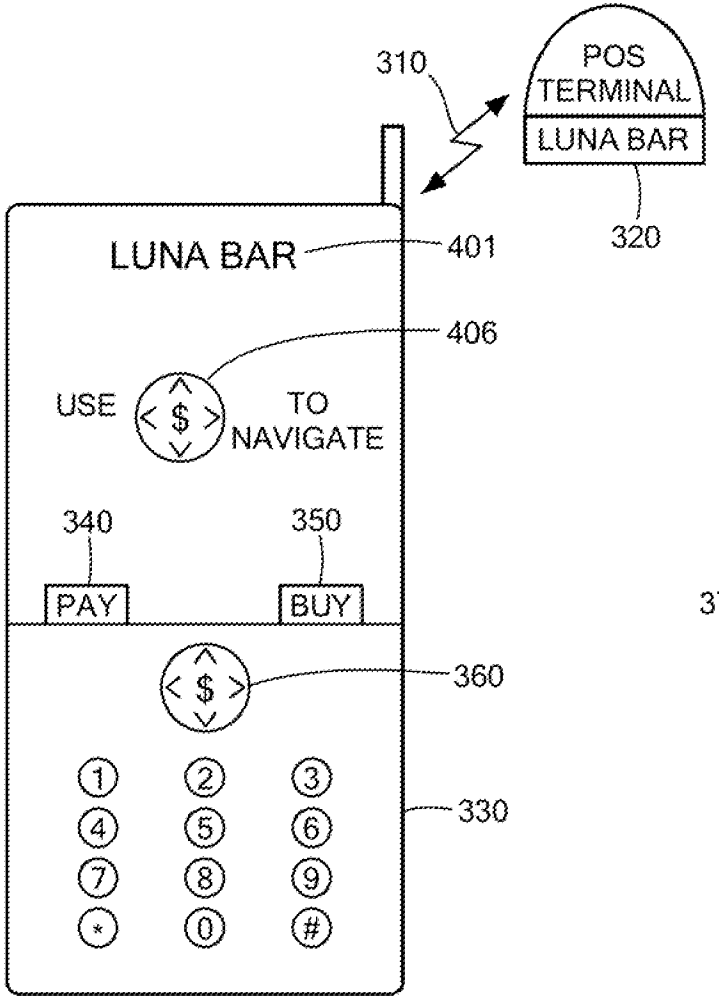

310
POS TERMINAL
LUNA BAR
320
LUNA BAR
401
406
USE
$
TO NAVIGATE
340
350
PAY
BUY
360
330
1 2 3
4 5 6
7 8 9
* 0 #

FIG. 12

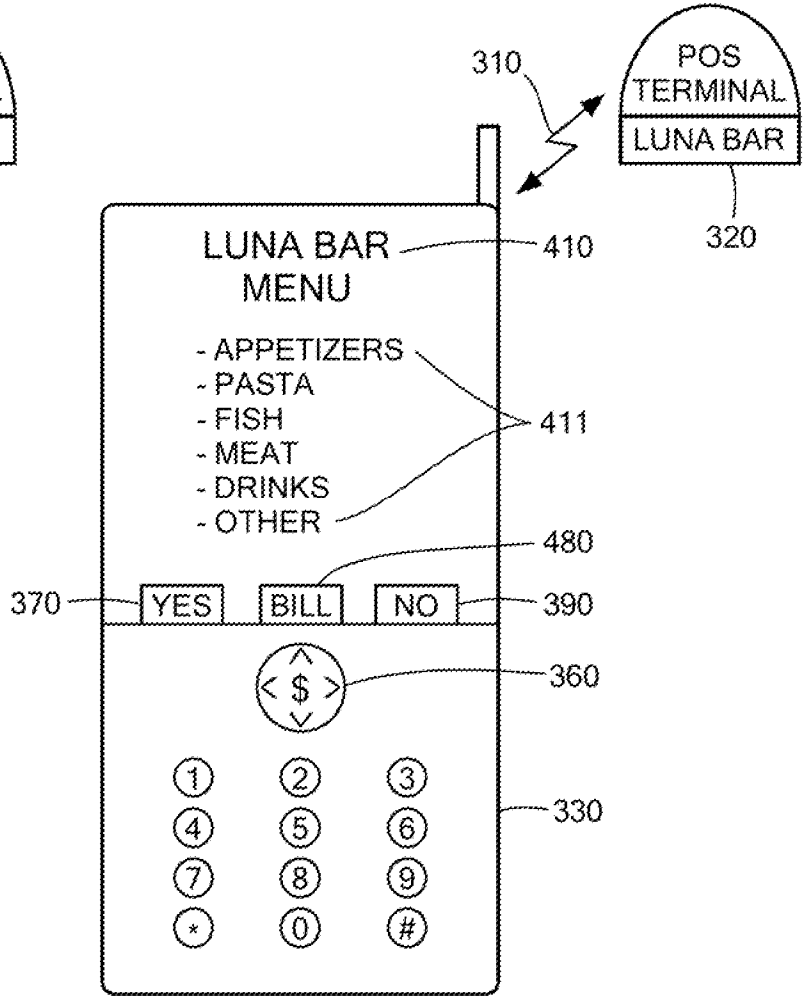

310
POS TERMINAL
LUNA BAR
320
LUNA BAR MENU
410
- APPETIZERS
- PASTA
- FISH
- MEAT
- DRINKS
- OTHER
411
480
370
YES
BILL
NO
390
360
330
1 2 3
4 5 6
7 8 9
* 0 #

FIG. 13

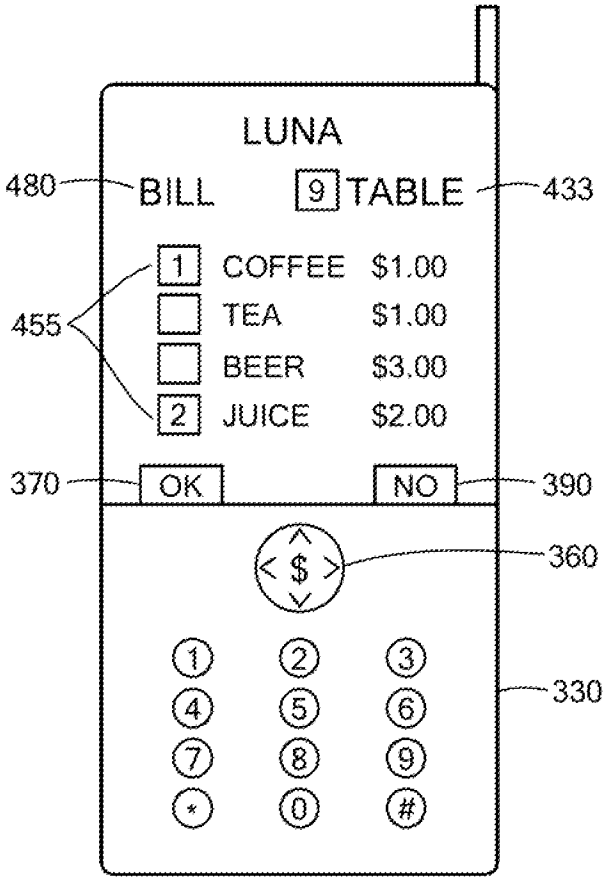

LUNA
480
BILL
9
TABLE
433
1
COFFEE
$1.00
TEA
$1.00
BEER
$3.00
2
JUICE
$2.00
455
370
OK
NO
390
$
360
1
2
3
4
5
6
7
8
9
*
0
#
330

FIG. 14

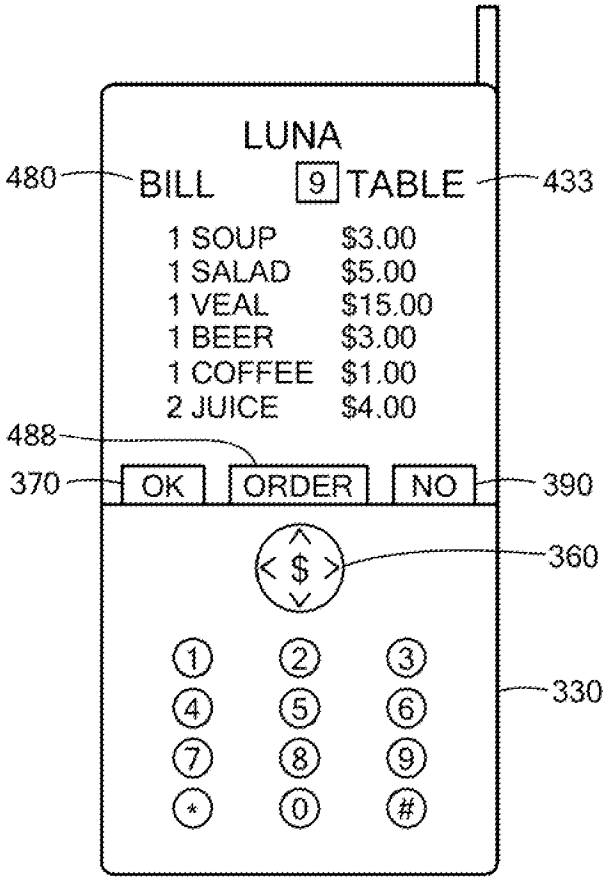

LUNA
480
BILL
9
TABLE
433
1 SOUP
$3.00
1 SALAD
$5.00
1 VEAL
$15.00
1 BEER
$3.00
1 COFFEE
$1.00
2 JUICE
$4.00
488
370
OK
ORDER
NO
390
$
360
1
2
3
4
5
6
7
8
9
*
0
#
330

FIG. 15

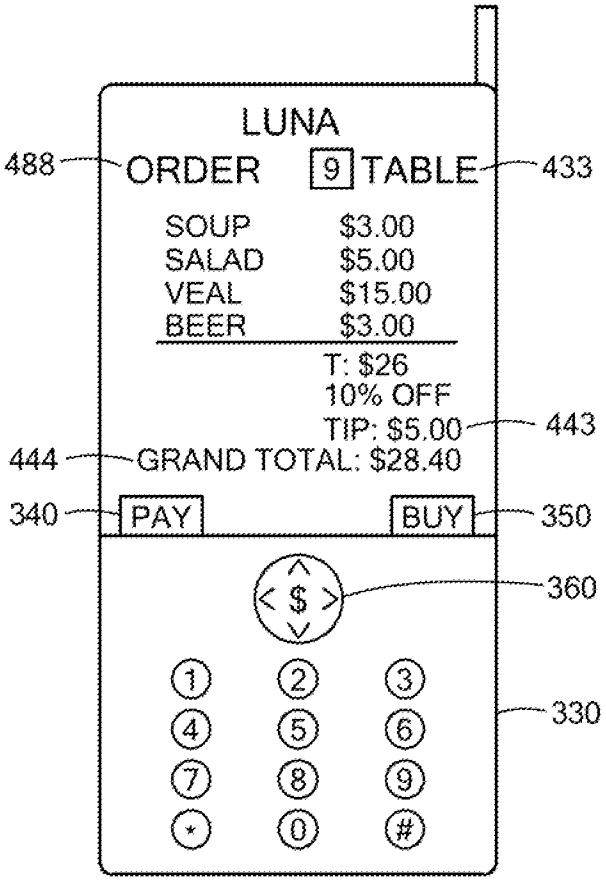

LUNA
488
ORDER
9
TABLE
433
SOUP $3.00
SALAD $5.00
VEAL $15.00
BEER $3.00
T: $26
10% OFF
TIP: $5.00
443
444
GRAND TOTAL: $28.40
340
PAY
BUY
350
$
360
1 2 3
4 5 6
7 8 9
* 0 #
330

FIG. 16

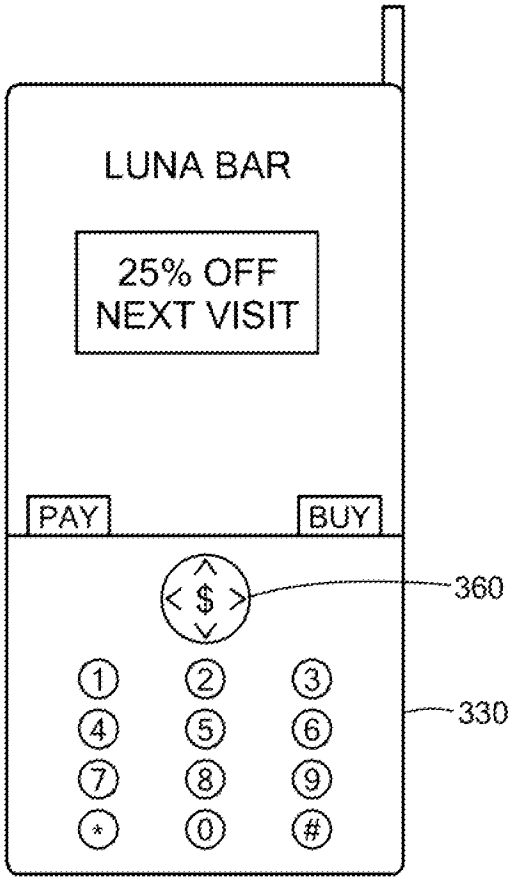

LUNA BAR
25% OFF
NEXT VISIT
PAY
BUY
$
360
1 2 3
4 5 6
7 8 9
* 0 #
330

FIG. 17

Electronic Patent Application Fee Transmittal

Application Number:	
Filing Date:	
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Filer:	Faustino A. Lichauco/Scott Chappell
Attorney Docket Number:	30071-002002

Filed as Small Entity

Utility under 35 USC 111(a) Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Utility filing Fee (Electronic filing)	4011	1	95	95
Utility Search Fee	2111	1	310	310
Utility Examination Fee	2311	1	125	125
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Miscellaneous:				
		Total in USD ($)		**530**

Electronic Acknowledgement Receipt

EFS ID:	13351246
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Customer Number:	69713
Filer:	Faustino A. Lichauco/Scott Chappell
Filer Authorized By:	Faustino A. Lichauco
Attorney Docket Number:	30071-002002
Receipt Date:	26-JUL-2012
Filing Date:	
Time Stamp:	17:06:07
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$530
RAM confirmation Number	4522
Deposit Account	504189
Authorized User	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)

1		30071-002002_Application_to_File_July_26_2012.pdf	5153255 0a8a1233964779b851a5e56378e3c0a9e08723bb	yes	36

Multipart Description/PDF files in .zip description		
Document Description	**Start**	**End**
Transmittal of New Application	1	1
Application Data Sheet	2	4
Transmittal Letter	5	5
Information Disclosure Statement (IDS) Form (SB08)	6	7
Oath or Declaration filed	8	9
Specification	10	22
Claims	23	25
Abstract	26	26
Drawings-only black and white line drawings	27	36

Warnings:

Information:

2	Fee Worksheet (SB06)	fee-info.pdf	32496 1934154a1d9a364338a7bf91384fa28c75b948c5	no	2

Warnings:

Information:

Total Files Size (in bytes):	5185751

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

MOBILE PAYMENT SYSTEM

RELATED APPLICATIONS

This application is a continuation under 35 USC 120 of U.S. application 12/596,531, filed October 19, 2009, which is a continuation-in-part under 35 USC 120 of U.S. application 12/087,539, filed on July 9, 2008, which is the U.S. national stage application, under 35 USC 371, of PCT/CA2004/00513, filed on April 7, 2004, and a continuation-in-part of U.S. patent application 10/407,222, filed on Apr. 7, 2003, which issued as U.S. Pat. No. 7,606,215 on October 20, 2009, the contents of which are all herein incorporated by reference.

FIELD OF THE DISCLOSURE

This disclosure pertains to wireless networks, and in particular, to applications of wireless networks of a retail establishment.

BACKGROUND OF THE INVENTION

The recent communications revolution has increased the amount of data available to the public. The public's hunger for more and more information has been whetted by this excess of information.

Current systems for information dissemination, especially for disseminating to the members of the public who take public means of transportation, are currently inadequate. These systems are solely visual and static. Sandwich boards, billboards, and other very old static forms of advertising are used for such ends. However, as noted above, these systems are inadequate. Such static forms are purely visual and cannot be readily changed in response to changed conditions. Unfortunately, the ubiquity of televisions and computers have had a deleterious effect on the attention span of the average person. As such, current static systems are unable to keep people's attention.

Another major drawback of current systems is the lack of an audio component. Again, the proliferation of multi-media devices and the ubiquity of multi-media in today's society has the public clamoring for the same presentation type in almost all of their information input. While there are some information dissemination systems that integrate

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an audio portion (such as publicly accessible television sets), these can be intrusive and annoying to those who do not wish to take advantage of the system.

There is therefore a need for an information dissemination system that integrates both video and audio components while simultaneously avoiding becoming an annoyance to those not wishing to access the information being disseminated. Such an information dissemination system should also be dynamic in that modifying the information content should be relatively simple. Furthermore, the system should be able to keep end users (i.e. the public, especially those who are travelling in public transportation vehicles) occupied and should be able to hold their attention. Finally, it is also very desirable if such a system would be cost effective and financially self sustaining. It is therefore an object of the present invention to mitigate if not overcome the deficiencies of the prior art.

SUMMARY OF THE INVENTION

In one aspect, the invention features an apparatus for engaging in wireless commercial transactions. Such an apparatus includes a mobile phone equipped with a dedicated actuator for initiating a commercial transaction, and an optical input for receiving information concerning prices of goods; a network hub for wireless exchange information between a commercial establishment and said mobile phone within the boundaries of the establishment; and a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone.

These and other aspects of the invention will be apparent from the following detailed description and the accompanying drawings, in which:

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a block diagram of a system for distributing information according to one aspect of the invention;

FIG. 2 is a block diagram of an example setup for a video display screen for use with the system of FIG. 1; and

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FIG. 3 is a block diagram of another example set up for a video display screen for use with the system of FIG. 1.

FIGS. 4-7 show steps in making a wireless payment;

FIGS. 8-11 show steps in wireless shopping; and

FIGS. 12-17 is a block diagram of a system, when ordering and paying in a bar or restaurant.

DETAILED DESCRIPTION

Referring to FIG. 1, a block diagram of a system for distributing information is illustrated. The system has **10** has a network hub **20**, multiple video distribution hubs **30A-30E**, audio distribution hubs **40A**, **40B**, and at least one telephone interface **50**. The network hub receives multiple audio feeds **60**, video feeds **70**, and hub end combined audio/video feeds 80 from a variety of sources. These feeds are then separated into dedicated audio only and video-only feeds. The dedicated audio-only feeds are sent to the audio distribution hubs **40A**, **40B** while the dedicated video-only feeds are sent to the video distribution hubs **30A-30E**. At the video distribution hubs, the relevant video only feeds are transmitted to multiple video display screens **90A-90K** by transmitters 100A-100E. On the audio side, the telephone interface **50** receives the dedicated audio only feed and routes this to the telephone interface **50**. The telephone interface **50** receives telephone calls from end users who wish to access one of the audio feeds. The end users, who could be calling and using their mobile or cellular telephones, can select one of the available audio feeds. Based on the end user input, the interface **50** selects the relevant audio feed and routes this feed to the relevant end user.

The network hub **20** can be seen as an audio/video feed aggregator--it receives feeds from a variety of sources and collects and combines these feeds into two signals, a dedicated audio feed and a dedicated video feed. The sources from which the feeds originate may be legion--the feeds could come from the Internet, a cable TV provider, broadcast TV, broadcast radio, a dedicated video or audio signal specifically created for the system, or any other source. The network hub **20** separates the feeds depending on the content--video feeds are separated and routed differently from audio feeds using well-known methods and techniques. Video feeds are aggregated into a first single signal with

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different video feeds occupying different parts or frequencies of that first single signal. Audio feeds are aggregated into a second single signal with different audio feeds occupying different parts or frequencies of that second single signal. The video feed signal (the first single signal) is then transmitted to the video distribution hubs **30A-30E**. The audio feed signal (the second single signal) is transmitted to the audio distribution hubs **40A**, **40B**.

Regarding the video distribution hubs **30A-30E**, each one can "tune" into or isolate one of the video fees aggregated into the video feed signal from the network hub **20**. The video feed that a distribution hub tunes into is then passed to a corresponding transmitter. A transmitter then transmits the video feed to multiple video display screens. Each video distribution hub **30A-30E** can be a video tuner which tunes to a specific video feed in the video feed signal. Such tuners are well-known in the art.

The transmitters 100A-100E may be, depending on the implementation, wireless, wired, or optical transmitters. The transmitters 100A-100E transmit the isolated or tuned into video feed to the different video display screens. Each video transmission hub and transmitter combination services video display screens located at a specific geographic area. Thus, one geographic area may have display screens **90A**, **90B**, **90C**, showing video feed A as tuned to by video transmission hub **30A** while another geographic area may have display screens **90G**, **90H** showing video feed B as tuned to by video transmission hub **30D**. Such an arrangement allows area--or region--centric video feeds to be distributed to the proper areas. Such an arrangement also allows the system to quickly change what is being shown in the video display screen in a specific area. As an example, if an important bulletin alert occurs and is in a video Q, all of the video distribution hubs **30A-30E** could automatically switch to video feed Q, ensuring quick dissemination of the bulletin alert to the video display screens serviced by video transmission hubs **30A-30E**. Similarly, if the video feed to be sent to a specific geographic area is to be changed, then only the transmission hub which services that specific geographic area needs to have any changes made. That transmission hub may merely need to tune into a different video feed.

It should be noted that, to assist the viewing public in determining the content of the video feed being shown on the display screens, each video feed can be provided with

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closed captioning. This way, viewers can read the text of the audio for the video feed. It should further be noted that advertising and other relevant data may be inserted into each of the video feeds. This may be done by dividing the visual representation of the video feed into separate areas, with each area being provided with different data. As an example, FIG. 2 illustrates one possible configuration of the visual representation. Area **200** may have the actual moving video being presented (such as a newscast, a situation comedy, or a soap opera program). Area 210 may present the weather forecast for the city, area 220 may present a stock market report and area 230 may present sports scores. Area 240 may be reserved for the closed captioning for the video in area **200** and area **250** may be provided for advertisements that are targeted to the end users. As noted above, the video portions of the presentation (presented in area **200**) may be different for different areas. Similarly, different advertisements may be presented for different geographic areas. Ideally, up to 3/4 of the display screen may be devoted to advertising space. Devoting such a high proportion of the screen to revenue generating advertising should produce enough revenue for the operation of the system.

Referring to FIG. 3, an alternative arrangement fro the visual representational is illustrated. As can be seen, the main area of the screen is divided into multiple areas 200A, 200B, 200C, 200D. Each area may be dedicated to a different network video feed so that end users may have their choice of which program to view. Each video feed has its own audio feed which may be accessed by an end user as will be explained below.

Regarding the video display screens **90A-90K**, these display screens are ideally deployed at publicly viewable areas. These may be deployed inside public transportation vehicles such as subway cars and buses and they may be deployed as static installations in subway/bus stations, busy street corners, and other areas of populace concentration. Plasma display screens may be used as the display screens and, in one embodiment, such screens may be hardened and configured to withstand the elements for an outside deployment. Such a deployment may be placed outside moving vehicles such as buses, thereby providing information dissemination to not only commuters inside the vehicle but commuters outside the vehicle as well. For such mobile deployments, wireless technology may be used to transmit the video feed to the video display screens. For static deployments, wired technology such as cable, optical, and other well-known

technologies, may be used for the transmission of the video feed to the video display screens. Other static deployments such as inside public transportation vehicles may use flat computer monitors to minimize deployment costs.

To avoid end user confusion due to the multiplicity of programs on a single screen as shown in FIG. 3 static deployments inside transportation stations (e.g. train stations, bus stations, subway stations) and inside transportation vehicles may use multiple display screens with specific screens being dedicated to specific network video feeds. As an example, a single subway car may have 10 screens with 3 screens being assigned to show a specific news channel video feed, (e.g. CNN), 4 screens being assigned to show a specific other broadcast network (e.g. NBC), and the rest being dedicated to show a youth oriented channel (e.g. MTV). The division of the number of screens dedicated to specific types of programming can be determined by the system operator with a view towards the possible viewers given the time of day. As an example, when students are likely to be the viewers, more screens would be dedicated to youth oriented programming.

To further lower deployment costs, manufacturers of the display screens could offer preferential pricing for their screens to those deploying and operating the system. Such a measure would provide the manufacturers free advertising as the public would be exposed to their product for free.

The audio portion of the system **10** operates in a similar manner with one important difference--end users can select which audio feed to access. As noted above, the audio feed signal is received by the audio transmission hubs **40A**, **40B**. The different audio feeds can be accessed by tuning into or isolating the relevant audio feed from the rest of the audio feed signal. This is what the telephone interface **50** does, along with automatically receiving end user telephone calls and automatically routing the relevant audio feed to the relevant end user telephone call. The telephone interface **50** has multiple tuners with each tuner isolating or tuning into one of the audio feeds in the audio feed signal. Upon a request by an end user who is calling in, the relevant audio feed is diverted or routed to this end user.

The telephone interface **50** acts as an access point for end users. End users can call into the telephone interface (with the relevant telephone number perhaps flashed on the video display screens) and access a specific audio feed. To present a complete audio

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visual experience in conjunction with that with what is being presented on the video display screens, at least one of the audio feeds could be synchronized with the presentation on the video display screens. As an example, if geographic area A is showing video show A1 on screens **90A-90C** and geographic area B is showing video show A2 on screens **901-90K**, end users in area A would need to access the audio feed synchronized the video show A1 while end users in the area B would need to access the audio feed synchronized to the video show A2. This may be done by an end user calling the telephone interface **50** and, after navigating an automated answering and menu system, accessing the relevant audio feed. This answering and menu system is well-known technology and is readily available. Thus, an end user in area A would, to get the proper audio visual experience, access a different audio feed from that accessed by an end user in area B. As yet another variant, the audio feed synchronized to a specific video show could be presented in different languages as separate audio feeds. As an example, video show A1 showing on screens **90A-90C** could be synchronized to three different audio feeds--one audio feed being in English, another audio feed being in French, and a third audio feed being in Chinese. As such, an end user could access anyone of the video feeds synchronized to that specific video show in the language of preference for the end user. Thus, a single video feed being presented in a specific geographic area could be accessible to people who do not necessarily speak the exact same language. Similarly, the closed captioning presented on the video display screens could be presented in multiple languages or, if one language is predominant in a specific area, the closed captioning could be presented in that single language. The technology for routing audio feeds synchronized to a video feed is currently available and used in passenger aircraft that provides in-flight entertainment. Adapting such technology with appropriate telephone menu technology will produce the requisite telephone interface described above.

It should be noted that the audio feeds available need not all be synchronized to the video feeds. Other audio feeds, such as audio feeds that provide music, commentary, radio station feeds, and others, may be available, depending on the implementation. This system is ideally suited to be accessed by commuters with cellular or mobile phones **260**. Commuters, while on their morning or afternoon commute may view the video display screens inside the public transportation vehicle or in the stations while waiting for the

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vehicles. In concert with this, the commuters can use their mobile telephones to call the telephone interface and listen in on the audio portion of the program being presented in area **200** of the video display screen. Alternatively, the commuter may decide not to view the video program on the video display screen but merely listen to some other audio program being presented as a separate audio feed through his or her mobile telephone. However, the system need not be limited to mobile telephones. End users who have, ideally, a landline speaker phone may also access the telephone interface to listen to the different available audio feeds at work or at home. To address the different tastes of different types of people, themed audio feeds, such as all-sports, all-classical music, all-news or all-music (with different audio feeds for different types of music) may also be available. As an alternative, end users equipped with mobile telephones may receive the different audio feeds using Bluetooth or Wi-Fi (IEEE 802.11) technology.

To accommodate the different regions in a large geographic area, multiple telephone interface/audio transmission hubs may be implemented, with different telephone interfaces serving different areas.

To allow for a financially self-sustaining system, advertising space may be sold on either the video feeds (as explained above) or in the audio feeds. Advertisements may be sold on a per display screen basis, a regional coverage basis, or on a visibility (time visible on screen) basis. Similarly, subscription fees may be collected from end users who wish to access the audio feed. Alternatively, the system could be free to mobile telephone users with the operational and deployment costs being borne by advertisers and/or public transportation bodies.

The system described above is flexible enough for many different types of advertising and promotions. As an example, advertisers could include in their advertising a specific telephone code which users may enter while listening to an audio feed. Entering the code would then automatically connect the end user to the advertiser's telephone call-in center so the end user can then take advantage of the offer (e.g. a vacation trip for a low promotional price). Alternatively, end users may establish an account, with their credit cards on file, with the operators of the system. These end users may then do their shopping over the telephone based on what is being advertised on the display screens. End user choices, such as the color, size, or type of merchandise, could

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be entered by the end user via the telephone keypad using specific telephone codes shown in the video feeds. To verify an end user's identity, PIN (personal identification numbers) could be associated with each end user account. Such PIN numbers would be required to validate/finalize the transaction before the end user's credit card is charged and before the item is shipped to the end user's on-file address or before the end user can pick up the item. As an alternative, an end user's bank account can be tied in with the end user's system account and the purchase price of the end-user's purchase can be automatically debited to from his/her bank account. The use of PIN numbers or some similar scheme for validation for this configuration would, of course, be required for security. End users can also be provided, by of way of their mobile telephone's screen, with different payment options. A dedicated PAY button on the mobile handset can be provided so that activation of this button brings up the end user's payment option.

The system also offers a myriad of advantages to society and the public in general. It may be used as part of a public broadcasting system to inform the populace of alerts or emergencies. It can also increase literacy as those without mobile phones will need to read the closed captioning and/or the text on-screen to determine what is being presented. It will also produce greater usage of public transportation vehicles as passengers are not only transported from one place to another but are also entertained. Such an increase in ridership may also augur an decrease in the number of vehicles on the road, thereby leading to a more environment-friendly society. The increased advertising may also lead to greater consumer spending, thereby fueling economic growth for the areas where the system is deployed.

FIG. 4 shows a system **310** for acquiring goods and services and dispensing payment in any establishment.

The system **310** includes a POS (point-of-sale) terminal **320** that transmits its ID signal within the perimeter of a commercial establishment. To contain the signal within the boundaries of the establishment, special WI-FI paint can be used to prevent leakage of wireless signals elsewhere .

A portable telephone **330** equipped with an optical input **385**, such as a photo camera or scanner, includes a dedicated main actuator **360**, labeled in the illustrated embodiment with a suitable currency symbol, such as "$". Depending on the particular

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telephone, the main actuator **360** can be a button on a front face of the telephone or an icon on a touch screen of the phone. In some embodiments, the main actuator **360** includes the ability to move shift focus to different portions of a display screen by shifting up and down or left to right.

Software integrated into the telephone **330** and POS terminal **320** allows for computing and data exchange between the telephone **330** and the POS terminal **320**.

Actuating the main actuator **360** establishes a connection between the telephone **330** and the POS terminal **320** of a particular establishment. This causes the name of the establishment name **325** to be displayed. In addition, actuating the main actuator **360** causes additional navigational icons, such as a PAY icon **340** and a BUY actuator **350** to be displayed, as shown in FIG. 4.

When paying at a cash register, the customer selects the PAY icon **340**. This results in the display shown in FIG. 5, in which the customer sees a PAY indicator **341**, the establishment name **325**, a list of payment options **359a-d,** frame boxes **355A-D** for receiving additional data, and YES **370** and NO **390** navigational icons.

The teller commences scanning products into an establishment terminal (not shown) and announces to the customer the last two digits of an invoice or special code (e.g. "7D") generated by the terminal **310**. The customer then enters this special code in a frame box **355A** next to the selected method of payment, which in FIG. 5 is the VISA option **359A**.

Alternatively other choices of payment can be selected by entering last two digits of the special code into one of the frame boxes **355B-D** next to another selected form of payment **359B-D** . Available forms of payments can include various credit card companies, customer bank accounts, or systems analogous to PAYPAL. Once the code has been properly entered, the customer selects the YES option **370** to initiate further processing.

Referring now to FIG. 6, the display changes to now show the PAY indicator **341**, the establishment name **325**, selected method of payment **359** (in this case VISA), the amount **343**, invoice number **347**, and PIN box info **345**. The customer enters the PIN information **345** and selects an OK icon **375** to commence further processing.

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After the processing and authorization **342** takes place, a final e-receipt is issued and stored on the telephone **330**, as shown in FIG. 7.

Referring again to FIG. 4, in another mode of operation relies on the BUY icon **350**. In this mode, which is used typically while shopping, the actuating the main actuator **360** establishes a connection with the POS terminal **320.**

In response, the screen of mobile phone **330** displays BUY mode **351** status, along with the establishment name **325**, and shopping instruction **353**, as shown in FIG. 8. In this mode, the customer aims the optical input **385** towards the barcode or special code **365** of the product or merchandise. With the optical input **385** thus aimed, the customer actuates the main actuator **360** to scan the barcode **365**. The price is then added to a retail bill **361.** This is for multiple items, with the end result being a running tally of selected items, as shown in FIG. 8.

To remove an item from this tally, the customer scans its barcode and selects the CANCEL icon **395**. Upon completion of shopping, the customer presses the PAY icon **340** to switch to PAY mode operation.

Referring now to FIG. 9, in PAY mode **341,** the phone displays the establishment name **325**, invoice number **347**, list of items **361**, total cost **343,** and icons OK **375** and NO **390** to either proceed with or cancel the transaction.

Pressing the OK icon **375** causes the display to transition to the state shown in FIG. 10, in which it invites selection of a payment type. Pressing the OK icon, causes the display to transition to the state shown in FIG. 11, in which the display invites entry of the customer's PIN **345**. Activating the YES key **375** then finalizes the sale. Authorization takes place in the processing center and final e-receipt is issued and stored on end user's phone as shown previously in FIG.7

FIGS. 12-17 illustrate the use of the system in a dining establishment.

Referring first to FIG. 12, upon activating the main actuator **360**, connection is established between the phone **330** and the restaurant's POS/terminal **320**. This causes display of the restaurant's name **401,** navigational instruction **406** for using the dedicated main actuator **360,** and a PAY button **340** and BUY button **350** options for further selection.

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Selecting PAY **340** causes the phone to initiate a transaction similar to that described in connection with FIGS. 4-7. The main distinction is that in the case of a restaurant, the server either brings a physical bill at the table or sends data representative of the bill to the customer's phone. This can be carried our, for example, upon obtaining the last four digits of the customer's telephone number.

Pressing BUY **350** causes the phone to initiate operation in a manner similar to that described in connection with FIGS. 8-11, with the difference being that no scanning of bar codes is necessary. Instead, a menu **410** is displayed, complete with its sub sections **411** (i.e. appetizers, pasta, fish, meat, drinks). In this state, the phone also displays YES **370** and NO **390** buttons.

To make selections from the menu, one scrolls up and down the menu **411** pressing the YES icon **370** either to select an item or to enter a sub-menu corresponding to one of the sub-sections **411**, as shown in FIG.13.

Pressing OK icon **370** on selected item from the sub-menu automatically opens a BILL **480** screen containing an order list, as shown in FIG. 14, with each item having a frame **455** next to it for receiving information about how many units of that item are to be ordered. This data can be entered using the telephone's numeric keypad. The display further includes a frame **433** for receiving a table number (in this case table #9). This table number must be entered before selecting or ordering any items. Pressing the NO key **390** removes a selected item from the order list. Pressing the OK key **370** key returns to the sub-menu screen for further selections. Pressing the BILL key **480** icon allows viewing already selected items.

Once selections have been made, the customer presses the ORDER key **488** to send the full order information to the POS, as shown in FIG. 15.

In the case of restaurant dining, the customer order remains in open check status. After all, the customer may want more drinks, or perhaps even another entrée.

To modify or add on items, the customer presses the main actuator **360** followed by the BUY key **350**. This brings the customer to the menu selection shown in FIG.13. The customer then presses the OTHER icon from the sub menu **411** to make necessary changes, and presses the OK icon **370** to add new items to the total for the customer's table.

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To make a payment, the customer presses a PAY button **340**. This causes display of a total due amount **444** and optional gratuity **443,** as shown in FIG.16.

Depending the amount spent and on how often the diner has visited restaurant, the system may provide a discount coupon may be issued, as shown in FIG.17. This coupon can be automatically applied the next time the customer dines at the restaurant.

The foregoing system provides numerous benefits to the public by eliminating or shortening queues at ATM in rush hours, carry cash, a wallet, plastic cards, and also by eliminating the time-consuming wait at the cash register to make payment.

Encrypted software will be implemented to carry out safe and secure wireless transactions.

In case of lost phone, the phone's various functions remain protected by the PIN. In addition, a carrier has been notified of a lost or stolen phone can remotely erase all the data from phone.

A system as described above can be used for purchase of items, goods, products and services in a variety of locations such as, but not limited to, businesses/stores, supermarkets, gas stations, restaurants, shopping malls by entering, scanning, photographing, or copying a barcode or special price code using a mobile phone equipped with a scanner, reader, or camera.

Although various exemplary embodiments of the invention have been disclosed, it should be apparent to those skilled in the art that various changes and modifications can be made which will achieve some of the advantages of the invention without departing from the true scope of the invention.

A person understanding this invention may now conceive of alternative structures and embodiments or variations of the above all of which are intended to fall within the scope of the invention as defined in the claims that follow.

Having described the invention, and a preferred embodiment thereof, I now claim as new, and secured by letters patent:

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CLAIMS

1. An apparatus for engaging in wireless commercial transactions, said apparatus comprising a mobile phone equipped with a dedicated actuator for initiating a commercial transaction, and an optical input for receiving information concerning prices of goods, a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment, and a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone.

2. The apparatus of claim **1**, mobile phone is configured to display information about goods scanned by said optical input on a display.

3. The apparatus of claim **1**, wherein the mobile phone is configured to provide a sequence of displays to guide a user of said mobile phone through a commercial transaction that includes identification of goods to be purchased and payment associated with said purchase.

4. The apparatus of claim **1**, wherein the mobile phone is configured to generate a listing of items available for purchase.

5. The apparatus of claim **4**, wherein the mobile phone is further configured to solicit a selection of a subset of items from said listing.

6. The apparatus of claim **1**, wherein the mobile phone is configured to display information concerning an incomplete commercial transaction.

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7. The apparatus of claim **1**, wherein a communication between the mobile phone and the network hub is constrained to remain within the commercial establishment.

8. The apparatus of claim **1**, wherein the dedicated actuator comprises a button labeled with a symbolic indication of a function thereof.

9. The apparatus of claim **8**, wherein the button comprises a touch-sensitive region on a display of the mobile phone.

10. The apparatus of claim **1**, wherein actuation of the dedicated actuator causes information identifying the commercial establishment to be displayed on the mobile phone.

11. The apparatus of claim **1**, wherein the mobile phone is configured to, on the basis of data provided by the optical input, display a price of an item.

12. The apparatus of claim **1**, wherein the mobile phone is configured to receive a coupon applicable to a future transaction with the commercial establishment.

13. The apparatus of claim **1**, wherein the mobile phone is configured to be remotely erased by the financial/authorization institution.

14. A method for engaging in a wireless commercial transaction, the method comprising at a mobile phone, receiving information concerning candidate items for a commercial transaction, selecting, on said phone, a set of selected items from the candidate items, establishing communication between said phone and a terminal associated with the commercial establishment, using the phone, communicating the set of selected items to

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the terminal, and using the phone, issuing an instruction to the terminal to request authorization of payment.

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ABSTRACT

An apparatus for engaging in wireless commercial transactions includes a mobile phone equipped with a dedicated actuator for initiating a commercial transaction, and an optical input for receiving information concerning prices of goods; a network hub for wireless exchange information between a commercial establishment and said mobile phone within the boundaries of the establishment; and a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone.

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APPLE EX1009 Page 41

PATENT APPLICATION FEE DETERMINATION RECORD

Substitute for Form PTO-875

Application or Docket Number: 13/559,194

APPLICATION AS FILED - PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	SMALL ENTITY RATE($)	SMALL ENTITY FEE($)	OR	OTHER THAN SMALL ENTITY RATE($)	OTHER THAN SMALL ENTITY FEE($)
BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A	95		N/A	
SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A	310		N/A	
EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A	125		N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	14 minus 20 =	*	x 30 =	0.00	OR		
INDEPENDENT CLAIMS (37 CFR 1.16(h))	2 minus 3 =	*	x 125 =	0.00			
APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $310 ($155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).			0.00			
MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))				0.00			
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL	530		TOTAL	

APPLICATION AS AMENDED - PART II

		(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE($)	SMALL ENTITY ADDITIONAL FEE($)	OR	OTHER THAN SMALL ENTITY RATE($)	OTHER THAN SMALL ENTITY ADDITIONAL FEE($)
AMENDMENT A	Total (37 CFR 1.16(i))	*	Minus	**	=	x =		OR	x =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=	x =		OR	x =	
	Application Size Fee (37 CFR 1.16(s))									
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
						TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	

		(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE($)	SMALL ENTITY ADDITIONAL FEE($)	OR	OTHER THAN SMALL ENTITY RATE($)	OTHER THAN SMALL ENTITY ADDITIONAL FEE($)
AMENDMENT B	Total (37 CFR 1.16(i))	*	Minus	**	=	x =		OR	x =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=	x =		OR	x =	
	Application Size Fee (37 CFR 1.16(s))									
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
						TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".
The "Highest Number Previously Paid For" (Total or Independent) is the highest found in the appropriate box in column 1.

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
13/559,194	07/26/2012	2617	530	30071-002002	14	2

CONFIRMATION NO. 1019

69713
OCCHIUTI ROHLICEK & TSAO, LLP
321 Summer St.
Boston, MA 02210

FILING RECEIPT



Date Mailed: 08/10/2012

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Paul Poniatowski, Toronto, CANADA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 12/596,531 10/19/2009
which is a CIP of 12/087,539 07/09/2008
which is a 371 of PCT/CA2004/000513 04/07/2004
and is a CIP of 10/407,222 04/07/2003 PAT 7606215

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 08/07/2012

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 13/559,194**

Projected Publication Date: 11/15/2012

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

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Title

Mobile Payment System

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

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Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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PTO/SB/81 (01-09)
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Application Number	13/559,194
Filing Date	July 26, 2012
First Named Inventor	Paul Poniatowski
Title	Mobile Payment System
Art Unit	Not Yet Assigned
Examiner Name	Not Yet Assigned
Attorney Docket Number	30071-002002

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☒ I hereby appoint Practitioner(s) associated with the following Customer Number as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

69713

OR

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Telephone		Email			

I am the:

☒ Applicant/Inventor.

OR

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) (Form PTO/SB/96) submitted herewith or filed on _____.

SIGNATURE of Applicant or Assignee of Record

Signature	/ Paul Poniatowski /	Date	July 26,2012
Name	Paul Poniatowski	Telephone	647 830 4133
Title and Company			

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Electronic Acknowledgement Receipt

EFS ID:	13509642
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Customer Number:	69713
Filer:	Faustino A. Lichauco/Scott Chappell
Filer Authorized By:	Faustino A. Lichauco
Attorney Docket Number:	30071-002002
Receipt Date:	16-AUG-2012
Filing Date:	26-JUL-2012
Time Stamp:	09:52:00
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Power of Attorney	30071-002002_Power_of_Attorney_signed.pdf	576727 23868c4c3bf6e577bfa85d6556ed8e3953228721	no	2

Warnings:	
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
13/559,194	07/26/2012	Paul Poniatowski	30071-002002

CONFIRMATION NO. 1019

69713
OCCHIUTI ROHLICEK & TSAO, LLP
321 Summer St.
Boston, MA 02210

POA ACCEPTANCE LETTER

OC000000056081106

Date Mailed: 08/23/2012

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/16/2012.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/ddinh/

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
13/559,194	07/26/2012	Paul Poniatowski	30071-002002

CONFIRMATION NO. 1019

69713
OCCHIUTI ROHLICEK & TSAO, LLP
321 Summer St.
Boston, MA 02210

PUBLICATION NOTICE



Title: Mobile Payment System

Publication No.US-2012-0290438-A1
Publication Date:11/15/2012

NOTICE OF PUBLICATION OF APPLICATION

The above-identified application will be electronically published as a patent application publication pursuant to 37 CFR 1.211, et seq. The patent application publication number and publication date are set forth above.

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In addition, information on the status of the application, including the mailing date of Office actions and the dates of receipt of correspondence filed in the Office, may also be accessed via the Internet through the Patent Electronic Business Center at www.uspto.gov using the public side of the Patent Application Information and Retrieval (PAIR) system. The direct link to access this status information is currently http://pair.uspto.gov/. Prior to publication, such status information is confidential and may only be obtained by applicant using the private side of PAIR.

Further assistance in electronically accessing the publication, or about PAIR, is available by calling the Patent Electronic Business Center at 1-866-217-9197.

Office of Data Managment, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

IPR2024-00731
APPLE EX1009 Page 51

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

69713 7590 12/05/2012

OCCHIUTI ROHLICEK & TSAO, LLP
321 Summer St.
Boston, MA 02210

EXAMINER	
ANWAH, OLISA	
ART UNIT	PAPER NUMBER
2655	

NOTIFICATION DATE	DELIVERY MODE
12/05/2012	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@ORTPATENT.COM

Office Action Summary	Application No.	Applicant(s)	
	13/559,194	PONIATOWSKI, PAUL	
	Examiner	Art Unit	
	OLISA ANWAH	2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 July 2012*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

5)☒ Claim(s) *1-14* is/are pending in the application.

5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1-14* is/are rejected.

8)☐ Claim(s) _____ is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 33 is objected to because of the following informalities: the term "commercial establishment" in line 8 lacks proper antecedent basis. Appropriate correction is required.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-28 of U.S. Patent No. 8,270,578. Although the conflicting claims are not identical, they are not

patentably distinct from each other because claim 1 of the instant application and claim 1 of the patent require:

An apparatus for engaging in wireless commercial transactions, said apparatus comprising a mobile phone equipped with a dedicated actuator for initiating a commercial transaction, and an optical input for receiving information concerning prices of goods, a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment, and a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (e) the invention was described in-
> (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

> (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claim 14 is rejected under 35 U.S.C. § 102(e) as being anticipated by Zalewski et al, U.S. Patent Application Publication No. 2005/0017068 (hereinafter Zalewski).

Regarding 14, Zalewski discloses a method for engaging in a wireless commercial transaction, the method comprising:

at a mobile phone, receiving information concerning candidate items for a commercial transaction;

selecting, on said phone, a set of selected items from the candidate items;

establishing communication between said phone and a terminal associated with the commercial establishment;

using the phone, communicating the set of selected items to the terminal; and

using the phone, issuing an instruction to the terminal to request authorization of payment (see paragraphs 0097 and 0077).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1-3, 6, 8 and 11 are rejected under 35 U.S.C § 103(a) as being unpatentable over Ogasawara, U.S. Patent No. 6,577,861 (hereinafter Ogasawara) in view of Snavely, U.S. Patent No. 6,112,984 (hereinafter Snavely).

Regarding claim 1, Ogasawara discloses an apparatus for engaging in wireless commercial transactions, said apparatus comprising:

a mobile phone equipped with an actuator for initiating a commercial transaction, and an optical input for receiving information concerning prices of goods;

a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment; and

a financial/authorization institution for associating a PIN number with said mobile phone and for authoring transactions initiated by said mobile phone (see Figures 1 and 8).

Still on the issue of claim 1, Ogasawara does not teach that the actuator is dedicated. All the same, Snavely discloses

that the actuator is dedicated (see Figure 6). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ogasawara wherein the actuator is dedicated as taught by Snavely. This modification would have improved the system's user friendliness by providing clarity.

Regarding claim 2, Ogasawara discloses that the mobile phone is configured to display information about goods scanned by said optical input on a display (from column 5, see When a customer scans an item, the telephone sends the scanned bar code information to the server. The server then preferably returns a description of the item and information. This item description and price information is displayed on the telephone's display).

Regarding claim 3, Ogasawara discloses that the mobile phone is configured to provide a sequence of displays to guide a user of said mobile phone through a commercial transaction that includes identification of goods to be purchased and payment associated with said purchase (from column 18, see the following passages after each product is selected, a description of the product and the price thereof is shown in the display **42** of the wireless telephone **18.** and the purchaser indicates that all

desired purchases have been made by pressing a predetermined key of the keypad **44**. The wireless telephone **18** then responds by displaying the total price of all purchases).

Regarding claim 6, see column 18 of Ogasawara.

Regarding claim 8, Ogasawara as modified by Snavely inherently teaches the claimed feature.

Regarding claim 11, see column 11 of Ogasawara.

8. Claims 4 and 5 are rejected under 35 U.S.C § 103(a) as being unpatentable over Ogasawara combined with Snavely and Swartz et al, U.S. Patent No. 7,040,541 (hereinafter Swartz) in further view of Wagner et al, U.S. Patent No. 6,169,911 (hereinafter Wagner).

Regarding claim 4, the combination of Ogasawara and Snavely does not disclose that the mobile phone is configured to generate a listing of items available for purchase. All the same, Swartz discloses that a device is configured to generate a listing of items available for purchase (see column 16). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify

the combination of Ogasawara and Snavely wherein the device is configured to generate a listing of items available for purchase as taught by Swartz. This modification would have improved the system's convenience by allowing for home delivery of goods as suggested by Swartz (see column 16).

Still on the issue of claim 4, the combination of Ogasawara, Snavely and Swartz does not teach that the device is a mobile phone. Nonetheless, Wagner discloses that the device is a mobile phone (see Figure 5). And so, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Ogasawara, Snavely and Swartz wherein the device is a mobile phone as taught by Wagner. This modification would have improved the system’s convenience by incorporating more features into the mobile device as suggested by Wagner (see column 1).

Regarding claim 5, the combination of Ogasawara, Snavely and Swartz as modified by Wagner inherently teaches the claimed feature.

9. Claim 9 is rejected under 35 U.S.C § 103(a) as being unpatentable over Ogasawara combined with Snavely in further view of Tao, U.S. Patent No. 7,388,578 (hereinafter Tao).

Regarding claim 9, the combination of Ogasawara and Snavely does not teach that the button comprises a touch-sensitive region on a display of the mobile phone. Even so, Tao discloses that the button comprises a touch-sensitive region on a display of the mobile phone (see Figure 6). And so, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Ogasawara and Snavely wherein the button comprises a touch-sensitive region on a display of the mobile phone as taught by Tao. This modification would have improved the system's flexibility by providing multiple operating positions as suggested by Tao (see column 2).

10. Claim 10 is rejected under 35 U.S.C § 103(a) as being unpatentable over Ogasawara combined with Snavely in further view of Swartz.

Regarding claim 10, Ogasawara discloses that the actuation of the dedicated actuator causes information to be displayed on the mobile phone (see column 18). Still on the issue of claim 27, the combination of Ogasawara and Snavely does not clearly

teach that the information identifies the commercial establishment. All the same, Swartz discloses that the information identifies the commercial establishment (see Figure 7A). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Ogasawara and Snavely wherein the information identifies the commercial establishment as taught by Swartz. This modification would have improved the system's reliability by differentiating between purchase transaction programs.

11. Claim 13 is rejected under 35 U.S.C § 103(a) as being unpatentable over Ogasawara combined with Snavely in further view of Welingkar et al, U.S. Patent No. 8,135,798 (hereinafter Welingkar).

Regarding claim 13, the combination of Ogasawara and Snavely does not clearly teach that the mobile phone is configured to be remotely erased by the financial/authorization institution. All the same, Welingkar discloses that the mobile phone is configured to be remotely erased by the authorization institution (see Figure 10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of

Ogasawara and Snavely wherein the mobile phone is configured to be remotely erased by the authorization institution as taught by Welingkar. This modification would have improved the system reliability by improving security.

12. Claim 12 is rejected under 35 U.S.C § 103(a) as being unpatentable over Ogasawara combined with Snavely in further view of Rissanen, U.S. Patent No. 7,308,254 (hereinafter Rissanen).

Regarding claim 12, the combination of Ogasawara and Snavely does not disclose the mobile phone is configured to receive a coupon applicable to a future transaction with the commercial establishment. All the same, Rissanen discloses that the mobile phone is configured to receive a coupon applicable to a future transaction with the commercial establishment (see abstract). For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Ogasawara and Snavely wherein the mobile phone is configured to receive a coupon applicable to a future transaction with the commercial establishment as taught by Rissanen. This modification would have improved the system's efficiency by reducing the length of checkout lines as suggested by Rissanen (see column 1).

13. Claim 7 is rejected under 35 U.S.C § 103(a) as being unpatentable over Ogasawara combined with Snavely in further view of Johar et al, U.S. Patent Application Publication No. 2009/0168695 (hereinafter Johar).

Regarding claim 7, the combination of Ogasawara and Snavely does not explicitly teach that a communication between the mobile phone and the network hub is constrained to remain with the commercial establishment. All the same, Johar discloses that the communication between the mobile phone and the network hub is constrained to remain within the establishment (see abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Ogasawara and Snavely wherein a communication between the mobile phone and the network hub is constrained to remain within the establishment as taught Johar. This modification would have improved the system's security by preventing unauthorized users from clandestinely connecting to the wireless network as suggested by Johar (see paragraph 0007).

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olisa

Anwah whose telephone number is 571-272-7533. The examiner can normally be reached on Monday to Friday from 8.30 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Davetta Goins can be reached on 571-272-2957. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 571-273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

Olisa Anwah
Patent Examiner
December 2, 2012

/Olisa Anwah/

Primary Examiner, Art Unit 2655

Notice of References Cited	Application/Control No. 13/559,194	Applicant(s)/Patent Under Reexamination PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,112,984	09-2000	Snavely, John D.	235/379
*	B	US-6,577,861	06-2003	Ogasawara, Nobuo	455/419
*	C	US-7,040,541	05-2006	Swartz et al.	235/472.02
*	D	US-6,169,911	01-2001	Wagner et al.	455/566
*	E	US-7,388,578	06-2008	Tao, Di	345/173
*	F	US-8,135,798	03-2012	Welingkar et al.	709/217
*	G	US-7,308,254	12-2007	Rissanen, Jussi	455/414.1
*	H	US-2005/0017068	01-2005	Zalewski et al.	235/380
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Search Notes	Application/Control No.	Applicant(s)/Patent under Reexamination	
	13/559,194	PONIATOWSKI, PAUL	
	Examiner	Art Unit	
	OLISA ANWAH	2655	

SEARCHED			
Class	Subclass	Date	Examiner
379	93.12	11/28/2012	OA
	93.17		
	93.22		
	91.01		
	201.01		
	201.02		
455	419		
235	462.45		
	472.01		
	472.02		
	262.46		

INTERFERENCE SEARCHED			
Class	Subclass	Date	Examiner

SEARCH NOTES (INCLUDING SEARCH STRATEGY)		
	DATE	EXMR

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CONFIRMATION NO. 1019

SERIAL NUMBER	FILING or 371(c) DATE RULE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
13/559,194	07/26/2012	379	2655	30071-002002

APPLICANTS

Paul Poniatowski, Toronto, CANADA;

**** CONTINUING DATA ***************************

This application is a CON of 12/596,531 10/19/2009 PAT 8,270,578
which is a CIP of 12/087,539 07/09/2008
which is a 371 of PCT/CA2004/000513 04/07/2004
and is a CIP of 10/407,222 04/07/2003 PAT 7,606,215

**** FOREIGN APPLICATIONS ***************************

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED **** ** SMALL ENTITY **
08/07/2012

Foreign Priority claimed ☐ Yes ☑ No 35 USC 119(a-d) conditions met ☐ Yes ☑ No Verified and Acknowledged /OLISA ANWAH/ Examiner's Signature	☐ Met after Allowance Initials	STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
		CANADA	10	14	2

ADDRESS

OCCHIUTI ROHLICEK & TSAO, LLP
321 Summer St.
Boston, MA 02210
UNITED STATES

TITLE

Mobile Payment System

FILING FEE RECEIVED		
530	FEES: Authority has been given in Paper No._____ to charge/credit DEPOSIT ACCOUNT No._____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

Substitute Form PTO-1449 (Modified)	U.S. Department of Commerce Patent and Trademark Office	Attorney's Docket No. 30071-002002	Application No. Not Yet Assigned
Information Disclosure Statement by Applicant (Use several sheets if necessary) (37 CFR §1.98(b))		Applicant Paul Poniatowski	13/559,194
		Filing Date Herewith	Group Art Unit Not Yet Assigned

U.S. Patent Documents

Examiner Initial	Desig. ID	Document Number	Publication Date	Patentee	Class	Subclass	Filing Date If Appropriate
	AA	5,896,129	4/20/1999	Murphy, et al.			
	AB	2002/0194264	12/2002	Uchiyama, et al.			
	AC	6,222,826	4/2001	Faynberg, et al.			
	AD	7,149,549	12/2006	Ortiz, et al.			
	AE	5,412,708	5/2/1998	Katz			
	AF	5,774,534	6/30/1998	Mayer			
	AG	2001/0032131	10/18/2001	Mowry			
	AH	2002/0022476	2/21/2002	Go			
	AI	2002/0094787	7/18/2002	Avnet, et al.			
	AJ	2002/0130967	9/19/2002	Sweetser			
	AK	2002/0162113	10/31/2002	Hunter			
	AL	2002/0194622	12/19/2002	Lord			
	AM	6,577,861	06/10/2003	Ogasawara, Nobuo			
	AN	8,135,798	03/13/2012	Welingkar et al.			
	AO	6,112,984	09/05/2000	Snavely, John D.			
	AP	7,388,578	06/17/2008	Tao, Di			
	AQ	6,169,911	01/02/2001	Wagner et al.			
	AR	7,040,541	05/09/2006	Swartz et al.			
	AS	6,078,806	06/20/2000	Heinonen et al.			
	AT	7,308,254	12/11/2007	Rissanen, Jussi			
	AU	2005/0017068	01/27/2005	Zalewski et al.			

Foreign Patent Documents or Published Foreign Patent Applications

Examiner Initial	Desig. ID	Document Number	Publication Date	Country or Patent Office	Class	Subclass	Translation Yes	Translation No
	AV	98/11686	3/19/1998	WIPO				
	AW	02/084909	10/24/2002	WIPO				
	AX	2179993	10/19/1994	China				

Examiner Signature	/Olisa Anwah/	Date Considered	11/28/2012

EXAMINER: Initials citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED IPR2024-00731 O.A./

Substitute Form PTO-1449 (Modified) U.S. Department of Commerce Patent and Trademark Office	Attorney's Docket No. 30071-002002	Application No. Not Yet Assigned
Information Disclosure Statement by Applicant (Use several sheets if necessary) (37 CFR §1.98(b))	Applicant Paul Poniatowski	13/559,194
	Filing Date Herewith	Group Art Unit Not Yet Assigned

Foreign Patent Documents or Published Foreign Patent Applications

Examiner Initial	Desig. ID	Document Number	Publication Date	Country or Patent Office	Class	Subclass	Translation Yes	Translation No
	AY	01/33859	5/10/2001	WIPO				
	AZ	2344009	5/24/2000	Great Britain				
	AAA	01/27899	4/19/2001	WIPO				
	ABB	02/093544	11/21/2002	WIPO				

Examiner Signature	Date Considered
/Olisa Anwah/	11/28/2012

EXAMINER: Initials citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED IPR2024-00731/O.A./
APPLE EX1009 Page 70

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Paul Poniatowski	Art Unit	: 2655
Serial No.	: 13/559,194	Examiner	: Anwah, Olisa
Filed	: July 26, 2012	Conf. No.	: 1019
Title	: Mobile Payment System		

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT IN REPLY TO NON-FINAL ACTION OF DECEMBER 5, 2012

Please amend the above-identified application as follows:

REMARKS

CLAIM OBJECTIONS

The Office objects to claim 33 for lack of antecedent basis. However, only claims 1-14 are pending.

DOUBLE-PATENTING

Applicant submits a terminal disclaimer to obviate the double-patenting rejection of claims 1-14 over claims 1-28 of U.S. Patent No. 8,270,578.

Applicant points out that contrary to the statement on page 3 of the Action, claim 1 of the present application and claim 1 of the issued patent are not the same. Claim 1 of the issued patent includes a limitation not present in pending claim 1.

SECTION 103 REJECTION OF CLAIMS 1-3, 6, 8, AND 11 BASED ON *OGASWARA* [1] AND *SNAVELY*[2]

Claim 1

In rejecting claim 1, the Office does not identify where the limitations of claim 1 are disclosed. Instead, the Office reproduces the claim language and points generally to figures 1 and 8 of the primary reference.

Applicant draws attention to Rule 1.104(c)(2) which requires that "[w]hen a reference is complex …the particular part relied on must be designated as nearly as practicable."

Applicant submits that the omission in the present office action of any indication of specifically where the limitations of the claim can be found means that the office action is not complete as required by Rule 1.104. Accordingly, Applicant requests that any subsequent office action be made non-final.

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[1] *Ogasawara*, U.S. Patent No. 6,577,861 for "ELECTRONIC SHOPPING SYSTEM UTILIZING A PROGRAM DOWNLOADABLE WIRELESS TELEPHONE," issued on June 10, 2003.

[2] *Snavely*, U.S. Patent No. 6112984 for "ELECTRONIC WALLET OR PURSE WITH MEANS FOR FUNDS TRANSFER," issued on Sept. 5, 2000.

Notwithstanding the foregoing deficiency in the Action, and in an effort to expedite prosecution, Applicant speculates on what the Office regards as the disclosed limitations of the claimed invention.

Claim 1 recites a mobile phone, an optical input, a network hub, and a financial/authorization institution.

Applicant recognizes an optical input **20** and a mobile phone **18** in figure 1 of the cited art. However, Applicant cannot find any disclosure of either a network hub or a financial/authorization institution as the claim requires.

Applicant of course recognizes that the mobile phone **18** inherently carries out wireless communication. However, there are many ways to carry out wireless communication. One way is to use the cell phone network. This method was available prior to the widespread use of wireless network hubs. This method also happens to be the method used in the cited art.

In the cited art, the mobile phone **18** does *not* use a network hub to carry out wireless communication. Instead, it relies on a conventional cell phone network. For example, col. 9, lines 10-13 states that the store server **10** and wireless telephone **18** communicate via the cell phone network **17**, and not a network hub.

These two communication modes are not equivalent. Communication on a cell phone network involves either GSM or CDMA to establish a virtual circuit. Communication over a network hub, on the other hand, is communication over a packet-switched network. It is elementary to anyone skilled in the art that circuit-switched networks and packet-switched networks are completely different species of network.

The cited art does not teach or even suggest any "network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment."

Additionally, the cited art does not teach or even suggest any sort of "financial/authorization institution for associating a PIN number with said mobile phone."

The Office may have been misled by figure 1, which shows a server **26** that is outside the store. Applicant speculates that the Office has mistakenly regarded this server **26** as being somehow associated with a "financial/authorization institution for associating a PIN number with said mobile phone."

This is incorrect. The reference, at col. 9, lines 21-25, clearly states that the server **26** and the server **10** are functionally identical. Both the server **26** and the server **10** are associated with the commercial establishment, not a "financial/authorization institution for associating a PIN number with said mobile phone."

The claim further requires not just any mobile phone but only those mobile phones that are "equipped with a dedicated actuator."

The Office agrees that the cited art *does not* disclose a mobile phone with a dedicated actuator.

The Office proposes that one of ordinary skill in the art would have modified the mobile phone to include "a dedicated actuator." The reason why one of ordinary skill in the art would have done so would have been "for initiating a commercial transaction" as disclosed by the secondary reference.

In fact, one of ordinary skill in the art would have recognized from col. 6, lines 29-14 that one of the advantages of the system disclosed by the primary reference is that it allows the consumer *to choose between different payment methods* using a menu.

Obviously, if there were a single dedicated actuator for making payments, this could no longer be true. Thus, the proposed modification of the primary reference would destroy a stated advantage of the prior art device. No longer would the prior art device

feature the flexibility provided by the menu interface in the absence of a dedicated actuator.

It is well established in the law that "[i]f proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)."[3]

In the present case, among the purposes of the prior art device is to provide flexibility in payment options. It achieves this with a menu interface that solicits a method of payment. The proposed modification would eliminate this and thus impair the ability of the prior art device to carry out its intended function. Consistent with MPEP 2143.01(V) and *Gordon*, there would have been no reason for one of ordinary skill in the art to have made the proposed modification.

The proposed reason for making the modification, to improve user friendliness by providing clarity, appears to be a pretext. One of ordinary skill in the art would have understood that a menu interface is widely regarded as the epitome of user-friendliness. In fact, he would have realized that this is why menu interfaces have become so widespread.

As noted above, the device disclosed in the primary reference already included a menu interface. One of ordinary skill in the art would not have seen much sense in such a modification since menu interfaces are already very user friendly.

All claims dependent on claim 1 are patentable for at least the same reasons as claim 1. Selected ones of the dependent claims are, in addition, patentable for the reasons set forth below.

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[3] MPEP 2143.01(V).

Claim 3

Claim 3 recites the further limitation that the mobile phone be "configured to provide a sequence of displays to guide a user of said mobile phone through a commercial transaction."

The cited text at col. 19 of the primary reference does not describe the necessary "sequence of displays to guide a user...through a commercial transaction." The secondary reference fails to correct this deficiency. Accordingly, the combination as a whole fails to teach or suggest the subject matter of claim 3.

Claim 6

Claim 6 recites the further limitation that the mobile phone be "configured to display information concerning an incomplete commercial transaction."

The Office points generally to column 18 of the primary reference. But it is unclear where specifically in that text the claim limitation can be found. Applicant requests that the Office more clearly explain the basis of this rejection.

SECTION 102 REJECTION OF CLAIM 14 BASED ON *ZALEWSKI*[4]

Claim 14 stands rejected as allegedly being anticipated by *Zalewski*.

When a buyer gives a seller cash, the buyer does not say to the seller "I want you to request authorization for payment." Instead, the buyer waits for the seller to hand over the item being purchased and whatever change is due.

The idea of requesting authorization for payment is more common when one pays by, for example, a credit card. However, where payment is made by cash, the buyer does not ask the seller to seek authorization for payment for the simple reason that tendering cash already is payment.

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[4] *Zalewski, et al.*, U.S. Patent Publication 2005/0017068, published Jan. 27, 2005 for "SYSTEM AND METHOD OF MAKING PAYMENTS USING AN ELECTRONIC DEVICE COVER WITH EMBEDDED TRANSPONDER."

The cited reference teaches a payment method that uses something called "digital cash" (see ¶73). As best understood, this "digital cash" is expected to have all the attributes of conventional cash. Thus, the buyer, i.e the party tendering the digital cash, would not be expected to ask the receiving party to seek authorization for payment any more than the buyer would be expected to do so if the cash were conventional cash.

Claim 14 requires "using the phone, issuing an instruction to the terminal [associated with the commercial establishment] to request authorization of payment." The cited art does not teach this limitation.

Under §102, Applicant is entitled to a patent unless certain very special conditions are met. Among these is a finding that the claimed invention is anticipated. Such a finding requires that each and every limitation in the claim be found in a single prior art reference. If even one limitation is missing, the rejection is improper.

In the present case, the cited art fails to teach "using the phone, issuing an instruction to the terminal [associated with the commercial establishment] to request authorization of payment." Accordingly, the §102 rejection is improper.

Conclusion

Now pending in this application are claims 1-14, of which claims 1 and 14 are independent. No amendments have been made.

It is believed that all of the pending claims have been addressed. All dependent claims not specifically argued are believed patentable for at least the same reasons as the independent claims from which they depend.

The absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment.

In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper,

and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

No fees are believed to be due in connection with the filing of this response. However, to the extent fees are due, or if a refund is forthcoming, please adjust our Deposit Account No. 50-4189, referencing Attorney Docket No. 30071-002002.

Respectfully submitted,

Date: February 13, 2013

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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT	Docket Number (Optional) 30071-002002

In re Application of: Paul Poniatowski

Application No.: 13/559,194

Filed: July 26, 2013

For: MOBILE PAYMENT SYSTEM

The owner*, Paul Poniatowski, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of **prior patent** No. 8,270,578 as the term of said **prior patent** is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the **prior patent** are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term of the **prior patent**, "as the term of said **prior patent** is presently shortened by any terminal disclaimer," in the event that said **prior patent** later:

expires for failure to pay a maintenance fee;
is held unenforceable;
is found invalid by a court of competent jurisdiction;
is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
has all claims canceled by a reexamination certificate;
is reissued; or
is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☐ The undersigned is an attorney or agent of record. Reg. No._____

/ Paul Poniatowski / — Signature

Jan 14 2013 — Date

Paul Poniatowski — Typed or printed name

647 830 4133 — Telephone Number

☑ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
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This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Electronic Acknowledgement Receipt

EFS ID:	14948536
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Customer Number:	69713
Filer:	Faustino A. Lichauco/Scott Chappell
Filer Authorized By:	Faustino A. Lichauco
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File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		30071-002002_Amendment_in_Reply_to_OA_February_13_2013.pdf	430265 eea52e6e5e4f620157f539ec4479fa623f362f5e	yes	10

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment/Req. Reconsideration-After Non-Final Reject	1	1
	Applicant Arguments/Remarks Made in an Amendment	2	8
	Terminal Disclaimer Filed	9	10

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New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

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Application Number	Application/Control No.	Applicant(s)/Patent under Reexamination	
	13/559,194	PONIATOWSKI, PAUL	

Document Code - DISQ	Internal Document – DO NOT MAIL

TERMINAL DISCLAIMER	☒ APPROVED	☐ DISAPPROVED
Date Filed : 02/13/13	This patent is subject to a Terminal Disclaimer	

Approved/Disapproved by:

Angie Walker

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

69713 7590 02/27/2013

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EXAMINER	
ANWAH, OLISA	
ART UNIT	PAPER NUMBER
2655	

NOTIFICATION DATE	DELIVERY MODE
02/27/2013	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@ORTPATENT.COM

Office Action Summary	Application No.	Applicant(s)	
	13/559,194	PONIATOWSKI, PAUL	
	Examiner	Art Unit	
	OLISA ANWAH	2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 February 2013*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

5)☒ Claim(s) *1-14* is/are pending in the application.

5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1-9 and 11-14* is/are rejected.

8)☒ Claim(s) *10* is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

IPR2024-00731
APPLE EX1009 Page 86

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in-
> (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
> (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claim 14 is rejected under 35 U.S.C. § 102(e) as being anticipated by Zalewski et al, U.S. Patent Application Publication No. 2005/0017068 (hereinafter Zalewski).

Regarding 14, Zalewski discloses a method for engaging in a wireless commercial transaction, the method comprising:

at a mobile phone, receiving information concerning candidate items for a commercial transaction;

selecting, on said phone, a set of selected items from the candidate items;

establishing communication between said phone and a terminal associated with the commercial establishment;

using the phone, communicating the set of selected items to the terminal; and

using the phone, issuing an instruction to the terminal to request authorization of payment (see paragraphs 0097 and 0100).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-3, 6-8 and 11 are rejected under 35 U.S.C § 103(a) as being unpatentable Snavely, U.S. Patent No. 6,112,984 (hereinafter Snavely) combined with Aabye et al, U.S. Patent Application Publication No. 2010/0211504 (hereinafter Aabye) and Sheehan, U.S. Patent Application Publication No. 2007/0011099 (hereinafter Sheehan) in further view of Ogasawara, U.S. Patent No. 6,577,861 (hereinafter Ogasawara).

Regarding claim 1, Snavely discloses an apparatus for engaging in commercial transactions, said apparatus comprising a phone equipped with a dedicated actuator for initiating a commercial transaction (see Figure 6).

Still on the issue of claim 1, Snavely does not explicitly teach that the commercial transactions are wireless, the phone is a mobile phone, a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment, and a financial/authorization institution for authorizing transactions initiated by said mobile phone. At any rate, Aabye discloses that the commercial transactions are wireless, the phone is a mobile phone, a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment, and a financial/authorization institution for authorizing transactions initiated by said mobile phone (see Figure 2). As a result, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Snavely wherein the commercial transactions are wireless, the phone is a mobile phone, a network hub for wireless exchange of information between a commercial establishment and said mobile phone within

the boundaries of the establishment, and a financial/authorization institution for authorizing transactions initiated by said mobile phone as taught by Aabye. This modification would have improved the system's convenience by not requiring removal from a user's wallet or pocket in order to participate in a transaction as suggested by Aabye (see paragraph 0005).

Again on the issue of claim 1, the combination of Snavely and Aabye does not explicitly teach that the financial/authorization institution associates a PIN number with said mobile phone. All the same, Sheehan discloses that the financial/authorization institution associates a PIN number with said mobile phone (see paragraph 0040). And so, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Snavely and Aabye wherein the financial/authorization institution associates a PIN number with said mobile phone as taught by Sheehan. This modification would have improved the system's security by authenticating the transaction.

Further regarding claim 1, the combination of Snavely, Aabye and Sheehan fails to teach an optical input for receiving

information concerning prices of goods. All the same, Ogasawara discloses an optical input for receiving information concerning prices of goods (see Figure 1). And so, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Snavely, Aabye and Sheehan with an optical input for receiving information concerning prices of goods as taught by Ogasawara. This modification would have eliminated the substantial investment associated with the use of dedicated personal shopping system terminals as suggested by Ogasawara.

Regarding claim 2, the combination of Snavely, Aabye and Sheehan as modified by Ogasawara inherently teaches the claimed feature.

Regarding claim 3, the combination of Snavely, Aabye and Sheehan as modified by Ogasawara inherently teaches the claimed feature.

Regarding claim 6, the combination of Snavely, Aabye and Sheehan as modified by Ogasawara inherently teaches the claimed feature.

Regarding claim 7, the combination of Snavely, Aabye and Sheehan as modified by Ogasawara inherently teaches the claimed feature.

Regarding claim 8, see Figure 6 of Snavely.

Regarding claim 11, the combination of Snavely, Aabye and Sheehan as modified by Ogasawara inherently teaches the claimed feature.

5. Claims 4 and 5 are rejected under 35 U.S.C § 103(a) as being unpatentable over Snavely, Aabye, Sheehan and Ogasawara in further view of Swartz et al, U.S. Patent No. 7,040,541 (hereinafter Swartz).

Regarding claim 4, the combination of primary references does not disclose that the mobile phone is configured to generate a listing of items available for purchase. All the same, Swartz discloses that a device is configured to generate a listing of items available for purchase (see column 16). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of primary references wherein the device is configured to generate a listing of items available for purchase

as taught by Swartz. This modification would have improved the system's convenience by the user to survey options.

Regarding claim 5, the combination of primary references as modified by Swartz inherently teaches the claimed feature.

6. Claim 9 is rejected under 35 U.S.C § 103(a) as being unpatentable over the combination of primary references in further view of Tao, U.S. Patent No. 7,388,578 (hereinafter Tao).

Regarding claim 9, the combination of primary references does not teach that the button comprises a touch-sensitive region on a display of the mobile phone. Even so, Tao discloses that the button comprises a touch-sensitive region on a display of the mobile phone (see Figure 6). And so, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of primary references wherein the button comprises a touch-sensitive region on a display of the mobile phone as taught by Tao. This modification would have improved the system’s flexibility by providing multiple operating positions as suggested by Tao (see column 2).

7. Claim 13 is rejected under 35 U.S.C § 103(a) as being unpatentable over the combination of primary references in further view of Welingkar et al, U.S. Patent No. 8,135,798 (hereinafter Welingkar).

Regarding claim 13, the combination of primary references does not clearly teach that the mobile phone is configured to be remotely erased by the financial/authorization institution. All the same, Welingkar discloses that the mobile phone is configured to be remotely erased by the authorization institution (see Figure 10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of primary references wherein the mobile phone is configured to be remotely erased by the authorization institution as taught by Welingkar. This modification would have improved the system reliability by improving security.

8. Claim 12 is rejected under 35 U.S.C § 103(a) as being unpatentable over the combination of primary references in further view of Rissanen, U.S. Patent No. 7,308,254 (hereinafter Rissanen).

Regarding claim 12, the combination of primary references does not disclose the mobile phone is configured to receive a

coupon applicable to a future transaction with the commercial establishment. All the same, Rissanen discloses that the mobile phone is configured to receive a coupon applicable to a future transaction with the commercial establishment (see abstract). For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of primary references wherein the mobile phone is configured to receive a coupon applicable to a future transaction with the commercial establishment as taught by Rissanen. This modification would have improved the system's efficiency by reducing the length of checkout lines as suggested by Rissanen (see column 1).

Response to Arguments

9. Applicant argues that Zalewski does not teach using the phone, issuing an instruction to the terminal [associated with the commercial establishment] to request authorization of payment. The examiner respectfully disagrees. Because Zalewski discloses requesting charge authorization from a plurality of credit account issuers or authorizers (see paragraph 0100), Zalewski discloses using the phone, issuing an instruction to

the terminal [associated with the commercial establishment] to request authorization of payment.[1]

Allowable Subject Matter

10. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olisa Anwah whose telephone number is 571-272-7533. The examiner can normally be reached on Monday to Friday from 8.30 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Davetta Goins can be reached on 571-272-2957. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 571-273-8300 for After Final communications.

[1] Aabye also discloses an authorization request message is created during a consumer purchase of a good or service at a point of sale (POS) using a portable consumer payment device (see paragraph 0032). Additionally, Sheehan discloses generating an authorization message based on the request for payment message (see paragraph 0028). For these reasons, using the phone, issuing an instruction to the terminal [associated with the commercial establishment] to request authorization of payment is old and well known in the art.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

Olisa Anwah
Patent Examiner
February 15, 2013

/Olisa Anwah/

Primary Examiner, Art Unit 2655

Notice of References Cited	Application/Control No. 13/559,194	Applicant(s)/Patent Under Reexamination PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2005/0017068	01-2005	Zalewski et al.	235/380
*	B	US-2010/0211504	08-2010	Aabye et al.	705/44
*	C	US-2007/0011099	01-2007	Sheehan, Conrad	705/065
*	D	US-6,577,861	06-2003	Ogasawara, Nobuo	455/419
*	E	US-6,112,984	09-2000	Snavely, John D.	235/379
*	F	US-7,040,541	05-2006	Swartz et al.	235/472.02
*	G	US-6,169,911	01-2001	Wagner et al.	455/566
*	H	US-7,388,578	06-2008	Tao, Di	345/173
*	I	US-8,135,798	03-2012	Welingkar et al.	709/217
*	J	US-7,308,254	12-2007	Rissanen, Jussi	455/414.1
*	K	US-2009/0168695	07-2009	Johar et al.	370/328
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Search Notes

Application/Control No.	Applicant(s)/Patent under Reexamination
13/559,194	PONIATOWSKI, PAUL
Examiner	**Art Unit**
OLISA ANWAH	2655

SEARCHED			
Class	Subclass	Date	Examiner
379	93.12	2/15/2013	OA
	93.17		
	93.22		
	91.01		
	201.01		
	201.02		
455	419		
235	462.45		
	472.01		
	472.02		
	262.46		

INTERFERENCE SEARCHED			
Class	Subclass	Date	Examiner

SEARCH NOTES (INCLUDING SEARCH STRATEGY)		
	DATE	EXMR

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

69713 7590 04/08/2013

OCCHIUTI ROHLICEK & TSAO, LLP
321 Summer St.
Boston, MA 02210

EXAMINER	
ANWAH, OLISA	

ART UNIT	PAPER NUMBER
2655	

NOTIFICATION DATE	DELIVERY MODE
04/08/2013	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@ORTPATENT.COM

Applicant-Initiated Interview Summary	Application No.	Applicant(s)	
	13/559,194	PONIATOWSKI, PAUL	
	Examiner	Art Unit	
	OLISA ANWAH	2655	

All participants (applicant, applicant's representative, PTO personnel):

(1) *OLISA ANWAH*.

(2) *Faustino Lichauco*.

(3) *Paul Poniatowski*.

(4) _____.

Date of Interview: *02 April 2013*.

Type: ☒ Telephonic ☐ Video Conference
☐ Personal [copy given to: ☐ applicant ☐ applicant's representative]

Exhibit shown or demonstration conducted: ☐ Yes ☐ No.
If Yes, brief description: _____.

Issues Discussed ☐101 ☐112 ☐102 ☒103 ☐Others
(For each of the checked box(es) above, please describe below the issue and detailed description of the discussion)

Claim(s) discussed: *1 and 14*.

Identification of prior art discussed: *Snavely, Aabye, Sheehan and Zalewski*.

Substance of Interview
(For each issue discussed, provide a detailed description and indicate if agreement was reached. Some topics may include: identification or clarification of a reference or a portion thereof, claim interpretation, proposed amendments, arguments of any applied references etc...)

The examiner agreed that the Sheehan reference cited fails to show associating a PIN number with the mobile phone.

Applicant recordation instructions: The formal written reply to the last Office action must include the substance of the interview. (See MPEP section 713.04). If a reply to the last Office action has already been filed, applicant is given a non-extendable period of the longer of one month or thirty days from this interview date, or the mailing date of this interview summary form, whichever is later, to file a statement of the substance of the interview

Examiner recordation instructions: Examiners must summarize the substance of any interview of record. A complete and proper recordation of the substance of an interview should include the items listed in MPEP 713.04 for complete and proper recordation including the identification of the general thrust of each argument or issue discussed, a general indication of any other pertinent matters discussed regarding patentability and the general results or outcome of the interview, to include an indication as to whether or not agreement was reached on the issues raised.

☐ Attachment

/Olisa Anwah/ Primary Examiner, Art Unit 2655	

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record
A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews
Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.
All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:
- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

1) A brief description of the nature of any exhibit shown or any demonstration conducted,
2) an identification of the claims discussed,
3) an identification of the specific prior art discussed,
4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
5) a brief identification of the general thrust of the principal arguments presented to the examiner,
   (The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
6) a general indication of any other pertinent matters discussed, and
7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Paul Poniatowski	Art Unit	: 2655
Serial No.	: 13/559,194	Examiner	: Olisa Anwah
Filed	: July 26, 2012	Conf. No.	: 1019
Title	: Mobile Payment System		

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT IN REPLY TO NON-FINAL ACTION OF FEBRUARY 27, 2013

Please amend the above-identified application as follows:

AMENDMENTS TO THE CLAIMS

This listing of claims replaces all prior versions and listings of claims in the application:

Listing of claims:

1. **(Original)** An apparatus for engaging in wireless commercial transactions, said apparatus comprising a mobile phone equipped with a dedicated actuator for initiating a commercial transaction, and an optical input for receiving information concerning prices of goods, a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment, and a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone.

2. **(Original)** The apparatus of claim **1**, mobile phone is configured to display information about goods scanned by said optical input on a display.

3. **(Original)** The apparatus of claim **1**, wherein the mobile phone is configured to provide a sequence of displays to guide a user of said mobile phone through a commercial transaction that includes identification of goods to be purchased and payment associated with said purchase.

4. **(Original)** The apparatus of claim **1**, wherein the mobile phone is configured to generate a listing of items available for purchase.

5. **(Original)** The apparatus of claim **4**, wherein the mobile phone is further configured to solicit a selection of a subset of items from said listing.

6. (Original) The apparatus of claim **1**, wherein the mobile phone is configured to display information concerning an incomplete commercial transaction.

7. (Original) The apparatus of claim **1**, wherein a communication between the mobile phone and the network hub is constrained to remain within the commercial establishment.

8. (Original) The apparatus of claim **1**, wherein the dedicated actuator comprises a button labeled with a symbolic indication of a function thereof.

9. (Original) The apparatus of claim **8**, wherein the button comprises a touch-sensitive region on a display of the mobile phone.

10. (Original) The apparatus of claim **1**, wherein actuation of the dedicated actuator causes information identifying the commercial establishment to be displayed on the mobile phone.

11. (Original) The apparatus of claim **1**, wherein the mobile phone is configured to, on the basis of data provided by the optical input, display a price of an item.

12. (Original) The apparatus of claim **1**, wherein the mobile phone is configured to receive a coupon applicable to a future transaction with the commercial establishment.

13. (Original) The apparatus of claim **1**, wherein the mobile phone is configured to be remotely erased by the financial/authorization institution.

14. (Currently Amended) A method for engaging in a wireless commercial transaction, the method comprising at a mobile phone, receiving

information concerning candidate items for a commercial transaction, selecting, on said phone, a set of selected items from the candidate items, establishing communication between said phone and a terminal associated with the commercial establishment, using the phone, communicating the set of selected items to the terminal, and using the phone, issuing an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone.

REMARKS

INTERVIEW SUMMARY

Applicant appreciates the opportunity to discuss the rejections of claims 1 and 14 in a telephone interview on April 2, 2013 and the cited references *Zalewski*, *Sheehan*, *Aabye*, *Ogasawara*, and *Snavely*. The set of participants at the telephone interview consisted of the examiner, Applicant's attorney, and the inventor.

With regard to claim 1, agreement was reached that *Sheehan* did not disclose the limitation of a PIN associated with a mobile phone. Agreement was also reached that *Aabye* did not disclose the limitation of a network hub. The examiner also indicated that the he regarded the dedicated actuator as corresponding to either button **39** or **49** in figure 6 of *Snavely*.

With regard to claim 14, agreement was reached that there existed a distinction between sending an instruction to request authorization and merely sending data indicative of a set of items to be purchased. Among the distinctions discussed were the fact that the claimed invention dispenses with the need for a POS or other intermediary and in effect functions as a POS during the transaction. Agreement was reached that *Zalewski* could be distinguished by an amendment requiring that the instruction for authorization be provided directly by the telephone.

Also discussed at the interview was the propriety of using *Sheehan* and *Aabye* given the earliest priority date. The examiner indicated that the PCT application filed in Canada had not been made available to him. Applicant's attorney agreed to provide it in the next response.

CLAIM AMENDMENTS

Applicant amends claim 14 as agreed upon.

SECTION 102 REJECTION OF CLAIM 14

Claim 14 stands rejected as allegedly being anticipated by *Zalewski*.

Zalewski discloses using the phone **104** at any one of several stores **931**,...**937**. At a store, a terminal communicates with portal **910** to indicate that a customer wishes to purchase something using a charge card. According to ¶100, the portal **910** may then "request charge authorization **950** from a pluarlity of credit account issuers and authorizaers 96x."

As best understood, the actual request for authorization comes not from the phone **104** but from the portal **910**. This is different from the claim, which requires "using the phone, issuing an instruction to the terminal to request authorization of payment."

The examiner has asserted that when the phone presents a selection of goods to a terminal, it sets into motion a chain of events that results in the sending of an instruction to request authorization. As agreed by the examiner, the cited reference does not teach or suggest having the instruction requesting authorization being sent directly from the phone as recited in amended claim 14.

Accordingly, claim 14 distinguishes over the cited art of record and is therefore patentable.

§103(a) REJECTION OF CLAIMS 1-3, 6-8, AND 11
CLAIM 1

Claim 1 stands rejected based on the combination of *Snavely*, *Aabye*, *Sheehan*, and *Ogasawara*.

As an initial matter, *Aabye* and *Sheehan* are not properly prior art because this application has a priority date that pre-dates the filing dates of those references. Applicant draws attention to page 10 of PCT/CA2004/000513, which describes a dedicated actuator on lines 20-22, the association of a PIN with a mobile phone on lines 10-11, and the functions of PIN numbers in lines 11-18. A copy of this PCT application is submitted herewith.

Even if one were to admit *Aabye* and *Sheehan* as prior art, the would still fail to teach the limitations that they allegedly teach.

Aabye is cited for its alleged disclosure of a network hub. In particular, in figure 2, *Aabye* discloses communication between a mobile device **102** and a device reader **130** at a POS terminal.

In fact, what *Aabye* discloses is a Bluetooth or similar connection between the mobile phone and the POS terminal. This is described in ¶43. This is a link similar to that between a phone and a wireless earpiece and microphone, or between a computer and its wireless mouse. One of ordinary skill in the art would not have regarded such a connection as a network hub.

Sheehan is cited for its alleged disclosure of "a financial/authorization institution for associating a PIN number with said mobile phone." The examiner draws particular attention to ¶40, in which is described how a mobile device acknowledes a message from the consumer with an authorization code.

However, the authorization code or PIN that is referred to in ¶40 is not associated with the phone. It is associated with the user's account, as described in ¶32. Accordingly, there is no disclosure of "a financial/authorization institution for associating a PIN number with said *mobile phone*" as the claim requires.

However, the limitations allegedly disclosed by *Aabye* and *Sheehan* or by no means the only ones that are missing from the combination of references. The cited combination also fails to teach or suggest "a dedicated actuator for *initiating* a commercial transaction."

Snavely is cited for an alleged disclosure of "a dedicated actuator for initiating a commercial transaction." According to the examiner, such an actuator could be either the credit card button **39** or the payout button **49** in figure 6.

The cited buttons, however, are not for "initiating a commercial transaction." They are for *consummating* a commercial transiaction. Both the payout button **49** and the

credit card button **39** are used to make payment. This is the last step in the transaction. As a result, these buttons are only used when a transaction has already been initiated.

In addition to failing to teach or suggest each and every limitation of the claim, the combination is also one that no one of ordinary skill in the art would have been motivated to make. In fact, the combination of references is something of a chimera that would not have been arrived at absent hindsight reconstruction using Applicant's disclosure as a template.

> It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. [15] This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention."[16] *In re Fritch,* 23 U.S.P.Q. 2d 1780, 1784 (Fed. Cir. 1992).

The proferred motivation to combine *Snavely* with *Aabye* lacks merit.

The Office suggests that one of ordinary skill in the art would have been motivated to modify *Snavely* as disclosed by *Aabye* because such modification "would have improved the systems's convenience by not requiring removal from a user's wallet or packet ino order to participate in a transaction as suggested by *Aabye* (see paragraph 0005)."[1]

One of ordinary skill in the art would have realized that in order to operate the *Snavely* device, which has a user interface with buttons and a display, one of ordinary skill in the art would have to have removed it from his pocket anyway.

The reason advanced for modifying the combination of *Snavely*, Abaye, and *Sheehan* to include an optical input as disclosed by *Ogasawara* lacks technical merit.

As an initial matter, the whole purpose of combining *Aabye* with *Snavely* was so that one would not have to remove the *Snavely* device from one's pocket to use it.

---

[1] Office Action, page 5.

However, unless the user had a transparent pocket, it would appear that *Snavely*'s device would have to be removed from the pocket in order to use any optical input device. Thus, one of ordinary skill in the art would have understood that adding an optical input as disclosed by *Ogasawara* would have just undermined the whole purpose of modifying *Snavely* to include the limitation of *Aabye*.

According to MPEP 2143.01, "[i] f proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)."

According to the Office, one of ordinary skill in the art would have found it obvious to modify the combintion of Snavely, *Aabye*, and *Sheehan* as taught by *Ogasawara* for the purpose of having a device that could be operated without removal from his pocket. If anyone had suggested to him that adding an optical input to this combination would have been a good idea, he would have dismissed the idea because such a modification would have rendered it impossible to use the *Snavely/Aabye/Sheehan* device for its intended purpose, which is to allow operation without removal from a pocket. One of ordinary skill in the art would have understood that any optical input would have had to be removed from the pocket to operate because, unlike the longer wavelength radio waves used in a wireless link such as that disclosed in *Aabye*, light waves cannot penetrate through most fabrics. In fact, such opacity is an essential feature for most clothing, the function of which is often as much to provide modesty as warmth.

Consistent with MPEP 2143.01 and *Gordon*, there is no motivation to include an optical input in the combination of *Snavely*, *Aabye* and *Sheehan*.

Moreover, there is no disclosure of any "substantial investment associated with the use of dedicated personal shopping system terminals" anywhere in the combination of the first three references. Nor is there any nexus between an optical input and being able to avoid making an investment in shopping system terminals.

At best, the cited text provides a motivation to create the invention of *Ogasawara*, but it is irrelevant to *Snavely*, *Aabye*, and *Sheehan*, none of which suggest that there has been any investment in shopping system terminals or that there is a need for any such investment.

Additionally, the cited text, which comes from col. 2, lines 25-35 in *Ogasawara*, has nothing to do with an optical input. Thus, the cited text does not suggest to one of ordinary skill in the art any reason why the particular feature of an optical input would be important avoiding the need to invest in shopping system terminals.

A proper rejection under section 103 requires that the combination of references teach or suggest the claimed invention, viewed as a whole, to one of ordinary skill in the art at the time the invention was made. The invention was made so long ago that perhaps it seems commonplace today and therefore difficult to put one's self in the position of one of ordinary skill in the art almost ten years ago. However, back then, the subject matter of the claimed invention, viewed as a whole, was not obvious.

The individual pieces of the claimed invention, in isolation, may have existed at the time of the invention. But this is almost always true. If the standard for patentability were "did the elements of the claim exist prior to the filing date?" virtually nothing would be patentable. In fact, the first chief judge for the Federal Circuit, Judge Markey, was addressing this very issue when quoted in *Fromson*:

> "This case typifies an observation by the late Chief Judge Markey, our first Chief Judge, that "[o]nly God works from nothing. Men must work with old elements." (quotation, citations omitted)"[2]

Thus, the question is not whether the individual elements of the claim were known. The question is whether, if one were to travel back in time to the moment of invention, one of ordinary skill in the art would have found it obvious to combine all those elements in order to make the subject matter of the claim as a whole. In the present

[2] *Fromson v. Advance Offset Plate, Inc.*, 755 F.2d 1549, 1556 n.3 (Fed. Cir. 1985)

case, the evidence of record clearly answers that question in the negative. Accordingly, Applicant requests that the claims be allowed.

CLAIMS 2, 3, 6, 7, 11

The foregoing claims are all rejected because the missing feature is allegedly inherent in the disclosure of the combination.

The general rule of inherency is that if a feature necessarily follows from what has been expressly disclosed, then that feature is inherently disclosed. However, if the absence of the feature is also consistent with the express disclosure, then the feature is not inherently disclosed.

This rule is articulated in MPEP 2112:

> "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic"

as well as by the Board of Appeals:

> "In relying upon the theory of inherency , the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art"[3]

and again, nine years later, by the Federal Circuit:

> To establish inherency, the extrinsic evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1268, 20 U.S.P.Q.2d 1746, 1749 (Fed.Cir.1991). "Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not

[3] *Ex parte Levy*, 17 USPQ 2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)[emphasis in original]

sufficient." Id. at 1269, 948 F.2d 1264, 20 U.S.P.Q.2d at 1749 (quoting *In re Oelrich*, ', 581, 212 U.S.P.Q. 323, 326 (C.C.P.A.1981)).[4]

Thus, the standard for a rejection based on inherency is high. Given the disclosed subject matter, it must be absolutely impossible for the undisclosed subject matter to be anything but present. Therefore, if one can contemplate any apparatus consistent with what has been disclosed that lacks the undisclosed feature, a rejection that relies on inherency is improper.

CLAIM 2

Claim 2 recites a mobile phone "configured to display information about goods scanned by said optical input on a display."

It is quite easy to contemplate a device in which information about scanned goods appears on a cashier's terminal rather than a mobile phone. After all, a cashier's terminal can have a larger display than a mobile phone, so in some ways this would be a more convenient option. Such a device is not inconsistent with the disclosure. Accordingly, a rejection based on inherency is improper.

CLAIM 3

Claim 3 requires that the mobile phone be "configured to provide a sequence of displays to guide a user of said mobile phone through a commercial transaction that includes identification of goods to be purchased and payment associated with said purchase."

It is quite easy to contemplate a mobile phone in which a single display guides a user through the commercial transaction. Such a feature is not inconsistent with the disclosure of the combination. Accordingly, a rejection based on inherency is improper.

CLAIM 6

Claim 6 requires that the mobile phone" be "configured to display information concerning an incomplete commercial transaction."

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[4] *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999).

It is quite easy to contemplate a mobile phone that only displays information concerning complete commercial transactions. For example, one can imagine a system in which scanning results in a purchase, in which case only complete commercial transaction information can be displayed. Such a feature is not inconsistent with the disclosure of the combination. Accordingly, a rejection based on inherency is improper.

CLAIM 7

Claim 7 requires that "a communication between the mobile phone and the network hub" be "constrained to remain within the commercial establishment."

It is quite easy to contemplate an embodiment in which such communications would not remain within a commercial establishment. After all, radio waves easily go through walls. Thus, if the network hub happens to be outside a commercial establishment this could easily occur. None of this is inconsistent with the disclosure of the combination. Accordingly, a rejection based on inherency is improper.

CLAIM 11

Claim 11 recites a mobile phone "configured to, on the basis of data provided by the optical input, display a price of an item."

It is quite easy to contemplate a device in which a price of an item appears on a cashier's terminal rather than a mobile phone. After all, a cashier's terminal can have a larger display than a mobile phone, so in some ways this would be a more convenient option. Such a device is not inconsistent with the disclosure. Accordingly, a rejection based on inherency is improper.

Conclusion

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing

in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

No fees are believed to be due in connection with the filing of this response. However, to the extent fees are due, or if a refund is forthcoming, please adjust our Deposit Account No. 50-4189, referencing Attorney Docket No. 30071-002002.

Respectfully submitted,

Date: April 15, 2013

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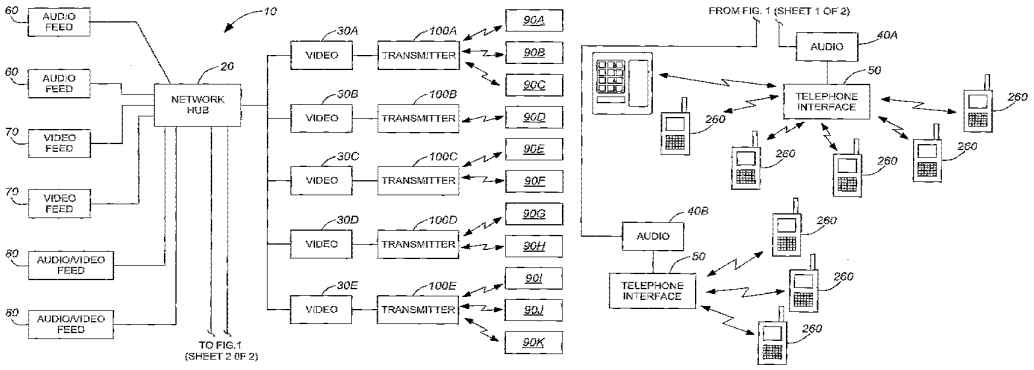
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(54) Title: AUDIO/VISUAL INFORMATION DISSEMINATION SYSTEM



(57) Abstract: Systems and methods for providing information to the public by way of publicly accessible devices. A network of video displays are deployed at publicly accessible locations such as inside public transportation vehicles or at public transportation stations. The video feed to these video displays are provided by a video distribution hub which receives the video feed from a network hub. Different audio feeds are accessible to end users or by telephone. End users can call a telephone interface which receives and routes audio feeds from an audio distribution hub. End users can access audio feeds which may be synchronized with a video feed to provide a complete audio visual experience to the end user. For more useful content, the video displayed at any location may be adjusted to be relevant to the area where the video display is deployed. Audio content synchronized to one of these disparate video feeds can be accessed by the end user by dialing different options through the telephone interface. Audio feeds not tied to a specific video feed, such as radio stations or themed audio feeds, may also be accessed by the end user through the telephone interface.

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AUDIO/VISUAL INFORMATION DISSEMINATION SYSTEM

Field of the Invention

The present invention relates to information dissemination systems and is particularly applicable but is not limited to systems and methods for distributing information to the general public at publicly accessible locations.

Background to the Invention

The reason communications revolution has increased the amount of data available to the public. The public's hunger for more and more information has been whetted by this excess of information.

Current systems for information dissemination, especially for disseminating to the members of the public who take public means of transportation, are currently inadequate. These systems are solely visual and static. Sandwich boards, billboards, and other very old static forms of advertising are used for such ends. However, as noted above, these systems are inadequate. Such static forms are purely visual and cannot be readily changed in response to changed conditions. Unfortunately, the ubiquity of televisions and computers have had a deleterious effect on the attention span of the average person. As such, current static systems are unable to keep people's attention.

Another major drawback of current systems is the lack of an audio component. Again, the proliferation of multi-media devices and the ubiquity of multi-media in today's society has the public clamouring for the same presentation type in almost all of their information input. While there are some information dissemination systems that integrate an audio portion (such as publicly accessible television sets), these can be intrusive and annoying to those who do not wish to take advantage of the system.

There is therefore a need for an information dissemination system that integrates both video and audio components while simultaneously avoiding becoming an annoyance to those not wishing to access the information being

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disseminated. Such an information dissemination system should also be dynamic in that modifying the information content should be relatively simple. Furthermore, the system should be able to keep end users (i.e. the public, especially those who are travelling in public transportation vehicles) occupied and should be able to hold their attention. Finally, it is also very desirable if such a system would be cost effective and financially self sustaining. It is therefore an object of the present invention to mitigate if not overcome the deficiencies of the prior art.

Summary of the Invention

The present invention relates to systems and methods for providing information to the public by way of publicly accessible devices. A network of video displays are deployed at publicly accessible locations such as inside public transportation vehicles or at public transportation stations. The video feed to these video displays are provided by a video distribution hub which receives the video feed from a network hub. Different audio feeds are accessible to end users or by telephone. End users can call a telephone interface which receives and routes audio feeds from an audio distribution hub. End users can access audio feeds which may be synchronized with a video feed to provide a complete audio visual experience to the end user. For more useful content, the video displayed at any location may be adjusted to be relevant to the area where the video display is deployed. Audio content synchronized to one of these disparate video feeds can be accessed by the end user by dialing different options through the telephone interface. Audio feeds not tied to a specific video feed, such as radio stations or themed audio feeds, may also be accessed by the end user through the telephone interface.

In a first aspect, the present invention provides a system for distributing information to the public, said information comprising at least one video feed and a plurality of audio feeds, the system comprising:

- a network hub for receiving said information from a source;
- a plurality of publicly viewable video display screens;
- at least one video distribution hub, the or each video distribution hub

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receiving one video feed from said network hub and transmitting said one video feed to at least one of said display screens;

- at least one audio distribution hub, the or each audio distribution hub receiving said plurality of audio feeds from said network hub, each of said audio feeds being accessible by end users;

- a telephone interface for receiving end user telephone call for accessing said plurality of audio feeds said telephone interface communicating with said at least one audio distribution hub, said telephone interface automatically routing audio feeds from said at least one audio distribution hub to said end user telephone calls based on end user input,

wherein at least one audio feed is synchronized with one of the at least one video feed.

In a second aspect, the present invention provides a system for providing at least one audio feed to end users, the system comprising:

- a network hub for receiving at least one audio feed;

- at least one audio distribution hub receiving said at least one audio feed from said network hub:

- a telephone interface for receiving telephone calls from said end users, said interface communicating with said at least one audio distribution hub and said telephone interface automatically routing said at least one audio feed to said telephone calls based on input from said end users.

Brief Description of the Drawings

A better understanding of the invention will be obtained by considering the detailed description below, with reference to the following drawings in which:

Figure 1 is a block diagram of a system for distributing information according to one aspect of the invention;

Figure 2 is a block diagram of an example setup for a video display screen for use with the system of Figure 1; and

Figure 3 is a block diagram of another example set up for a video display screen for use with the system of Figure 1.

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Detailed Description

Referring to Figure 1, a block diagram of a system for distributing information is illustrated. The system has 10 has a network hub 20, multiple video distribution hubs 30A-30E, audio distribution hubs 40A, 40B, and at least one telephone interface 50. The network hub receives multiple audio feeds 60, video feeds 70, and hub end combined audio/video feeds 80 from a variety of sources. These feeds are then separated into dedicated audio only and video-only feeds. The dedicated audio- only feeds are sent to the audio distribution hubs 40A, 40B while the dedicated video- only feeds are sent to the video distribution hubs 30A-30E. At the video distribution hubs, the relevant video only feeds are transmitted to multiple video display screens 90A-90K by transmitters 100A-100E. On the audio side, the telephone interface 50 receives the dedicated audio only feed and routes this to the telephone interface 50. The telephone interface 50 receives telephone calls from end users who wish to access one of the audio feeds. The end users, who could be calling and using their mobile or cellular telephones, can select one of the available audio feeds. Based on the end user input, the interface 50 selects the relevant audio feed and routes this feed to the relevant end user.

The network hub 20 can be seen as an audio/video feed aggregator - it receives feeds from a variety of sources and collects and combines these feeds into two signals, a dedicated audio feed and a dedicated video feed. The sources from which the feeds originate may be legion - the feeds could come from the Internet, a cable TV provider, broadcast TV, broadcast radio, a dedicated video or audio signal specifically created for the system, or any other source. The network hub 20 separates the feeds depending on the content - video feeds are separated and routed differently from audio feeds using well-known methods and techniques. Video feeds are aggregated into a first single signal with different video feeds occupying different parts or frequencies of that first single signal. Audio feeds are aggregated into a second single signal with different audio feeds occupying different parts or frequencies of that second single signal. The video feed signal (the first single signal) is then transmitted to the video distribution hubs 30A-30E. The audio feed signal (the second single

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signal) is transmitted to the audio distribution hubs 40A, 40B.

Regarding the video distribution hubs 30A - 30E, each one can "tune" into or isolate one of the video fees aggregated into the video feed signal from the network hub 20. The video feed that a distribution hub tunes into is then passed to a corresponding transmitter. A transmitter then transmits the video feed to multiple video display screens. Each video distribution hub 30A-30E can be a video tuner which tunes to a specific video feed in the video feed signal. Such tuners are well-known in the art.

The transmitters 100A-100E may be, depending on the implementation, wireless, wired, or optical transmitters. The transmitters 100A-100E transmit the isolated or tuned into video feed to the different video display screens. Each video transmission hub and transmitter combination services video display screens located at a specific geographic area. Thus, one geographic area may have display screens 90A, 90B, 90C, showing video feed A as tuned to by video transmission hub 30A while another geographic area may have display screens 90G, 90H showing video feed B as tuned to by video transmission hub 30D. Such an arrangement allows area - or region - centric video feeds to be distributed to the proper areas. Such an arrangement also allows the system to quickly change what is being shown in the video display screen in a specific area. As an example, if an important bulletin alert occurs and is in a video Q, all of the video distribution hubs 30A-30E could automatically switch to video feed Q, ensuring quick dissemination of the bulletin alert to the video display screens serviced by video transmission hubs 30A-30E. Similarly, if the video feed to be sent to a specific geographic area is to be changed, then only the transmission hub which services that specific geographic area needs to have any changes made. That transmission hub may merely need to tune into a different video feed.

It should be noted that, to assist the viewing public in determining the content of the video feed being shown on the display screens, each video feed can be provided with closed captioning. This way, viewers can read the text of the audio for the video feed. It should further be noted that advertising and other relevant data may be inserted into each of the video feeds. This may be done by

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dividing the visual representation of the video feed into separate areas, with each area being provided with different data. As an example, Figure 2 illustrates one possible configuration of the visual representation. Area 200 may have the actual moving video being presented (such as a newscast, a situation comedy, or a soap opera program). Area 210 may present the weather forecast for the city, area 220 may present a stock market report and area 230 may present sports scores. Area 240 may be reserved for the closed captioning for the video in area 200 and area 250 may be provided for advertisements that are targeted to the end users. As noted above, the video portions of the presentation (presented in area 200) may be different for different areas. Similarly, different advertisements may be presented for different geographic areas. Ideally, up to ¾ of the display screen may be devoted to advertising space. Devoting such a high proportion of the screen to revenue generating advertising should produce enough revenue for the operation of the system.

Referring to Figure 3, an alternative arrangement fro the visual representational is illustrated. As can be seen, the main area of the screen is divided into multiple areas 200A, 200B, 200C, 200D. Each area may be dedicated to a different network video feed so that end users may have their choice of which program to view. Each video feed has its own audio feed which may be accessed by an end user as will be explained below.

Regarding the video display screens 90A-90K, these display screens are ideally deployed at publicly viewable areas. These may be deployed inside public transportation vehicles such as subway cars and buses and they may be deployed as static installations in subway/bus stations, busy street corners, and other areas of populace concentration. Plasma display screens may be used as the display screens and, in one embodiment, such screens may be hardened and configured to withstand the elements for an outside deployment. Such a deployment may be placed outside moving vehicles such as buses, thereby providing information dissemination to not only commuters inside the vehicle but commuters outside the vehicle as well. For such mobile deployments, wireless technology may be used to transmit the video feed to the video display screens. For static deployments, wired technology such as cable, optical, and other well-

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known technologies, may be used for the transmission of the video feed to the video display screens. Other static deployments such as inside public transportation vehicles may use flat computer monitors to minimize deployment costs.

To avoid end user confusion due to the multiplicity of programs on a single screen as shown in Figure 3 static deployments inside transportation stations (e.g. train stations, bus stations, subway stations) and inside transportation vehicles may use multiple display screens with specific screens being dedicated to specific network video feeds. As an example, a single subway car may have 10 screens with 3 screens being assigned to show a specific news channel video feed, (e.g. CNN), 4 screens being assigned to show a specific other broadcast network (e.g. NBC), and the rest being dedicated to show a youth oriented channel (e.g. MTV). The division of the number of screens dedicated to specific types of programming can be determined by the system operator with a view towards the possible viewers given the time of day. As an example, when students are likely to be the viewers, more screens would be dedicated to youth oriented programming.

To further lower deployment costs, manufacturers of the display screens could offer preferential pricing for their screens to those deploying and operating the system. Such a measure would provide the manufacturers free advertising as the public would be exposed to their product for free.

The audio portion of the system 10 operates in a similar manner with one important difference - end users can select which audio feed to access. As noted above, the audio feed signal is received by the audio transmission hubs 40A, 40B. The different audio feeds can be accessed by tuning into or isolating the relevant audio feed from the rest of the audio feed signal. This is what the telephone interface 50 does, along with automatically receiving end user telephone calls and automatically routing the relevant audio feed to the relevant end user telephone call. The telephone interface 50 has multiple tuners with each tuner isolating or tuning into one of the audio feeds in the audio feed signal. Upon a request by an end user who is calling in, the relevant audio feed is diverted or routed to this end user.

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The telephone interface 50 acts as an access point for end users. End users can call into the telephone interface (with the relevant telephone number perhaps flashed on the video display screens) and access a specific audio feed. To present a complete audio visual experience in conjunction with that with what is being presented on the video display screens, at least one of the audio feeds could be synchronized with the presentation on the video display screens. As an example, if geographic area A is showing video show A1 on screens 90A-90C and geographic area B is showing video show A2 on screens 90I-90K, end users in area A would need to access the audio feed synchronized the video show A1 while end users in the area B would need to access the audio feed synchronized to the video show A2. This may be done by an end user calling the telephone interface 50 and, after navigating an automated answering and menu system, accessing the relevant audio feed. This answering and menu system is well-known technology and is readily available. Thus, an end user in area A would, to get the proper audio visual experience, access a different audio feed from that accessed by an end user in area B. As yet another variant, the audio feed synchronized to a specific video show could be presented in different languages as separate audio feeds. As an example, video show A1 showing on screens 90A-90C could be synchronized to three different audio feeds - one audio feed being in English, another audio feed being in French, and a third audio feed being in Chinese. As such, an end user could access any one of the video feeds synchronized to that specific video show in the language of preference for the end user. Thus, a single video feed being presented in a specific geographic area could be accessible to people who do not necessarily speak the exact same language. Similarly, the closed captioning presented on the video display screens could be presented in multiple languages or, if one language is predominant in a specific area, the closed captioning could be presented in that single language. The technology for routing audio feeds synchronized to a video feed is currently available and used in passenger aircraft that provides in-flight entertainment. Adapting such technology with appropriate telephone menu technology will produce the requisite telephone interface described above.

It should be noted that the audio feeds available need not all be

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synchronized to the video feeds. Other audio feeds, such as audio feeds that provide music, commentary, radio station feeds, and others, may be available, depending on the implementation. This system is ideally suited to be accessed by commuters with cellular or mobile phones 260. Commuters, while on their morning or afternoon commute may view the video display screens inside the public transportation vehicle or in the stations while waiting for the vehicles. In concert with this, the commuters can use their mobile telephones to call the telephone interface and listen in on the audio portion of the program being presented in area 200 of the video display screen. Alternatively, the commuter may decide not to view the video program on the video display screen but merely listen to some other audio program being presented as a separate audio feed through his or her mobile telephone. However, the system need not be limited to mobile telephones. End users who have, ideally, a landline speaker phone may also access the telephone interface to listen to the different available audio feeds at work or at home. To address the different tastes of different types of people, themed audio feeds, such as all-sports, all-classical music, all-news or all-music (with different audio feeds for different types of music) may also be available. As an alternative, end users equipped with mobile telephones may receive the different audio feeds using Bluetooth or Wi-Fi (IEEE 802.11) technology.

To accommodate the different regions in a large geographic area, multiple telephone interface/audio transmission hubs may be implemented, with different telephone interfaces serving different areas.

To allow for a financially self-sustaining system, advertising space may be sold on either the video feeds (as explained above) or in the audio feeds. Advertisements may be sold on a per display screen basis, a regional coverage basis, or on a visibility (time visible on screen) basis. Similarly, subscription fees may be collected from end users who wish to access the audio feed. Alternatively, the system could be free to mobile telephone users with the operational and deployment costs being borne by advertisers and/or public transportation bodies.

The system described above is flexible enough for many different types of advertising and promotions. As an example, advertisers could include in their

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advertising a specific telephone code which users may enter while listening to an audio feed. Entering the code would then automatically connect the end user to the advertiser's telephone call-in center so the end user can then take advantage of the offer (e.g. a vacation trip for a low promotional price). Alternatively, end users may establish an account, with their credit cards on file, with the operators of the system. These end users may then do their shopping over the telephone based on what is being advertised on the display screens. End user choices, such as the colour, size, or type of merchandise, could be entered by the end user via the telephone keypad using specific telephone codes shown in the video feeds. To verify an end user's identity, PIN (personal identification numbers) could be associated with each end user account. Such PIN numbers would be required to validate/finalize the transaction before the end user's credit card is charged and before the item is shipped to the end user's on-file address or before the end user can pick up the item. As an alternative, an end user's bank account can be tied in with the end user's system account and the purchase price of the end-user's purchase can be automatically debited to from his/her bank account. The use of PIN numbers or some similar scheme for validation for this configuration would, of course, be required for security. End users can also be provided, by of way of their mobile telephone's screen, with different payment options. A dedicated PAY button on the mobile handset can be provided so that activation of this button brings up the end user's payment option.

The system also offers a myriad of advantages to society and the public in general. It may be used as part of a public broadcasting system to inform the populace of alerts or emergencies. It can also increase literacy as those without mobile phones will need to read the closed captioning and/or the text on-screen to determine what is being presented. It will also produce greater usage of public transportation vehicles as passengers are not only transported from one place to another but are also entertained. Such an increase in ridership may also augur an decrease in the number of vehicles on the road, thereby leading to a more environment-friendly society. The increased advertising may also lead to greater consumer spending, thereby fueling economic growth for the areas where the

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system is deployed.

Although various exemplary embodiments of the invention have been disclosed, it should be apparent to those skilled in the art that various changes and modifications can be made which will achieve some of the advantages of the invention without departing from the true scope of the invention.

A person understanding this invention may now conceive of alternative structures and embodiments or variations of the above all of which are intended to fall within the scope of the invention as defined in the claims that follow.

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We claim:

1. A system for distributing information to the public, said information comprising at least one video feed and a plurality of audio feeds, the system comprising:

- a network hub for receiving said information from a source;
- a plurality of publicly viewable video display screens;
- at least one video distribution hub, the or each video distribution hub receiving one video feed from said network hub and transmitting said one video feed to at least one of said display screens;
- at least one audio distribution hub, the or each audio distribution hub receiving said plurality of audio feeds from said network hub, each of said audio feeds being accessible by end users;
- a telephone interface for receiving end user telephone calls for accessing said plurality of audio feeds said telephone interface communicating with said at least one audio distribution hub, said telephone interface automatically routing audio feeds from said at least one audio distribution hub to said end user telephone calls based on end user input,

wherein at least one audio feed is synchronized with one of the at least one video feed.

2. A system according to claim 1 wherein said network hub receives said information as separate video and audio feeds.

3. A system according to claim 1 wherein at least one audio feed received by said network hub is a themed audio feed.

4. A system according to claim 1 wherein at least one of said plurality of publicly viewable video display screens receives a video feed from said video distribution hub by wireless means.

5. A system according to claim 1 wherein at least one of said plurality of publicly

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viewable video display screens receives a video feed from said video distribution hub through a closed circuit network.

6. A system according to claim 4 wherein said at least one of said plurality of publicly viewable video display screens is deployed outside a vehicle.

7. A system according to claim 4 wherein said at least one of said plurality of publicly viewable video display screens is deployed inside a vehicle.

8. A system according to claim 1 wherein said network hub receives multiple video feeds, each of said multiple video fees being transmitted to said video display screens located in different geographic regions.

9. A system according to claim 1 wherein said at least one video feed is provided with closed captioning.

10. A system according to claim 1 wherein said at least one video feed is provided with advertisements.

11. A system for providing at least one audio feed to end users, the system comprising:

- a network hub for receiving at least one audio feed;
- at least one audio distribution hub receiving said at least one audio feed from said network hub:
- a telephone interface for receiving telephone calls from said end users, said interface communicating with said at least one audio distribution hub and said telephone interface automatically routing said at least one audio feed to said telephone calls based on input from said end users.

12. A system according to claim 11 wherein a plurality of audio feeds are received by said network hub and at least one of said plurality of audio feeds is synchronized with a video feed.

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13. A system according to claim 12 wherein said video feed is publicly viewable.

14. A system according to claim 12 wherein said telephone interface receives end user input relating to goods or services offered for sale to said end users through said video feed.

15. A system according to claim 1 wherein said telephone interface receives end user input relating to goods or services offered for sale to end users through said at least one video feed.

16. A system according to claim 14 wherein said end user input comprises specific codes shown on said video feed for ordering said goods or services.

17. A system according to claim 15 wherein said end user input comprises specific codes shown on said video feed for ordering said goods or services.

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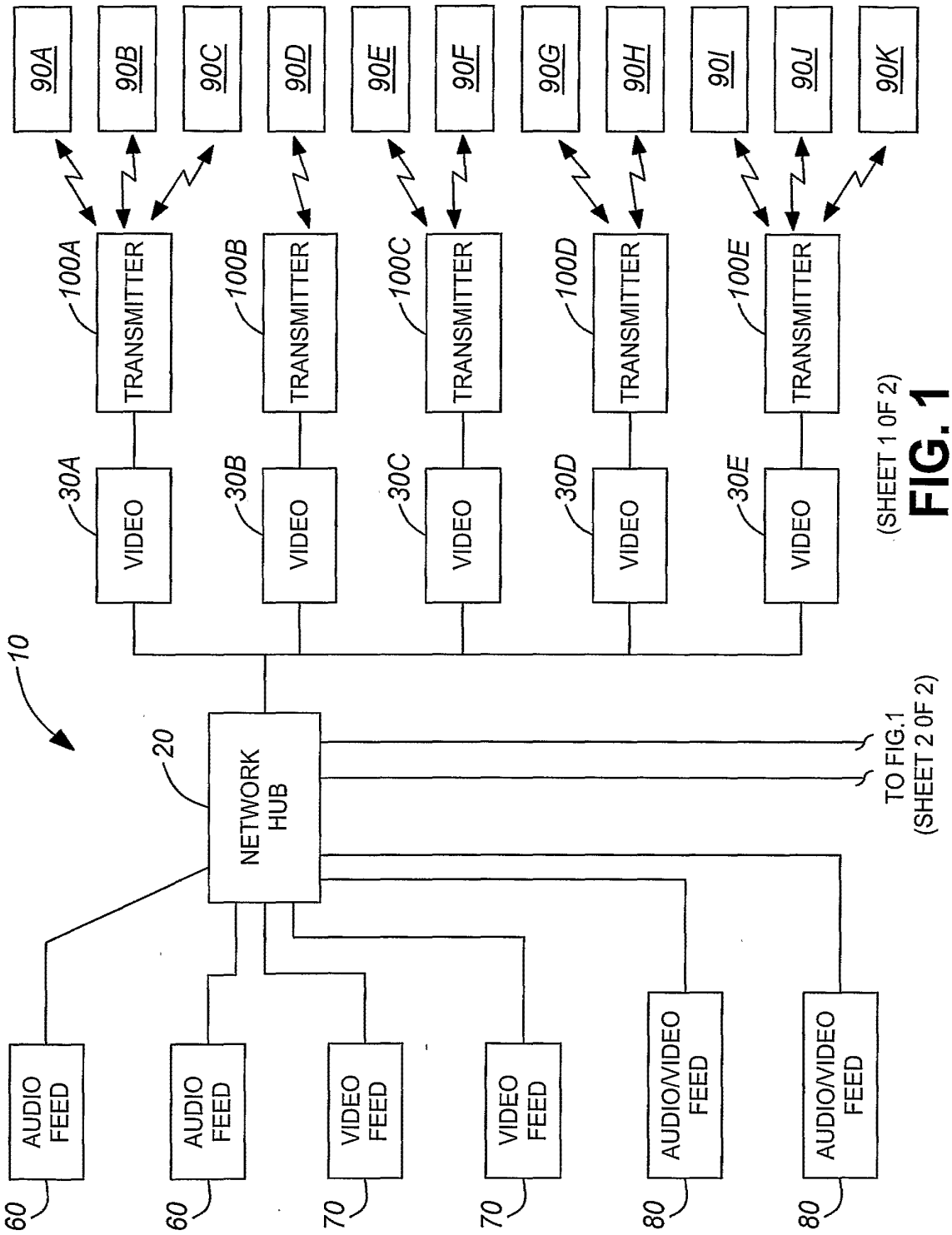
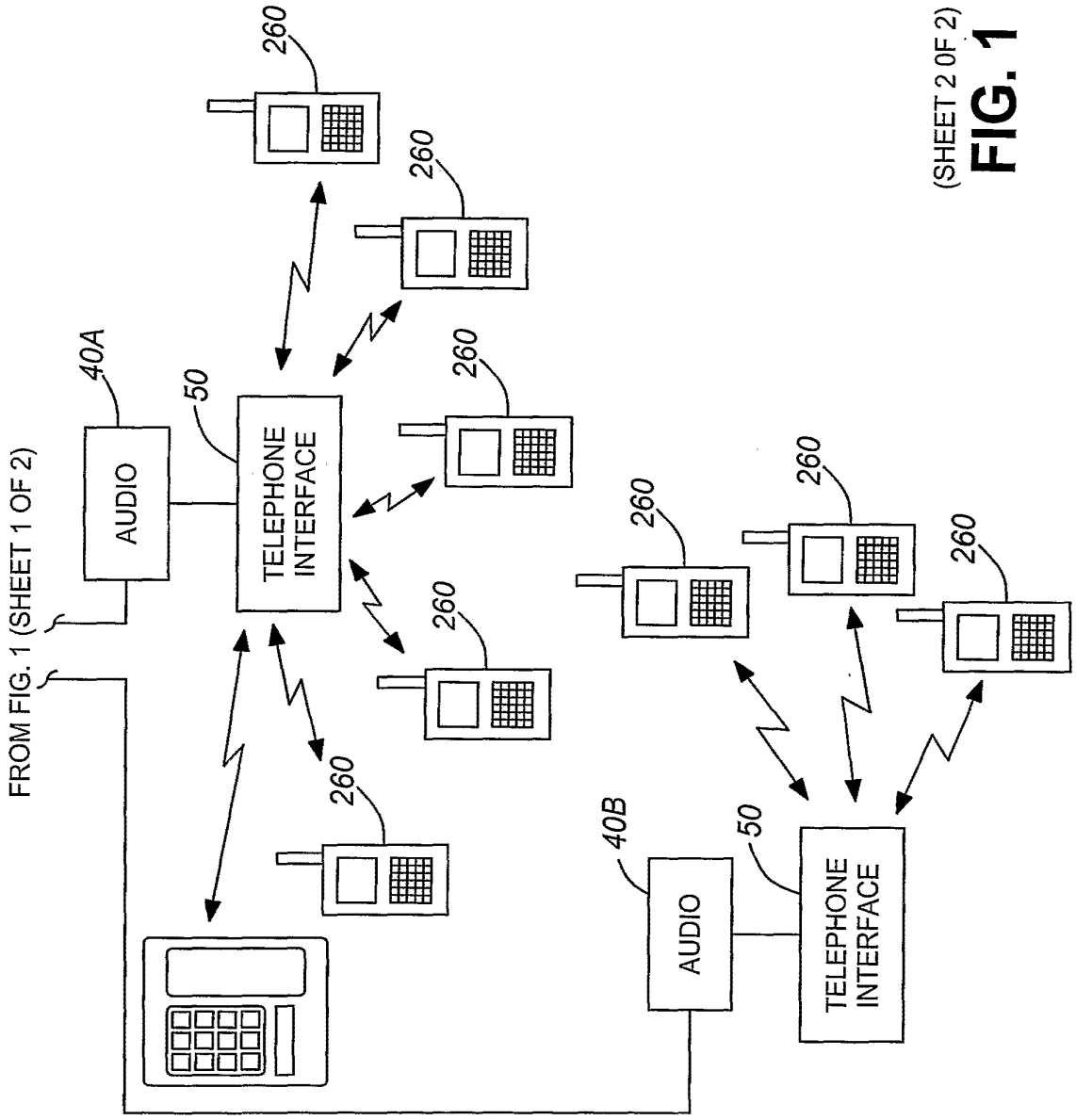


FIG. 1



(SHEET 2 0F 2)

FIG. 1

IPR2024-00731
APPLE EX1009 Page 133

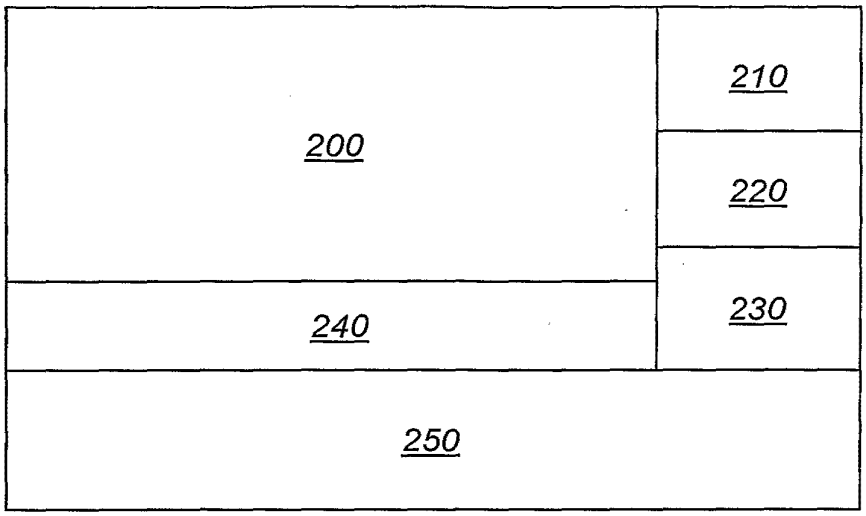


FIG. 2

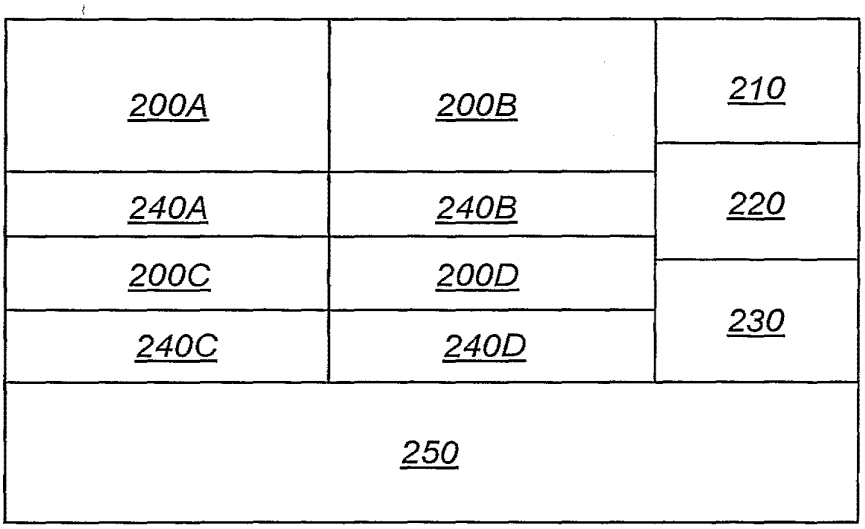


FIG. 3

IPR2024-00731
APPLE EX1009 Page 134

INTERNATIONAL SEARCH REPORT

International Application No
PCT/CA2004/000513

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 H04N7/18

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 7 H04N B64D H04H

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)
EPO-Internal, WPI Data, PAJ

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 98/11686 A (EVENSEN KAREN ; TROXEL ROBERT (US); WAKAI BRUCE M (US); BOOTH MARC (US) 19 March 1998 (1998-03-19)	1-3,5,8, 10-17
Y	abstract page 1, line 11 - page 2, line 9 page 3, line 20 - page 3, line 31 page 17, line 5 - page 17, line 23	4,6,7,9
X	US 5 412 708 A (KATZ RONALD A) 2 May 1995 (1995-05-02)	11
A	abstract column 1, line 44 - column 3, line 48	1-10, 12-17

-/--

[X] Further documents are listed in the continuation of box C.

[X] Patent family members are listed in annex.

° Special categories of cited documents :

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier document but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&" document member of the same patent family

Date of the actual completion of the international search	Date of mailing of the international search report
16 July 2004	26/07/2004

Name and mailing address of the ISA	Authorized officer
European Patent Office, P.B. 5818 Patentlaan 2 NL - 2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016	Schoeyer, M

2

Form PCT/ISA/210 (second sheet) (January 2004)

INTERNATIONAL SEARCH REPORT

International Application No
PCT/CA2004/000513

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	WO 01/33859 A (GLASER DONALD A) 10 May 2001 (2001-05-10)	4,6,7,9
A	abstract page 3, line 8 - page 3, line 27	1-3,5,8, 10-17
Y	US 5 896 129 A (MURPHY JOHN F ET AL) 20 April 1999 (1999-04-20) abstract	9

IPR2024-00731
APPLE EX1009 Page 136

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No
PCT/CA2004/000513

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
WO 9811686 A	19-03-1998	AU 4256697 A	02-04-1998
		WO 9811686 A2	19-03-1998
US 5412708 A	02-05-1995	CA 2157895 A1	15-09-1994
		CA 2460488 A1	15-09-1994
		DE 1126715 T1	07-02-2002
		DE 69429083 D1	20-12-2001
		DE 69429083 T2	29-08-2002
		EP 1126715 A2	22-08-2001
		EP 0688489 A1	27-12-1995
		JP 8510873 T	12-11-1996
		JP 2001339704 A	07-12-2001
		WO 9421084 A1	15-09-1994
		US 5495284 A	27-02-1996
		US 6323894 B1	27-11-2001
		US 2003156185 A1	21-08-2003
		US 2001031044 A1	18-10-2001
		US 2003040981 A1	27-02-2003
		US 2003185356 A1	02-10-2003
		US 2002101504 A1	01-08-2002
		US 2004076275 A1	22-04-2004
		US 2004111752 A1	10-06-2004
		US 2004109058 A1	10-06-2004
		US 2004109547 A1	10-06-2004
WO 0133859 A	10-05-2001	AU 2918601 A	14-05-2001
		WO 0133859 A1	10-05-2001
US 5896129 A	20-04-1999	NONE	

IPR2024-00731
APPLE EX1009 Page 137

Electronic Acknowledgement Receipt

EFS ID:	15516407
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Customer Number:	69713
Filer:	Faustino A. Lichauco/Graci Smith
Filer Authorized By:	Faustino A. Lichauco
Attorney Docket Number:	30071-002002
Receipt Date:	15-APR-2013
Filing Date:	26-JUL-2012
Time Stamp:	14:14:48
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		AmendmentinReplytoNon-FinalAction.pdf	543787 a472f5e96acfad77f794f535c60658cfe1aadb36	yes	14

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment/Req. Reconsideration-After Non-Final Reject	1	1
	Claims	2	4
	Applicant Arguments/Remarks Made in an Amendment	5	14

Warnings:					
Information:					
2	Miscellaneous Incoming Letter	PCTPublication.pdf	1899550 64c4787e7c80e1bac0fbccd2ad5bc6da9bf9bdc0	no	21
Warnings:					
Information:					
		Total Files Size (in bytes):	2443337		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 13/559,194	Filing Date 07/26/2012	☐ To be Mailed

ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	RATE ($)	FEE ($)
☒ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A	**190**
☒ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A	**310**
☒ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A	**125**
TOTAL CLAIMS (37 CFR 1.16(i))	14 minus 20 =	* 0	x $30 =	**0**
INDEPENDENT CLAIMS (37 CFR 1.16(h))	2 minus 3 =	* 0	x $125 =	**0**
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $310 ($155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).			
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))				
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL	**625**

APPLICATION AS AMENDED – PART II

AMENDMENT **04/15/2013**

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 14	Minus	** 20	= 0	x $40 =	0
Independent (37 CFR 1.16(h))	* 2	Minus	***3	= 0	x $210 =	0
☐ Application Size Fee (37 CFR 1.16(s))						
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
					TOTAL ADD'L FEE	**0**

AMENDMENT

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	*	Minus	**	=	x $ =	
Independent (37 CFR 1.16(h))	*	Minus	***	=	x $ =	
☐ Application Size Fee (37 CFR 1.16(s))						
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
					TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

LIE
/DIANE JOHNSON/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

69713 7590 05/24/2013

OCCHIUTI ROHLICEK & TSAO, LLP
321 Summer St.
Boston, MA 02210

EXAMINER	
ANWAH, OLISA	
ART UNIT	PAPER NUMBER
2655	

NOTIFICATION DATE	DELIVERY MODE
05/24/2013	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@ORTPATENT.COM

Office Action Summary	Application No. 13/559,194	Applicant(s) PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	AIA (First Inventor to File) Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 April 2013*.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

5)☒ Claim(s) *1-14* is/are pending in the application.

5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6)☒ Claim(s) *1-13* is/are allowed.

7)☒ Claim(s) *14* is/are rejected.

8)☐ Claim(s) _____ is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a)☐ All b)☐ Some * c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Interim copies:

a)☐ All b)☐ Some c)☐ None of the: Interim copies of the priority documents have been received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claim 14 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Shelton, U.S. Patent No. 5,345,501 (hereinafter Shelton).

With regards to Applicant's claim of priority, the examiner draws attention to page 10 of PCT/CA2004/000513, which states:

> Entering the code would then automatically connect the end user to the advertiser's telephone call-in center so the end user can then take advantage of the offer (e.g. a vacation trip for a low promotional price). Alternatively, end users may establish an account, with their credit cards on file, with the operators of the system. These end users may then do their shopping over the telephone based on what is being advertised on the display screens. End user choices, such as the colour, size, or type of merchandise, could be entered by the end user via the telephone keypad. To verify an end user's identity, PIN (personal identification numbers) could be associated with each end user account. Such PIN numbers would be required to validate/finalize the transaction before the end user's credit card is charged and before the item is shipped to the end user's on-file address or before the end user can pick up the item. As an alternative, an end user's bank account can be tied in with the end user's system account and the purchase price of the end-user's purchase can be automatically debited to from his/her bank account. The use of PIN numbers or some similar scheme for validation for this configuration would, of course, be required for security.

Just like the disclosure of page 10 of PCT/CA2004/000513, on the issue of claim 14, Shelton discloses a method for engaging in a commercial transaction, the method comprising at a

phone, receiving information (from column 5, see An example of machine generated voice interactive dialogue in the example of a video store is given below) concerning candidate items for a commercial transaction, selecting (from column 5, see the customer selects a category or product or service) on said phone, a set of selected items from the candidate items, establishing communication (from column 4, see customer first places a call to the video store) between said phone and a terminal associated with the commercial establishment, using the phone, communicating (from column 5, see When selection of the last sub-category is made) the set of selected items to the terminal, and using the phone, issuing an instruction (from column 6, see the customer supplies his/her credit card number by entering a sequence of numbers at the telephone) to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent (from column 6, see The credit card number is relayed to the credit card validation center) directly from the phone.

Further regarding claim 14, Shelton fails to teach that the transaction is wireless and the phone is mobile. "Official Notice" is taken that this limitation is both old and well known in the art. Therefore, it would have been obvious to one of

ordinary skill in the art at the time the invention was made to modify Shelton wherein the transaction is wireless and the phone is mobile. This modification would have improved the system's convenience by allowing customers to walk and talk.

Citation of Pertinent Art

3. Alpdemir et al, U.S. Patent No. 6,934,684 (hereinafter Alpdemir) is directed towards a business or organization in which consumers call into a service using ordinary telephone, PC, PDA, or other information appliance, and make requests in plain speech for information on goods and/or services, and the service provides responses to the request in plain speech in real time (see abstract).

Allowable Subject Matter

4. Claims 1-13 are allowed.

Response to Arguments

5. Applicant’s arguments have been considered but are deemed to be moot in view of the new grounds of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olisa Anwah whose telephone number is 571-272-7533. The examiner can normally be reached Monday to Friday from 8.30 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Davetta Goins can be reached on 571-272-2957. The fax phone numbers for the

organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 571-273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

Olisa Anwah
Patent Examiner
May 21, 2013

/Olisa Anwah/

Primary Examiner, Art Unit 2655

Notice of References Cited	Application/Control No. 13/559,194	Applicant(s)/Patent Under Reexamination PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,345,501	09-1994	Shelton, Norris N.	379/88.2
*	B	US-6,934,684	08-2005	Alpdemir et al.	704/265
*	C	US-2011/0039585	02-2011	Rouse et al.	455/466
*	D	US-2008/0167017	07-2008	Wentker et al.	455/414.1
*	E	US-2010/0130164	05-2010	Chowdhury et al.	455/410
*	F	US-7,672,876	03-2010	Bonner et al.	705/26.1
*	G	US-2011/0153436	06-2011	Krampe, Richard L.	705/16
*	H	US-7,234,640	06-2007	Pentel, Randolph M.	235/384
*	I	US-2010/0082485	04-2010	Lin et al.	705/44
*	J	US-2007/0087732	04-2007	Hsueh, Shao Yuan	455/414.4
*	K	US-7,721,969	05-2010	Johnson et al.	235/472.01
*	L	US-7,945,477	05-2011	Werbitt, Julie M.	705/15
*	M	US-2006/0271442	11-2006	Pfleging et al.	705/026

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Search Notes

Application/Control No.	Applicant(s)/Patent under Reexamination
13/559,194	PONIATOWSKI, PAUL
Examiner	**Art Unit**
OLISA ANWAH	2655

SEARCHED			
Class	Subclass	Date	Examiner
379	93.12	4/18/2013	OA
	93.17		
	93.22		
	91.01		
	201.01		
	201.02		
455	419		
235	462.45		
	472.01		
	472.02		
	262.46		

INTERFERENCE SEARCHED			
Class	Subclass	Date	Examiner

SEARCH NOTES (INCLUDING SEARCH STRATEGY)		
	DATE	EXMR

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Paul Poniatowski	Art Unit	: 2655
Serial No.	: 13/559,194	Examiner	: Ahwah, Olisa
Filed	: July 26, 2012	Conf. No.	: 1019
Title	: Mobile Payment System		

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT IN REPLY TO FINAL ACTION OF MAY 24, 2013

In response to the final action of May 24, 2013, a response to which is due by August 24, 2013, Applicant requests entry of the following amendments to place the claims in condition for allowance.

AMENDMENTS TO THE CLAIMS

This listing of claims replaces all prior versions and listings of claims in the application:

Listing of claims:

1. **(Original)** An apparatus for engaging in wireless commercial transactions, said apparatus comprising a mobile phone equipped with a dedicated actuator for initiating a commercial transaction, and an optical input for receiving information concerning prices of goods, a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment, and a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone.

2. **(Original)** The apparatus of claim **1**, mobile phone is configured to display information about goods scanned by said optical input on a display.

3. **(Original)** The apparatus of claim **1**, wherein the mobile phone is configured to provide a sequence of displays to guide a user of said mobile phone through a commercial transaction that includes identification of goods to be purchased and payment associated with said purchase.

4. **(Original)** The apparatus of claim **1**, wherein the mobile phone is configured to generate a listing of items available for purchase.

5. **(Original)** The apparatus of claim **4,** wherein the mobile phone is further configured to solicit a selection of a subset of items from said listing.

6. **(Original)** The apparatus of claim **1**, wherein the mobile phone is configured to display information concerning an incomplete commercial transaction.

7. (Original) The apparatus of claim **1**, wherein a communication between the mobile phone and the network hub is constrained to remain within the commercial establishment.

8. (Original) The apparatus of claim **1**, wherein the dedicated actuator comprises a button labeled with a symbolic indication of a function thereof.

9. (Original) The apparatus of claim **8**, wherein the button comprises a touch-sensitive region on a display of the mobile phone.

10. (Original) The apparatus of claim **1**, wherein actuation of the dedicated actuator causes information identifying the commercial establishment to be displayed on the mobile phone.

11. (Original) The apparatus of claim **1**, wherein the mobile phone is configured to, on the basis of data provided by the optical input, display a price of an item.

12. (Original) The apparatus of claim **1**, wherein the mobile phone is configured to receive a coupon applicable to a future transaction with the commercial establishment.

13. (Original) The apparatus of claim **1**, wherein the mobile phone is configured to be remotely erased by the financial/authorization institution.

14. (Cancelled)

REMARKS

Applicant appreciates the indication of allowability of claims 1-13.

In an effort to secure prompt allowance, Applicant cancels rejected claim 14 without prejudice. Cancellation is not intended to be an admission that Applicant agrees with the substance of the rejection and is carried out solely to expedite issuance of this patent.

Entry is believed proper under Rule 1.113(*c*) because the proposed amendment includes only cancellation of a rejected claim.

No fees are believed to be due in connection with the filing of this response. However, to the extent fees are due, or if a refund is forthcoming, please adjust our Deposit Account No. 50-4189, referencing Attorney Docket No. 30071-002002.

Respectfully submitted,

Date: May 29, 2013

Faustino A. Lichauco
Reg. No. 41,942

Customer No. 69713
Occhiuti Rohlicek & Tsao LLP
321 Summer St., Boston, MA 02210
Telephone: (617) 500-2533
Facsimile: (617) 500-2499
357962.doc

Electronic Acknowledgement Receipt

EFS ID:	15894891
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Customer Number:	69713
Filer:	Faustino A. Lichauco/Melissa Simpson
Filer Authorized By:	Faustino A. Lichauco
Attorney Docket Number:	30071-002002
Receipt Date:	29-MAY-2013
Filing Date:	26-JUL-2012
Time Stamp:	14:27:53
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		30071-002002-RespFOA.pdf	110753 a255bb8f1de0ba66ea692c83ed3f1b6ed77477b2	yes	4

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment After Final	1	1
	Claims	2	3
	Applicant Arguments/Remarks Made in an Amendment	4	4
Warnings:			
Information:			
	Total Files Size (in bytes):	110753	

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 13/559,194	Filing Date 07/26/2012	☐ To be Mailed

ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	RATE ($)	FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =	
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $310 ($155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).			
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))				
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL	

APPLICATION AS AMENDED – PART II

AMENDMENT **05/29/2013**

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 13	Minus	** 20	= 0	X $40 =	0
Independent (37 CFR 1.16(h))	* 1	Minus	***3	= 0	X $210 =	0
☐ Application Size Fee (37 CFR 1.16(s))						
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
					TOTAL ADD'L FEE	0

AMENDMENT

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =	
Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))						
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
					TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

LIE
/KAREN VESTAL/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

69713 7590 06/06/2013

OCCHIUTI ROHLICEK & TSAO, LLP
321 Summer St.
Boston, MA 02210

EXAMINER	
ANWAH, OLISA	
ART UNIT	PAPER NUMBER
2655	

NOTIFICATION DATE	DELIVERY MODE
06/06/2013	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@ORTPATENT.COM

Office Action Summary	Application No. 13/559,194	Applicant(s) PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	AIA (First Inventor to File) Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 May 2013*.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

5)☒ Claim(s) *1-14* is/are pending in the application.

5a) Of the above claim(s) *14* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1* is/are rejected.

8)☒ Claim(s) *2-13* is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a)☐ All b)☐ Some * c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Interim copies:

a)☐ All b)☐ Some c)☐ None of the: Interim copies of the priority documents have been received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claim 1 rejected under 35 U.S.C § 103(a) as being unpatentable over Skowronek et al, U.S. Patent Application Publication No. 2010/0023449 (hereinafter Skowronek) combined with Ogasawara, U.S. Patent No. 6,577,861 (hereinafter Ogasawara) and Pratt et al, U.S. Patent Application Publication No. 2009/0119181 (hereinafter Pratt) in further view of Medamana et al, U.S. Patent No. 5,181,238 (hereinafter Medamana).

Regarding claim 1, Skowronek discloses an apparatus for engaging in wireless communication transactions, said apparatus comprising a mobile phone (see unit 100 from Figure 1) equipped with a dedicated actuator (see unit 104 from Figure 1) for initiating (from abstract, see only after activating, by

depressing or selecting, the payment user interface device can allow a user to use the NFC component) a commercial transaction.

Still on the issue of claim 1, Skowronek does not teach an optical input for receiving information concerning prices of goods. All the same, Ogasawara discloses an optical input (see BAR CODE SCANNER from Figure 1) for receiving information concerning prices of goods. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Skowronek with an optical input for receiving information concerning prices of goods as taught by Ogasawara. This modification would have improved the system's convenience by allowing a purchaser to instantly make product selections.

Again on the issue of claim 1, the combination of Skowronek and Ogasawara fails to teach a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment. All the same, Pratt discloses a network hub (from paragraph 0018, see Suitable transmission protocols would include an IEEE 802.11 family protocol (WiFi)) for wireless exchange of information between a commercial establishment and said mobile phone within

the boundaries of the establishment. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Skowronek and Ogasawara with a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment as taught by Pratt. This modification would have improved the system's efficiency by allowing for faster networking.

Further regarding claim 1, the combination of Skowronek, Ogasawara and Pratt fails to teach a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone. Nonetheless, Medamana discloses a financial/authorization institution for associating a PIN number (from column 4, see Enter PIN) with said phone (from column 4, see the ANI number) and for authorizing (from abstract, see authorized to access) transactions (see transactions from column 2) initiated by said phone. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Skowronek, Ogasawara and Pratt with a financial/authorization institution for associating a PIN number with said phone and for authorizing transactions initiated by

said phone as taught by Medamana. This modification would have improved the system's reliability by providing security.

Response to Arguments

3. Applicant's arguments have been considered but are deemed to be moot in view of the new grounds of rejection.

Allowable Subject Matter

4. Claims 2-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olisa Anwah whose telephone number is 571-272-7533. The examiner can normally be reached on Monday to Friday from 8.30 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Davetta Goins can be reached on 571-272-2957. The fax phone numbers for the organization where this application or proceeding is assigned

are 571-273-8300 for regular communications and 571-273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

Olisa Anwah
Patent Examiner
June 3, 2013

/Olisa Anwah/

Primary Examiner, Art Unit 2655

Notice of References Cited	Application/Control No. 13/559,194	Applicant(s)/Patent Under Reexamination PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2010/0023449	01-2010	Skowronek et al.	705/39
*	B	US-6,577,861	06-2003	Ogasawara, Nobuo	455/419
*	C	US-2009/0119181	05-2009	Pratt et al.	705/17
*	D	US-5,181,238	01-1993	Medamana et al.	379/93.03
*	E	US-2011/0021175	01-2011	FLOREK et al.	455/410
*	F	US-7,487,912	02-2009	Seifert et al.	235/380
*	G	US-2006/0000900	01-2006	Fernandes et al.	235/380
*	H	US-2004/0248554	12-2004	Khan et al.	455/411
*	I	US-7,308,254	12-2007	Rissanen, Jussi	455/414.1
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Please enter the amendment filed on 5/31/2013. Thanks, OA.

Attorney Docket No.: 30071-002002
Client Ref. No.:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Paul Poniatowski	Art Unit	: 2655
Serial No.	: 13/559,194	Examiner	: Ahwah, Olisa
Filed	: July 26, 2012	Conf. No.	: 1019
Title	: Mobile Payment System		

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT IN REPLY TO FINAL ACTION OF MAY 24, 2013

In response to the final action of May 24, 2013, a response to which is due by August 24, 2013, Applicant requests entry of the following amendments to place the claims in condition for allowance.

Search Notes	Application/Control No.	Applicant(s)/Patent under Reexamination	
	13/559,194	PONIATOWSKI, PAUL	
	Examiner	Art Unit	
	OLISA ANWAH	2655	

SEARCHED			
Class	Subclass	Date	Examiner
379	93.12	5/31/2013	OA
	93.17		
	93.22		
	91.01		
	201.01		
	201.02		
455	419		
235	462.45		
	472.01		
	472.02		
	262.46		

INTERFERENCE SEARCHED			
Class	Subclass	Date	Examiner

SEARCH NOTES (INCLUDING SEARCH STRATEGY)		
	DATE	EXMR

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

69713 7590 07/11/2013

OCCHIUTI ROHLICEK & TSAO, LLP
321 Summer St.
Boston, MA 02210

EXAMINER	
ANWAH, OLISA	
ART UNIT	PAPER NUMBER
2655	

NOTIFICATION DATE	DELIVERY MODE
07/11/2013	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@ORTPATENT.COM

Applicant-Initiated Interview Summary	Application No.	Applicant(s)	
	13/559,194	PONIATOWSKI, PAUL	
	Examiner	Art Unit	
	OLISA ANWAH	2655	

All participants (applicant, applicant's representative, PTO personnel):

(1) *OLISA ANWAH*. (3)_____.

(2) *Faustino Lichauco*. (4)_____.

Date of Interview: *25 June 2013*.

Type: ☒ Telephonic ☐ Video Conference
☐ Personal [copy given to: ☐ applicant ☐ applicant's representative]

Exhibit shown or demonstration conducted: ☐ Yes ☐ No.
If Yes, brief description: _____.

Issues Discussed ☐101 ☐112 ☐102 ☒103 ☐Others
(For each of the checked box(es) above, please describe below the issue and detailed description of the discussion)

Claim(s) discussed: *1*.

Identification of prior art discussed: *Skowronek*.

Substance of Interview
(For each issue discussed, provide a detailed description and indicate if agreement was reached. Some topics may include: identification or clarification of a reference or a portion thereof, claim interpretation, proposed amendments, arguments of any applied references etc...)

The examiner explained that the PCT reference submitted on 4/15/2013 does not teach all the claimed limitations of claim 1. As a result, 10/19/2009 is the earliest priority date afforded to the pending claims.

Applicant recordation instructions: The formal written reply to the last Office action must include the substance of the interview. (See MPEP section 713.04). If a reply to the last Office action has already been filed, applicant is given a non-extendable period of the longer of one month or thirty days from this interview date, or the mailing date of this interview summary form, whichever is later, to file a statement of the substance of the interview

Examiner recordation instructions: Examiners must summarize the substance of any interview of record. A complete and proper recordation of the substance of an interview should include the items listed in MPEP 713.04 for complete and proper recordation including the identification of the general thrust of each argument or issue discussed, a general indication of any other pertinent matters discussed regarding patentability and the general results or outcome of the interview, to include an indication as to whether or not agreement was reached on the issues raised.

☐ Attachment

/Olisa Anwah/ Primary Examiner, Art Unit 2655	

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record
A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews
Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.
All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:
- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:
1) A brief description of the nature of any exhibit shown or any demonstration conducted,
2) an identification of the claims discussed,
3) an identification of the specific prior art discussed,
4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
5) a brief identification of the general thrust of the principal arguments presented to the examiner,
   (The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
6) a general indication of any other pertinent matters discussed, and
7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

CERTIFICATION OF MICRO ENTITY STATUS
(GROSS INCOME BASIS)

Application Number or Control Number (if applicable):	Patent Number (if applicable):
13559194	
First Named Inventor:	Title of Invention:
Paul Poniatowski	Mobile Payment System

The applicant hereby certifies the following—

(1) **SMALL ENTITY REQUIREMENT -** The applicant qualifies as a small entity as defined in 37 CFR 1.27.

(2) **APPLICATION FILING LIMIT -** Neither the applicant nor the inventor nor a joint inventor has been named as the inventor or a joint inventor on more than four previously filed U.S. patent applications, excluding provisional applications and international applications under the Patent Cooperation Treaty (PCT) for which the basic national fee under 37 CFR 1.492(a) was not paid, and also excluding patent applications for which the applicant has assigned all ownership rights or is obligated to assign all ownership rights as a result of the applicant's previous employment.

(3) **GROSS INCOME LIMIT ON APPLICANTS AND INVENTORS -** Neither the applicant nor the inventor nor a joint inventor, in the calendar year preceding the calendar year in which the applicable fee is being paid, had a gross income, as defined in section 61(a) of the Internal Revenue Code of 1986 (26 U.S.C. 61(a)), exceeding the "Maximum Qualifying Gross Income" reported on the USPTO website at http://www.uspto.gov/patents/law/micro_entity.jsp which is equal to three times the median household income for that preceding calendar year, as most recently reported by the Bureau of the Census.

(4) **GROSS INCOME LIMIT ON PARTIES WITH AN "OWNERSHIP INTEREST" -** Neither the applicant nor the inventor nor a joint inventor has assigned, granted, or conveyed, nor is under an obligation by contract or law to assign, grant, or convey, a license or other ownership interest in the application concerned to an entity that, in the calendar year preceding the calendar year in which the applicable fee is being paid, had a gross income, as defined in section 61(a) of the Internal Revenue Code of 1986, exceeding the "Maximum Qualifying Gross Income" reported on the USPTO website at http://www.uspto.gov/patents/law/micro_entity.jsp which is equal to three times the median household income for that preceding calendar year, as most recently reported by the Bureau of the Census.

SIGNATURE by a party set forth in 37 CFR 1.33(b)

Signature	/paul poniatowski/				
Name	Paul Poniatowski				
Date	Aug.19,2013	Telephone	(617) 500-2533	Registration No.	

☐ There is more than one inventor and I am one of the inventors who are jointly identified as the applicant. Additional certification form(s) signed by the other joint inventor(s) are included with this form.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Electronic Acknowledgement Receipt

EFS ID:	16618946
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Customer Number:	69713
Filer:	Paul Poniatowski
Filer Authorized By:	
Attorney Docket Number:	30071-002002
Receipt Date:	19-AUG-2013
Filing Date:	26-JUL-2012
Time Stamp:	09:31:29
Application Type:	Utility under 35 USC 111(a)

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Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Certification of Micro Entity (Gross Income Basis)	Micro.pdf	131444 873ac88a66d941b3b5905342167095ea13eef3d2	no	2

Warnings:	
Information:	

Total Files Size (in bytes):	131444

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Paul Poniatowski	Art Unit	: 2655
Serial No.	: 13/559,194	Examiner	: Olisa Anwah
Filed	: July 26, 2012	Conf. No.	: 1019
Title	: Mobile Payment System		

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT IN REPLY TO NON-FINAL ACTION OF June 6, 2013

In response to the non-final action of June 6, 2013, a response to which is due by September 6, 2013, please consider the following remarks and enter the following amendments.

An amendment to and a complete listings of claims begins at page 2 of this response ; and Remarks/Arguments at page 5 of this response.

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CLAIMS :

The following is an amendment to and a complete listings of claims that replaces all prior listings and versions of claims in this application :

1. (Original) An apparatus for engaging in wireless commercial transactions, said apparatus comprising a mobile phone equipped with a dedicated actuator for initiating a commercial transaction, and an optical input for receiving information concerning prices of goods, a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment, and a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone.

2. (Original) The apparatus of claim 1, mobile phone is configured to display information about goods scanned by said optical input on a display.

3. (Original) The apparatus of claim 1, wherein the mobile phone is configured to provide a sequence of displays to guide a user of said mobile phone through a commercial transaction that includes identification of goods to be purchased and payment associated with said purchase.

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4. (Original) The apparatus of claim 1, wherein the mobile phone is configured to generate a listing of items available for purchase.

5. (Original) The apparatus of claim 4, wherein the mobile phone is further configured to solicit a selection of a subset of items from said listing.

6. (Original) The apparatus of claim 1, wherein the mobile phone is configured to display information concerning an incomplete commercial transaction.

7. (Original) The apparatus of claim 1, wherein a communication between the mobile phone and the network hub is constrained to remain within the commercial establishment.

8. (Original) The apparatus of claim 1, wherein the dedicated actuator comprises a button labeled with a symbolic indication of a function thereof.

9. (Original) The apparatus of claim 8, wherein the button comprises a touch-sensitive region on a display of the mobile phone.

10. (Original) The apparatus of claim 1, wherein actuation of the dedicated actuator causes information identifying the commercial establishment to be displayed on the mobile phone.

11. (Original) The apparatus of claim 1, wherein the mobile phone is configured to, on the basis of data provided by the optical input, display a price of an item.

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12. (Original) The apparatus of claim 1, wherein the mobile phone is configured to receive a coupon applicable to a future transaction with the commercial establishment.

13. (Original) The apparatus of claim 1, wherein the mobile phone is configured to be remotely erased by the financial/authorization institution.

14. (Currently Amended) A method for engaging in a wireless commercial transaction, the method comprising at a mobile phone, receiving information concerning candidate items for a commercial transaction, selecting, on said phone, a set of selected items from the candidate items, establishing communication between said phone and a terminal associated with the commercial establishment, using the phone, communicating the set of selected items to the terminal, and using the phone, issuing an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone.

REMARKS/ARGUMENTS

INTERVIEW SUMMARY

Applicant appreciates the opportunity to discuss the §103 rejection based in part on *Skowronek*.

As best understood, the examiner regards the optical input and the hub as not being disclosed in Applicant's U.S. application 12/087,539. It was for this reason that the examiner cited *Skowronek*.

§103 REJECTION BASED ON SKOWRONEK

Claim 1 recites four limitations. For each limitation, the examiner has identified one reference that discloses that limitation. Based on this, the examiner has cobbled together these four references into a chimera that allegedly renders the claim obvious.

It will always be possible to find each limitation by itself in at least one reference. After all, every invention will necessarily be a combination of known elements. As Judge Markey, the former Chief Justice of the Federal Circuit once said,

> "This case typifies an observation by the late Chief Judge Markey, our first Chief Judge, that "[o]nly God works from nothing. Men must work with old elements." (quotation, citations omitted)."

Of course, there are times when a combination of references is indeed obvious.

In such cases, a reason for making the combination would suggest itself, perhaps based on the teaching of the references themselves, or from common sense available to one in the art. However, in all too many cases, it is possible, and indeed tempting, to rely on the claimed invention itself as a template with which to assemble the parts of the claimed invention. The Courts are aware of how easy it is to fall prey to such hindsight reconstruction. As the Federal Circuit stated in *Fritch*:

> "It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." *In re Fritch*, 23 U.S.P.Q. 2d 1780, 1784 (Fed. Cir. 1992).

The Supreme Court likewise warned that

> [a] factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning. See *Graham*, 383 U.S., at 36 (warning against a "temptation to read into the prior art the teachings of the invention in issue" and instructing courts to "'guard against slipping into the use of hindsight'"(quoting *Monroe Auto Equipment Co. v. Heckethorn Mfg. & Supply Co.*, 332 F. 2d 406, 412 [141 USPQ 549] (CA6 1964))).

In the present case, with a claim requiring as many references as there are claim limitations, serious consideration should be given to the possibility that the

examiner has succumbed to the dangers of improper hindsight reasoning using only Applicant's disclosure and claim as a template to guide the process of cobbling together the claimed invention.

With this in mind, we now turn to a critical analysis of the combination and how it was made.

The primary reference, *Skowronek*, teaches what amounts to a replacement for a credit card.

In the early days of shopping, the shopper would wander around the store collecting items and bring them to a check out line.

He would then ngconsummate the transaction by swiping his credit card through a reader.

At some point, RFID technology arose, and certain credit cards were equipped with RFID chips that could be interrogated by readers. This allowed the card to be brought near the reader. The card would transmit sensitive information to the reader, which would then relay it to a computer to consummate the transaction.

A problem that arose with these RFID chips was that, short of wrapping the card in tin foil, there was really no way to turn them off. If the RFID chip was interrogated, it would respond. This raised the possibility of something that would have truly pleased the Artful Dodger: wireless pickpocketing.

Armed with a battery powered RFID reader, it was a simple matter to get on a crowded subway and discreetly scan other people's pockets to interrogate credit cards that had RFID chips.

This is where *Skowronek*'s invention comes into play. *Skowronek* recognized this problem and realized that an on-off switch would solve it. But one cannot easily turn a credit card on and off. He then realized that what matters is the information stored on the card. He realized that what he needed was something that stored data, that was as mobile as a credit card, and that could be turned on and off. These are all properties of a mobile phone.

Skowronek devised what he called a "pay" button, the function of which was to turn a near-field transceiver on or off.

Pressing the "pay" button once turned this feature on. Only then could a database of credit card information, i.e. the "electronic wallet," be interrogated. This simple feature mimicked the ability of RFID based credit cards but without the disadvantage of vulnerability to wireless pickpockets.

Skowronek did not include an optical input. Why should he? The whole point of his device was to act like an RFID credit card. Since an RFID credit card does not have an optical input, it would have made no sense to include one.

The examiner, however, has made up a problem that does not exist. The examiner speculates that using Skowronek's device to make merchandise selection was too slow.
The examiner then proposes a solution: an optical input. This optical input would somehow allow a purchaser "to instantly make product selections."

This is a glaring example of hindsight reasoning. *Skowronek*'s device was not intended to make product selections. It was intended to thwart wireless pickpockets. An optical input would not make it better at thwarting wireless pickpockets. Instead, it would make it bulkier, and cause it to consume more power, all with no discernible advantage whatsoever.

Skowronek contemplated a shopper who walks around a store instantly making product selections the old-fashioned way: by grabbing items of a shelf and dropping them in his shopping cart. When the shopper feels he has spent enough money, he heads for the check out aisle. By this time, the commercial transaction has long since been initiated. Indeed, it is drawing near its completion. The shopper then takes out his *Skowronek* device and turns on the near field transceiver by pressing the PAY button. He then brings his device close to the interrogator, which proceeds to suck data from the electronic wallet, and to use it to complete the commercial transaction.
There is no place for an optical scanner to fit into this procedure.

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There is, however, one good reason to graft an optical input into the *Skowronek*'s device: as a pretext for an obviousness rejection.

A proposed reason for modifying a primary reference must pass the test set forth by the Supreme Court in KSR.

"[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness"

The proffered reason for modifying *Skowronek* is not based on "articulated reasoning with some rational underpinning." *Skowronek* does not raise the idea that product selection requires acceleration.

The examiner has not even identified a good technical reason for why rapid product selection would be desirable, at least from a store's point of view. As best understood, stores are laid out to slow consumers down. This allows in-store advertising to work its legendary magic: to cause consumers to buy more things. Thus, the conventional wisdom is that the stores, the advertisers, and indeed the entire market economy is intended to slow down product selection, not to accelerate it.

Moreover, *Skowronek's* PAY button does not even initiate a commercial transaction as the claim requires.

Skowronek's PAY button is actually used to turn the near field transceiver on and off. It is, for all intents and

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purposes, the functional equivalent of taking cash out of your wallet. It is not used to initiate a commercial transaction, but to consummate it.

That the PAY button terminates a transaction is apparent from ¶16, which states "[t]he user can select the payment user interface device **104** *to complete a transaction* using an NFC component."

Obviously *completing* a transaction is not the same as *initiating* a transaction. In fact, it is about as different as one can get. The claim requires "initiating" not "completing" a commercial transaction.

The reference says that the PAY button *completes* the transaction, not that it *initiates* it.

Therefore the cited art does not teach or suggest a "dedicated actuator for *initiating* (as opposed to *completing*) a commercial transaction."

The examiner then proposes to further modify the combination to include Pratt's network hub. The reason advanced is that doing so "would have improved the system's efficiency by allowing for faster networking."

If one were given half a minute to think of a reason to provide a network hub to an arbitrary device, one might come up with a generic reason like this. The reason is devoid of any serious consideration of what the primary reference's device actually does.

The purpose of the *Skowronek* device is to ensure data security. To achieve this, *Skowronek* teaches limiting the opportunity to access data in the electronic wallet by having a "PAY" button. The "PAY" button is used to temporarily activate a near field transceiver so that the *Skowronek* device can provide data to an interrogating device that is on the order of inches away.

The last thing one would want to do is to network the *Skowronek* device. It is well known, after all, that once a device is on a network, it becomes vastly more vulnerable to hacking.

Rather than having faster networking, as the examiner suggests, one of ordinary skill in the art would have wanted no networking at all.

It is easy to glibly say that one would like "faster networking" because it sounds desirable. Indeed, it sounds almost like marketing copy. However, if one stops to actually consider the technical problems faced by *Skowronek*, it would be obvious that faster networking would not be a good thing at all.

According to MPEP 2143.01(V),

> If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. In re Gordon, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

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The examiner's proposal to modify the primary reference by including Pratt's network hub would render Skowronek's device unsuited for its intended purpose.

The purpose of Skowronek's device is to ensure secure data transmission between two points separated by a matter of inches. Including networking capabilities would vastly increase the number of devices that could potentially listen in on this secure transmission, thus compromising its security. Accordingly, one of ordinary skill in the art would have regarded the idea of including a network hub as being a very bad idea.

The examiner goes on to say that adding this network hub from Pratt "would have improved the system's efficiency." The examiner does not explain how one measures the system's efficiency or how this network hub is actually supposed to improve it. The statement is mere hand waving, without any thoughtful analysis to back it up. It is exactly the sort of "mere conclusory statement" of the type forbidden by the Supreme Court in *KSR*.

The purpose of Skorownek's device is to communicate information quickly, reliably, and securely, to an interrogating device located inches away. There is simply no way that a network hub such as Pratt's would assist in this communication.

In seeking patentability, Applicant is charged with proving a negative. In principle, this is impossible.

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A pertinent reference may be around the corner. In principle, the Patent Office could keep citing more and more references, launching an endless war of attrition in an attempt to deny Applicant his right to a patent.

But the examination process cannot be endless. The Patent Office has had ample opportunity to identify art pertinent to the invention. Already, there have been four office actions in this case. It is time to recognize that the Office has done the best job it possibly can and issue a notice of allowance for all pending claims.

In addition, the network hub is disclosed in figure 1 of PCT/CA2004/000513. As is apparent, network hub 20 connects ultimately to phones 260 via a telephone interface 50. This may not be readily apparent because the network hub 20 is on sheet 1 and the telephone interface is on sheet 2. However, it is clear when looking at figure 1 as a whole that both lines in sheet 1 ultimately lead to telephone interfaces on sheet 2.

The remaining limitations are described on page 10 of the PCT application.

The PCT application discloses new subject matter : shopping over the telephone for merchandise when sight/vision input is used to enter coded value information into a phone via keypad for further procesing, a network hub, a PAY button on a phones handset providing payment options,and institution for associating a PIN number with said mobile phone.

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It is well established that actual reduction to practice is not a necessary requirement for an invention so long as the specification enables one of ordinary skill in the art to make and use the invention without undue experimentation. 35 U.S.C. § 112

Applicant submits that the optical input of claim 1 would have been a variation or adaptation that would have been obvious to one of ordinary skill in the art given the disclosure of Applicant's PCT application and the known prior art related to the shopping methods and systems.

Devices such a lens, camera, scanner, photo copier, were developed in corse of time to resemble/duplicate functions of sight/eye , and chiefly, to make communications and commercial activities swift.

Scanners can provide rapid data entry to multiple devices in various ecosystems, delivering different results e.g.: shipping, stock inventory, access control, ticketing, manufacturing .

The very basic principal of shopping is to obtain a desired item from a vendor, in exchange for monetary compensation. It is based on a persons brain - sight/visual input exchange.

In old days, a person would verbally instruct the clerk behind the counter, what she/he chooses.

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Frequently upon closer inspection of goods, the consumer will change his/her mind, and asks for another style,type or entirely different item. The shopping process was slow, as the number of customers who could be attended to at one time was limited by the number of staff employed in the store.These practices were by nature very labor-intensive and therefore also quite expensive.

As time and civilization progressed, hundreds of new products were introduced and the volume of customers increased significantly. There was a need for new, better and faster shopping method. In 1917 - Clarence Saunders receives U.S. Patent 1,242,872 for a "self-serving store".

In order to accommodate and maintain the increasing volume of customers, transactions, stock /inventory and logistics, a new technologies and equipment were required .

At the time the invention was conceived, optical scanners provided transaction information to cash registers for over four decades.

They replaced lengthy visual/keypad data entry by cashier and provided a time saving convenience to the customer.

The barcode system was developed in 1948-9 by Bernard Silver, a graduate student at Drexel Institute of Technology in Philadelphia, Pennsylvania, US , who overheard the president of the local food chain, Food Fair, asking one of

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the deans to research a system to automatically read product information during checkout.Silver told his friend Norman Joseph Woodland about the request, and they started working on a variety of systems.On 7 October 1952 they have received patent rights for their work, known as US Patent 2,612,994.

In 1966 the National Association of Food Chains (NAFC) held a meeting where they discussed the idea of automated checkout systems. RCA had purchased rights to the original Woodland patent, attended the meeting and initiated an internal project to develop a system based on the bullseye code. In mid-1970s, the NAFC established the U.S. Supermarket Ad Hoc Committee on a Uniform Grocery Product Code, which set guidelines for barcode development and created a symbol selection subcommittee to help standardize the approach.

In cooperation with consulting firm McKinsey & Co., they developed a standardized 11-digit code to identify any product. The committee then sent out a contract tender to develop a barcode system to print and read the code. The request went to Singer, National Cash Register (NCR), Litton Industries, RCA, Pitney-Bowes, IBM and many others.
It was the NCR, that installed a testbed system at Marsh's Supermarket in Troy, Ohio, near the factory that was producing the equipment. On 26 June 1974, Clyde Dawson pulled a 10-pack of Wrigley's Juicy Fruit gum out of his basket and it was scanned by Sharon Buchanan at 8:01 am.

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The pack of gum and the receipt are now on display in the Smithsonian Institution.

The use of an optical device like scanner,instead of a visually/manually inputting data via keypad, as recited in the limitation “an optical input for receiving information concerning prices of goods,” would thus have been an obvious variant or adaptation of what is disclosed in the PCT application and available prior art, because sight/vision input is primary genus to video feed/display or optical inputs. Ultimately, all constructed visual or optical devices, resemble, duplicate or assist the functions or properties related to human eye/sight/vision.

After all , what does the cashier do when unable to scan an item ? Enters the code manually.

It is then believed, that the description in PCT/ CA2004/000513 application,has sufficient evidence to support a determination that a disclosure does satisfy genus and enablement, without any undue experimentation required. As per MPEP § 2163 and 2164.

To the extent the Office objects to the fact, that the optical input recited in the claim is not expressly disclosed, Applicant draws attention to the following :

The case of In re Smythe presented the C.C.P.A. a situation where a new claim was alleged to be broader than the subject matter disclosed in the specification.
The court stated that an applicant who described in his or her specification the use and function of a 1-pound lead weight as a scale counterbalance would immediately convey to

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any person skilled in the art the knowledge that the applicant invented a scale with a 1-pound counterbalance weight, regardless of its composition.75 The court held that it is not necessary that the application describe the claim limitations exactly, but only so clearly that persons of ordinary skill in the art to which the invention pertains would recognize from the disclosure that the applicant's invention included those limitations.

and :

The scope of the required enablement varies inversely with the degree of predictability involved, but even in unpredictable arts, a disclosure of every operable species is not required. A single embodiment may provide broad enablement in cases involving predictable factors, such as mechanical or electrical elements. In reVickers, 141 F.2d 522, 526-27, 61 USPQ 122, 127 (CCPA 1944); In reCook, 439 F. 2d 730, 734, 169 USPQ 298, 301 (CCPA 1971).

and :

What is conventional or well known to one of ordinary skill in the art need not be disclosed in detail. See In re Buchner, 929 F.2d 660, 661, 18 USPQ2d 1331, 1332 (Fed. Cir. 1991). See also Capon v. Eshhar, 418 F.3d 1349, 1357, 76 USPQ2d 1078, 1085 (Fed. Cir. 2005)
("The 'written description' requirement must be applied in the context of the particular invention and the state of the knowledge…. As each field evolves, the balance also evolves between what is known and what is added by each inventive contribution.").

and :

If a skilled artisan would have understood the inventor to be in possession of the claimed invention at the time of filing, even if every nuance of the claims is not explicitly described in the specification, then the adequate description requirement is met. See, e.g., Vas-Cath, 935 F.2d at 1563, 19 USPQ2d at 1116; Martin v. Johnson, 454 F.2d 746, 751, 172 USPQ 391, 395 (CCPA 1972)

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In view of the foregoing, Applicant requests that the examiner disqualify Skowronek , and promptly issue a notice of allowance for all pending claims.

Conclusion

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed.Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. No fees are believed to be due in connection with the filing of this response.

Respectfully submitted,

Aug 23 , 20013

Date: _____

/paul poniatowski/

_____

Paul Poniatowski

IPR2024-00731
APPLE EX1009 Page 193

Customer No. 69713

Occhiuti Rohlicek & Tsao LLP

321 Summer St., Boston, MA 02210

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Facsimile: (617) 500-2499

IPR2024-00731
APPLE EX1009 Page 194

Electronic Acknowledgement Receipt

EFS ID:	16666297
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Customer Number:	69713
Filer:	Paul Poniatowski
Filer Authorized By:	
Attorney Docket Number:	30071-002002
Receipt Date:	23-AUG-2013
Filing Date:	26-JUL-2012
Time Stamp:	06:14:40
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		Amendment_in_Reply_to_OA_Filed_23_Aug_2013.pdf	148428 7699aa58ea4f3886a4670309618fbd94cf5c72a3	yes	21

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment/Req. Reconsideration-After Non-Final Reject	1	1
	Claims	2	4
	Applicant Arguments/Remarks Made in an Amendment	5	21
Warnings:			
Information:			
	Total Files Size (in bytes):	148428	

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 13/559,194	Filing Date 07/26/2012	☐ To be Mailed

ENTITY: ☐ LARGE ☐ SMALL ☒ MICRO

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	RATE ($)	FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =	
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $310 ($155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).			
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))				
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL	

APPLICATION AS AMENDED – PART II

AMENDMENT	08/23/2013	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 14	Minus	** 20	= 0	X $20 =	0
	Independent (37 CFR 1.16(h))	* 2	Minus	***3	= 0	X $105 =	0
	☐ Application Size Fee (37 CFR 1.16(s))						
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
						TOTAL ADD'L FEE	0

AMENDMENT		(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =	
	☐ Application Size Fee (37 CFR 1.16(s))						
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
						TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

LIE
/ADRIENE SELLMAN/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Paul Poniatowski	Art Unit	: 2655
Serial No.	: 13/559,194	Examiner	: Olisa Anwah
Filed	: July 26, 2012	Conf. No.	: 1019
Title	: Mobile Payment System		

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT IN REPLY TO NON-FINAL ACTION OF June 6, 2013

In response to the non-final action of June 6, 2013, a response to which is due by September 6, 2013, please consider the following remarks and enter the following amendments.

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REMARKS : §103(a) REJECTION OF CLAIM 14

Claim 14 stands rejected based on the Shelton , US Patent no. 5,345,501.

The Examiner suggests that Shelton discloses a method for mobile phone to engage in a commercial transaction .

This is incorrect . In fact what Shelton is describing is a method for forwarding request/information on customer orders through a telephone and a telephone network to a central office switch with an adjunct computer ,and said computer, does the communications/processing.(as per ABSTRACT/DISCLOSURE sections)

This is inconsistent with proposed claim 14, wherein the phone receives information concerning candidate items for a commercial transaction and the said phone selects and communicate those items to the terminal .

The Examiner also suggests that - " The credit card number is relayed to the credit card validation centre directly from the phone."

This is also incorrect . From the DISCLOSURE column 2 lines 25-33 and 44-48 :

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A central office switch is controlled by a dedicated central office computer and a voice message system platform (VMS) .The VMS platform preferably includes two separate memory regions. The first region of memory stores preprogrammed messages to be sent to customers. The second stores customer identification and inventory information downloaded from vendor sites. The computer is then further in communication with a credit card validation center. The public data network (PDN) or data links may be used to communicate with the credit card validation center.

This is inconsistent with proposed claim 14 , wherein the instruction requesting payment authorization is sent directly from the phone.

The Applicant would like to point out that :

when determining whether a claim is obvious, an examiner must make "a searching comparison of the claimed invention – including all its limitations – with the teaching of the prior art." In re Ochiai, 71 F.3d 1565, 1572 (Fed. Cir. 1995) . Thus, "obviousness requires a suggestion of all limitations in a claim." CFMT, Inc. v. Yieldup Intern. Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003) (citing In re Royka, 490 F.2d 981, 985 (CCPA 1974)).

It is then believed, that the claim is in condition for allowance .

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APPLE EX1009 Page 200

Conclusion

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed.Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper,and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. No fees are believed to be due in connection with the filing of this response.

Respectfully submitted,

Aug 29 , 20013

Date: _____

/PaulPoniatowski/

_____

Paul Poniatowski

IPR2024-00731
APPLE EX1009 Page 201

Electronic Acknowledgement Receipt

EFS ID:	16726551
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Customer Number:	69713
Filer:	Paul Poniatowski
Filer Authorized By:	
Attorney Docket Number:	30071-002002
Receipt Date:	29-AUG-2013
Filing Date:	26-JUL-2012
Time Stamp:	18:08:59
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		Amendment_in_Reply_to_OA_Filed_29_Aug_2013.pdf	114505 a2fc3ce02ff840163b777b56e879dc467e32074f	yes	4

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment/Req. Reconsideration-After Non-Final Reject	1	1
	Applicant Arguments/Remarks Made in an Amendment	2	4
Warnings:			
Information:			
	Total Files Size (in bytes):	114505	

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

69713 7590 09/06/2013

OCCHIUTI ROHLICEK & TSAO, LLP
321 Summer St.
Boston, MA 02210

EXAMINER	
ANWAH, OLISA	

ART UNIT	PAPER NUMBER
2655	

NOTIFICATION DATE	DELIVERY MODE
09/06/2013	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@ORTPATENT.COM

Examiner-Initiated Interview Summary	Application No.	Applicant(s)	
	13/559,194	PONIATOWSKI, PAUL	
	Examiner	Art Unit	
	OLISA ANWAH	2655	

All participants (applicant, applicant's representative, PTO personnel):

(1) *OLISA ANWAH*. (3)_____.

(2) *Faustino Lichauco*. (4)_____.

Date of Interview: *28 August 2013*.

Type: ☒ Telephonic ☐ Video Conference
☐ Personal [copy given to: ☐ applicant ☐ applicant's representative]

Exhibit shown or demonstration conducted: ☐ Yes ☐ No.
If Yes, brief description: _____.

Issues Discussed ☐101 ☐112 ☐102 ☐103 ☐Others
(For each of the checked box(es) above, please describe below the issue and detailed description of the discussion)

Claim(s) discussed: *14*.

Identification of prior art discussed: _____.

Substance of Interview
(For each issue discussed, provide a detailed description and indicate if agreement was reached. Some topics may include: identification or clarification of a reference or a portion thereof, claim interpretation, proposed amendments, arguments of any applied references etc...)

With respect to the amendment filed on 8/23/2013, the examiner informed Applicant that claim 14 was cancelled in the amendment filed on 5/29/2013.

Applicant recordation instructions: It is not necessary for applicant to provide a separate record of the substance of interview.

Examiner recordation instructions: Examiners must summarize the substance of any interview of record. A complete and proper recordation of the substance of an interview should include the items listed in MPEP 713.04 for complete and proper recordation including the identification of the general thrust of each argument or issue discussed, a general indication of any other pertinent matters discussed regarding patentability and the general results or outcome of the interview, to include an indication as to whether or not agreement was reached on the issues raised.

☐ Attachment

/Olisa Anwah/ Primary Examiner, Art Unit 2655	

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

69713 7590 09/09/2013

OCCHIUTI ROHLICEK & TSAO, LLP
321 Summer St.
Boston, MA 02210

EXAMINER	
ANWAH, OLISA	
ART UNIT	PAPER NUMBER
2655	

NOTIFICATION DATE	DELIVERY MODE
09/09/2013	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@ORTPATENT.COM

Office Action Summary	Application No. 13/559,194	Applicant(s) PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	AIA (First Inventor to File) Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *8/23/2013*.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

5)☒ Claim(s) *1-14* is/are pending in the application.

5a) Of the above claim(s) *14* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1-9 and 11-13* is/are rejected.

8)☒ Claim(s) *10* is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a)☐ All b)☐ Some * c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

IPR2024-00731
APPLE EX1009 Page 207

DETAILED ACTION

1. As a preliminary matter, claim 14 remains canceled because it was canceled in the amendment filed on May 29, 2013.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-6, 8, 9, 11 and 12 are rejected under 35 U.S.C § 103(a) as being unpatentable over Herwig et al, U.S. Patent Application Publication No. 2010/0161434 (hereinafter Herwig) combined with Barnes et al, U.S. Patent No. 2008/0305827 (hereinafter Barnes) and Skowronek et al, U.S. Patent Application Publication No. 2010/0023449 (hereinafter Skowronek) in further view of Medamana et al, U.S. Patent No. 5,181,238 (hereinafter Medamana).

Regarding claim 1, Herwig discloses an apparatus for engaging in wireless commercial transactions, said apparatus

comprising a mobile phone (see Figure 2) equipped with an actuator (see unit 110 from Figure 2) for initiating a commercial transaction (from paragraph 0089, see The consumer activates the mobile telephones NFC module 122, typically via the keypad 110), and an input (from paragraph 0089, see Upon finding an item 150 that they wish to purchase the user places the mobile telephone 102 close, typically within 5-15 cm, to the NFC tag 106) for receiving information concerning prices of goods (from paragraph 0090, see The product signal is received by the antenna 124 of the mobile telephone's NFC module 122), a network (from Figure 1, see unit 109) hub (from paragraph 0076, see Typically, the wireless transceiver 116 is a 802.11 Wifi) for wireless exchange of information between a commercial establishment (from paragraph 0087, see retailer) and said mobile phone within the boundaries of the establishment.

Further regarding claim 1, Herwig fails to teach that the input is optical. All the same, Barnes discloses that the input is optical (from paragraph 0009, see The scanner 106 is preferably a universal product code (UPC) barcode label reader, a radio frequency identification (RFID) reader, or a built-in camera of the mobile communication device). As a result, it would have been obvious to one of ordinary skill in the art at

the time the invention was made to modify Herwig wherein the input is optical as taught by Barnes. This modification would have improved the system's flexibility by providing different kinds of inputs.

Again on the issue of claim 1, the combination of Herwig and Barnes fails to teach that the actuator is dedicated. All the same, Skowronek teaches that the actuator is dedicated (see unit 104 from Figure 1). And so, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Herwig and Barnes wherein the actuator is dedicated as taught by Skowronek. This modification would have improved the system's convenience by allowing the consumer to activate the program faster.

Further regarding claim 1, the combination of Herwig, Barnes and Skowronek fails to teach a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone. Nonetheless, Medamana discloses a financial/authorization institution for associating a PIN number (from column 4, see Enter PIN) with said phone (from column 4, see the ANI number) and for authorizing (from abstract, see authorized to access)

transactions (see transactions from column 2) initiated by said phone. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Herwig, Barnes and Skowronek with a financial/authorization institution for associating a PIN number with said phone and for authorizing transactions initiated by said phone as taught by Medamana. This modification would have improved the system's reliability by providing security.

Regarding claim 2, Herwig discloses the mobile phone is configured to display (from paragraph 0090, see the customer receives a prompt on the screen 112 of the mobile phone 102 to confirm that they wish to purchase the item 150. The prompt may contain pricing information about the item) information about goods inputted[1] by said input on a display.

Regarding claim 3, Herwig discloses the mobile phone is configured to provide a sequence of displays to guide the user of said mobile phone through a commercial transaction that includes identification of goods to be purchased and payment associated with said purchase (from paragraph 0090, see the customer receives a prompt on the screen 112 of the mobile phone

[1] Per the rejection of claim 1, Barnes discloses the goods are scanned by an optical input.

102 to confirm that they wish to purchase the item 150. The prompt may contain pricing information about the item).

Regarding claim 4, Herwig discloses the mobile phone is configured to generate a listing of items available for purchase (from paragraph 0088, see downloading a pre-produced list from a PC).

Regarding claim 5, Herwig discloses the mobile phone is configured to generate a listing of items available for purchase (from paragraph 0088, see selecting items from a menu on the mobile telephone).

Regarding claim 6, Herwig discloses the mobile phone is configured to display information concerning an incomplete commercial transaction (from paragraph 0090, see the customer receives a prompt on the screen 112 of the mobile phone 102 to confirm that they wish to purchase the item 150. The prompt may contain pricing information about the item).

Regarding claim 8, Herwig as modified by Barnes and Skowronek discloses that the dedicated actuator comprise a

button (from Figure 1 of Skowronek, see Pay) labeled with a symbolic indication of a function thereof.

Regarding claim 9, Herwig as modified by Barnes and Skowronek discloses the button comprises a touch-sensitive region (from paragraph 0030 of Skowronek, see an icon on a touch screen) on a display of the mobile phone.

Regarding claim 11, Herwig discloses that the mobile phone is configured to, on the basis of data provided by the input[2], display a price of an item (from paragraph, see the customer receives a prompt on the screen 112 of the mobile phone 102 to confirm that they wish to purchase the item 150. The prompt may contain pricing information about the item).

Regarding claim 12, Herwig discloses, the mobile phone is configured to receive a coupon applicable to a future transaction with the commercial establishment (from paragraph 0098, see electronic discount coupons for a particular brand provided in the retail outlet).

[2] Per the rejection of claim 1, Barnes discloses the goods are scanned by an optical input.

4. Claim 7 is rejected under 35 U.S.C § 103(a) as being unpatentable over Herwig, Barnes, Skowronek and Medamana in further view of Johar et al, U.S. Patent Application Publication No. 2009/0168695 (hereinafter Johar).

Regarding claim 7, the combination of Herwig, Barnes, Skowronek and Medamana does not explicitly teach that a communication between the mobile phone and the network hub is constrained to remain with the commercial establishment. All the same, Johar discloses that the communication between the mobile phone and the network hub is constrained to remain within the establishment (from abstract, see limiting access to the wireless network to devices located within the boundary area). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Herwig, Barnes, Skowronek and Medamana wherein a communication between the mobile phone and the network hub is constrained to remain within the establishment as taught Johar. This modification would have improved the system's security by preventing unauthorized users from clandestinely connecting to the wireless network.

5. Claim 13 is rejected under 35 U.S.C § 103(a) as being unpatentable over Herwig combined with Barnes, Skowronek and

Medamana in further view of Welingkar et al, U.S. Patent No. 8,135,798 (hereinafter Welingkar).

Regarding claim 13, the combination of Herwig, Barnes, Skowronek and Medamana does not clearly teach that the mobile phone is configured to be remotely erased by the financial/authorization institution. All the same, Welingkar discloses that the mobile phone is configured to be remotely erased by the authorization institution (from Figure 10, see erase user data). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Herwig, Barnes, Skowronek and Medamana wherein the mobile phone is configured to be remotely erased by the authorization institution as taught by Welingkar. This modification would have improved the system reliability by allowing access to be restricted when the user is not in possession or direct control of the client device.

Response to Arguments

6. Applicant's arguments have been considered but are deemed to be moot in view of the new grounds of rejection.

Allowable Subject Matter

7. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olisa Anwah whose telephone number is 571-272-7533. The examiner can normally be reached on Monday to Friday from 8.30 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Davetta Goins can be reached on 571-272-2957. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 571-273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

Olisa Anwah
Patent Examiner
September 4, 2013

/Olisa Anwah/

Primary Examiner, Art Unit 2655

Notice of References Cited	Application/Control No. 13/559,194	Applicant(s)/Patent Under Reexamination PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2010/0161434	06-2010	Herwig et al.	705/20
*	B	US-2008/0305827	12-2008	Barnes et al.	455/556.1
*	C	US-2010/0023449	01-2010	Skowronek et al.	705/39
*	D	US-5,181,238	01-1993	Medamana et al.	379/93.03
*	E	US-2009/0168695	07-2009	Johar et al.	370/328
*	F	US-8,135,798	03-2012	Welingkar et al.	709/217
*	G	US-2010/0151901	06-2010	Roden et al.	455/556.1
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Search Notes

Application/Control No.	Applicant(s)/Patent under Reexamination
13/559,194	PONIATOWSKI, PAUL
Examiner	**Art Unit**
OLISA ANWAH	2655

SEARCHED			
Class	Subclass	Date	Examiner
379	93.12	8/30/2013	OA
	93.17		
	93.22		
	91.01		
	201.01		
	201.02		
455	419		
235	462.45		
	472.01		
	472.02		
	262.46		

INTERFERENCE SEARCHED			
Class	Subclass	Date	Examiner

SEARCH NOTES (INCLUDING SEARCH STRATEGY)		
	DATE	EXMR

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Paul Poniatowski	Art Unit	: 2655
Serial No.	: 13/559,194	Examiner	: Olisa Anwah
Filed	: July 26, 2012	Conf. No.	: 1019
Title	: Mobile Payment System		

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT IN REPLY TO NON-FINAL ACTION OF September 9, 2013

In response to the non-final action of September 9, 2013, a response to which is due by December 9, 2013, please consider the following remarks and enter the following amendments.

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APPLE EX1009 Page 220

REMARKS AND ARGUMENTS

As a initial matter, Claim 14 was amended on August 29, 20013 , with electronic entry made via PAIR portal.

§103(a) REJECTION OF CLAIMS 1-6,7, 8, 9, 11 ,12 AND 13

CLAIM 1

Claim 1 stands rejected over Herwig, combined with Barnes, Skowronek and Medamana.

As an initial matter, Herwig is not properly prior art because this application has a priority date that pre-dates the filing dates of said reference. Applicant draws attention to **PCT/CA2004/000513** and its disclosure.

Non the less , to entertain examiners findings , the applicants responds with the following selected remarks :

Examiner alleges that Herwig is relevant .

It is not. Mobile phone network operates in completely different spectrum/frequency than NFC systems.

Herwig's Claim 1 states :

1. A self-checkout system comprising:

at least one NFC tag; and

a near field communication **enabled** mobile device;

...the mobile device comprising an NFC ***communication module*** *and a* ***mobile processor****; wherein [...]*

It is then clearly understood, that the phone must be NFC enabled, prior to any other activity , and that additional hardware is needed ,as per detailed description [**0075**]:

The mobile telephone **102** *comprises a keypad* ***110****, a screen* ***112****, a speaker* ***114****, a wireless transceiver* ***116****, a cellular transceiver* ***118****, a processor* ***120*** *and an NFC module* ***122****.*

This is inconsistent with proposed invention , where Claim 1 recites a mobile phone,dedicated actuator ,optical input, a network hub, and a financial/authorization institution.

There is no need or purpose for phone to be NFC enabled , NFC module, mobile processor or any transceivers to be present within embodiment of the mobile phone in order to engage in wireless transaction .

Further ,item **110** Fig.**2** is listed as a keypad , not actuator as incorrectly alleged by examiner.

A keypad as shown in Fig.**2** contains several keys representing different numeric /alphabetical values , a standard feature in all mobile phones.

A keypad role is to type an item description, as supported in [**0088**] line **5** : *entering item descriptions into the mobile telephone **102** via the keypad **110**.*

or perhaps to type/enter "activate NFC" command.

There is no disclosure supporting (dedicated) actuator , because single actuator, would have no capability to perform rather complex task of data/ description entries related to various products.

Further , examiner alleges that a mobile phone receives information concerning prices of product as described in [**0089**]. This is incorrect because :

*The NFC module **122** receives an **interrogation signal** generated at the processor **120** (installed as a additional hardware on the phone). The interrogation signal is output via the antenna **124**. [for further processing] [**0085**] line **5***

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An interrogation signal does not carry any actual information about the product as examiner alleges. It only carries an request to further channel command or extract information about the item/product, from another device - in this case it is processor **134**. Support for that can be found in [**0090**].

This is inconsistent with presented invention , where is the mobile phone directly receives information about the product .

Additionally , examiner alleges that a network hub for wireless information exchange between a mobile phone and a commercial establishment is disclosed in Fig.**1** unit **109**. That is incorrect .

Firstly, the phone **102**, must be NFC enabled as pointed out earlier, and be equipped with NFC module **122** , processor **120** and wireless transceiver **116**.

And, upon the activation of NFC module **122** ,the wireless transceivers **116**(phone 102)and **148**(server109) gain a complementary operating protocol.[**0085**]
It should be noted that a cellular transceiver **118** is not present in embodiment of retail server **109**, and that cellular transceivers and wireless transceivers operate in different manner and frequencies, therefore wireless transceiver is unable to operate in cellular spectrum.[**0085**]

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And further, ...*the respective* <u>*wireless transceivers*</u> *of the mobile telephone 102 and the retail server 109 establish a wireless connection data there between, typically using the Link Manager Protocol (LMP)* [**0096**]line **17** .
The LMP does not have characteristics of a network hub.

In addition ,the applicant is unable to find any disclosure of wireless exchange of information between commercial establishment and a mobile phone as alleged by examiner in [**0087**]:

In use, a retailer places an item 150 on a shelf 152, the item has the NFC tag 106 associated with it. The processor 134 has details of the item 150 stored upon it. Examples the price, details of the manufacturer, a store code, a description of the item 150.

It is then clearly shown that Herwig does not disclose the limitation of a phone engaging in wireless commercial transaction, or a dedicated actuator , or a network hub for a information exchange between said phone and an establishment and that above-all, Herwig's phone (as described in his Claim 1) must be NFC enabled , before any other activity or functions can be initiated or implemented .

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All claims dependent on Claim 1 are patentable for at least the same reasons as Claim 1, and that all Claims, 1-14 are now in condition for allowance .

An ernest effort has been made to place this application in condition for allowance , which action is respectfully solicited .

In the event the examiner has any questions with respect to allowability of the application , the undersigned hereby respectfully request a phone call , before any action is taken that may be considered as final.

Conclusion

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed.

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Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper,and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. No fees are believed to be due in connection with the filing of this response.

Respectfully submitted,

Sep 13, 2013

Date: _____

/paul poniatowski/

_____

Paul Poniatowski

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APPLE EX1009 Page 227

Electronic Acknowledgement Receipt

EFS ID:	16850235
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Customer Number:	69713
Filer:	Paul Poniatowski
Filer Authorized By:	
Attorney Docket Number:	30071-002002
Receipt Date:	13-SEP-2013
Filing Date:	26-JUL-2012
Time Stamp:	15:25:40
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		Amendment_in_Reply_to_OA_Filed_13_Sep_2013.pdf	142139 57f9e8aedb2d80cf444c1634f8ee0bf5527099da	yes	8

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment/Req. Reconsideration-After Non-Final Reject	1	1
	Applicant Arguments/Remarks Made in an Amendment	2	8

Warnings:	
Information:	
Total Files Size (in bytes):	142139

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

69713 7590 09/20/2013

OCCHIUTI & ROHLICEK LLP
321 Summer St.
Boston, MA 02210

EXAMINER	
ANWAH, OLISA	
ART UNIT	PAPER NUMBER
2655	

NOTIFICATION DATE	DELIVERY MODE
09/20/2013	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@ORPATENT.COM

Office Action Summary	Application No. 13/559,194	Applicant(s) PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	AIA (First Inventor to File) Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *9/13/2013*.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

5)☒ Claim(s) *1-14* is/are pending in the application.

5a) Of the above claim(s) *14* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1-9 and 11-13* is/are rejected.

8)☒ Claim(s) *10* is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a)☐ All b)☐ Some * c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

DETAILED ACTION

1. Claim 14 is withdrawn from consideration because it was canceled in the amendment filed on May 29, 2013.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-6, 8, 9, 11 and 12 are rejected under 35 U.S.C § 103(a) as being unpatentable over Herwig et al, U.S. Patent Application Publication No. 2010/0161434 (hereinafter Herwig) combined with Barnes et al, U.S. Patent No. 2008/0305827 (hereinafter Barnes) and Skowronek et al, U.S. Patent Application Publication No. 2010/0023449 (hereinafter Skowronek) in further view of Medamana et al, U.S. Patent No. 5,181,238 (hereinafter Medamana).

Regarding claim 1, Herwig discloses an apparatus for engaging in wireless commercial transactions, said apparatus

comprising a mobile phone (see Figure 2) equipped with an actuator (see unit 110 from Figure 2) for initiating a commercial transaction (from paragraph 0089, see The consumer activates the mobile telephones NFC module 122, typically via the keypad 110), and an input (from paragraph 0089, see Upon finding an item 150 that they wish to purchase the user places the mobile telephone 102 close, typically within 5-15 cm, to the NFC tag 106) for receiving information concerning prices of goods (from paragraph 0090, see The product signal is received by the antenna 124 of the mobile telephone's NFC module 122), a network (from Figure 1, see unit 109) hub (from paragraph 0076, see Typically, the wireless transceiver 116 is a 802.11 Wifi) for wireless exchange of information between a commercial establishment (from paragraph 0087, see retailer) and said mobile phone within the boundaries of the establishment.

Further regarding claim 1, Herwig fails to teach that the input is optical. All the same, Barnes discloses that the input is optical (from paragraph 0009, see The scanner 106 is preferably a universal product code (UPC) barcode label reader, a radio frequency identification (RFID) reader, or a built-in camera of the mobile communication device). As a result, it would have been obvious to one of ordinary skill in the art at

the time the invention was made to modify Herwig wherein the input is optical as taught by Barnes. This modification would have improved the system's flexibility by providing different kinds of inputs.

Again on the issue of claim 1, the combination of Herwig and Barnes fails to teach that the actuator is dedicated. All the same, Skowronek teaches that the actuator is dedicated (see unit 104 from Figure 1). And so, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Herwig and Barnes wherein the actuator is dedicated as taught by Skowronek. This modification would have improved the system's convenience by allowing the consumer to activate the program faster.

Further regarding claim 1, the combination of Herwig, Barnes and Skowronek fails to teach a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone. Nonetheless, Medamana discloses a financial/authorization institution for associating a PIN number (from column 4, see Enter PIN) with said phone (from column 4, see the ANI number) and for authorizing (from abstract, see authorized to access)

transactions (see transactions from column 2) initiated by said phone. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Herwig, Barnes and Skowronek with a financial/authorization institution for associating a PIN number with said phone and for authorizing transactions initiated by said phone as taught by Medamana. This modification would have improved the system's reliability by providing security.

Regarding claim 2, Herwig discloses the mobile phone is configured to display (from paragraph 0090, see the customer receives a prompt on the screen 112 of the mobile phone 102 to confirm that they wish to purchase the item 150. The prompt may contain pricing information about the item) information about goods inputted[1] by said input on a display.

Regarding claim 3, Herwig discloses the mobile phone is configured to provide a sequence of displays to guide the user of said mobile phone through a commercial transaction that includes identification of goods to be purchased and payment associated with said purchase (from paragraph 0090, see the customer receives a prompt on the screen 112 of the mobile phone

[1] Per the rejection of claim 1, Barnes discloses the goods are scanned by an optical input.

102 to confirm that they wish to purchase the item 150. The prompt may contain pricing information about the item).

Regarding claim 4, Herwig discloses the mobile phone is configured to generate a listing of items available for purchase (from paragraph 0088, see downloading a pre-produced list from a PC).

Regarding claim 5, Herwig discloses the mobile phone is configured to generate a listing of items available for purchase (from paragraph 0088, see selecting items from a menu on the mobile telephone).

Regarding claim 6, Herwig discloses the mobile phone is configured to display information concerning an incomplete commercial transaction (from paragraph 0090, see the customer receives a prompt on the screen 112 of the mobile phone 102 to confirm that they wish to purchase the item 150. The prompt may contain pricing information about the item).

Regarding claim 8, Herwig as modified by Barnes and Skowronek discloses that the dedicated actuator comprise a

button (from Figure 1 of Skowronek, see Pay) labeled with a symbolic indication of a function thereof.

Regarding claim 9, Herwig as modified by Barnes and Skowronek discloses the button comprises a touch-sensitive region (from paragraph 0030 of Skowronek, see an icon on a touch screen) on a display of the mobile phone.

Regarding claim 11, Herwig discloses that the mobile phone is configured to, on the basis of data provided by the input[2], display a price of an item (from paragraph, see the customer receives a prompt on the screen 112 of the mobile phone 102 to confirm that they wish to purchase the item 150. The prompt may contain pricing information about the item).

Regarding claim 12, Herwig discloses, the mobile phone is configured to receive a coupon applicable to a future transaction with the commercial establishment (from paragraph 0098, see electronic discount coupons for a particular brand provided in the retail outlet).

[2] Per the rejection of claim 1, Barnes discloses the goods are scanned by an optical input.

4. Claim 7 is rejected under 35 U.S.C § 103(a) as being unpatentable over Herwig, Barnes, Skowronek and Medamana in further view of Johar et al, U.S. Patent Application Publication No. 2009/0168695 (hereinafter Johar).

Regarding claim 7, the combination of Herwig, Barnes, Skowronek and Medamana does not explicitly teach that a communication between the mobile phone and the network hub is constrained to remain with the commercial establishment. All the same, Johar discloses that the communication between the mobile phone and the network hub is constrained to remain within the establishment (from abstract, see limiting access to the wireless network to devices located within the boundary area). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Herwig, Barnes, Skowronek and Medamana wherein a communication between the mobile phone and the network hub is constrained to remain within the establishment as taught Johar. This modification would have improved the system's security by preventing unauthorized users from clandestinely connecting to the wireless network.

5. Claim 13 is rejected under 35 U.S.C § 103(a) as being unpatentable over Herwig combined with Barnes, Skowronek and

Medamana in further view of Welingkar et al, U.S. Patent No. 8,135,798 (hereinafter Welingkar).

Regarding claim 13, the combination of Herwig, Barnes, Skowronek and Medamana does not clearly teach that the mobile phone is configured to be remotely erased by the financial/authorization institution. All the same, Welingkar discloses that the mobile phone is configured to be remotely erased by the authorization institution (from Figure 10, see erase user data). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Herwig, Barnes, Skowronek and Medamana wherein the mobile phone is configured to be remotely erased by the authorization institution as taught by Welingkar. This modification would have improved the system reliability by allowing access to be restricted when the user is not in possession or direct control of the client device.

Response to Arguments

6. In response to Applicant's arguments that Herwig is not prior art, the examiner submits that PCT/CA2004/000513 does not teach all the claimed limitations of claim 1. For this reason, 10/19/2009 is the earliest priority date afforded to the pending

claims. Because Herwig was filed on 12/18/2008, Herwig is prior art.

In response to Applicant's argument that the references fail to show certain features of applicant’s invention, it is noted that the features upon which applicant relies (i.e., there is no need or purpose for the phone to be NFC enabled in order to engage in the wireless transaction) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). More specifically, Applicant argues that there is no need or purpose for the phone to be NFC enabled in order to engage in the wireless transaction. However, Applicant's claims do not recite that there is no need or purpose for the phone to be NFC enabled in order to engage in the wireless transaction. Additionally, Applicant argues that the wireless transceiver is unable to operate in a cellular spectrum. However, Applicant’s claims do not explicitly require the wireless transceiver to operate in a cellular spectrum.

Applicant further alleges that Herwig does not teach an actuator. The examiner respectfully disagrees. According to Merriam-Webster's Collegiate Dictionary, an actuator is a mechanical device for moving or controlling something. Because

Herwig discloses the consumer activates the mobile telephones NFC module 122, typically via the keypad 110 (see paragraph 0089), Herwig discloses an actuator.

Applicant also argues that Herwig does not teach the mobile phone receives information concerning prices of product. The examiner cannot agree. Because Herwig discloses that the product signal is received by the antenna 124 of the mobile telephone's NFC module 122, Herwig discloses that the mobile phone receives information concerning prices of goods.

Applicant also disputes that Herwig does not teach a network hub for wireless information exchange between a mobile phone and a commercial establishment. The examiner respectfully disagrees. Per the remarks filed in the instant application on 2/13/2013, communication over a network hub is communication over a packet-switched network. Because Herwig discloses communication via Wifi (see paragraph 0076), Herwig discloses a network hub for wireless information exchange between a mobile phone and a commercial establishment.

Applicant further states that Herwig does not disclose the wireless exchange of information between a commercial establishment and a mobile phone. The examiner does not agree. Because Herwig discloses discovery information being exchanged between the mobile telephone 102 and the retail server 109 (see

paragraph 0096), Herwig discloses the wireless exchange of information between a commercial establishment and a mobile phone.

Allowable Subject Matter

7. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olisa Anwah whose telephone number is 571-272-7533. The examiner can normally be reached on Monday to Friday from 8.30 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Davetta Goins can be reached on 571-272-2957. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 571-273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

Olisa Anwah
Patent Examiner
September 18, 2013

/Olisa Anwah/

Primary Examiner, Art Unit 2655

Notice of References Cited	Application/Control No. 13/559,194	Applicant(s)/Patent Under Reexamination PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2010/0161434	06-2010	Herwig et al.	705/20
*	B	US-2008/0305827	12-2008	Barnes et al.	455/556.1
*	C	US-2010/0023449	01-2010	Skowronek et al.	705/39
*	D	US-5,181,238	01-1993	Medamana et al.	379/93.03
*	E	US-2009/0168695	07-2009	Johar et al.	370/328
*	F	US-8,135,798	03-2012	Welingkar et al.	709/217
*	G	US-2010/0151901	06-2010	Roden et al.	455/556.1
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Search Notes

Application/Control No.	Applicant(s)/Patent under Reexamination
13/559,194	PONIATOWSKI, PAUL
Examiner	**Art Unit**
OLISA ANWAH	2655

SEARCHED			
Class	Subclass	Date	Examiner
379	93.12	9/16/2013	OA
	93.17		
	93.22		
	91.01		
	201.01		
	201.02		
455	419		
235	462.45		
	472.01		
	472.02		
	262.46		

INTERFERENCE SEARCHED			
Class	Subclass	Date	Examiner

SEARCH NOTES (INCLUDING SEARCH STRATEGY)		
	DATE	EXMR
Spoke with Duc Nguyen	9/16/2013	OA
Spoke with Simon Sing	9/16/2013	OA
Spoke with Gerald Gauthier	9/16/2013	OA

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

69713 7590 09/24/2013

OCCHIUTI & ROHLICEK LLP
321 Summer St.
Boston, MA 02210

EXAMINER	
ANWAH, OLISA	
ART UNIT	PAPER NUMBER
2655	

NOTIFICATION DATE	DELIVERY MODE
09/24/2013	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@ORPATENT.COM

Applicant-Initiated Interview Summary	Application No.	Applicant(s)	
	13/559,194	PONIATOWSKI, PAUL	
	Examiner	Art Unit	
	OLISA ANWAH	2655	

All participants (applicant, applicant's representative, PTO personnel):

(1) *OLISA ANWAH*. (3)_____.

(2) *Faustino Lichauco*. (4)_____.

Date of Interview: *19 September 2013*.

Type: ☒ Telephonic ☐ Video Conference
☐ Personal [copy given to: ☐ applicant ☐ applicant's representative]

Exhibit shown or demonstration conducted: ☐ Yes ☐ No.
If Yes, brief description: _____.

Issues Discussed ☐101 ☐112 ☐102 ☐103 ☒Others
(For each of the checked box(es) above, please describe below the issue and detailed description of the discussion)

Claim(s) discussed: *1*.

Identification of prior art discussed: *Herwig*.

Substance of Interview
(For each issue discussed, provide a detailed description and indicate if agreement was reached. Some topics may include: identification or clarification of a reference or a portion thereof, claim interpretation, proposed amendments, arguments of any applied references etc...)

The examiner explained that application 12/087,539 does not teach all the claimed limitations of claim 1. As a result, 10/19/2009 is the earliest priority date afforded to the pending claims.

Applicant recordation instructions: The formal written reply to the last Office action must include the substance of the interview. (See MPEP section 713.04). If a reply to the last Office action has already been filed, applicant is given a non-extendable period of the longer of one month or thirty days from this interview date, or the mailing date of this interview summary form, whichever is later, to file a statement of the substance of the interview

Examiner recordation instructions: Examiners must summarize the substance of any interview of record. A complete and proper recordation of the substance of an interview should include the items listed in MPEP 713.04 for complete and proper recordation including the identification of the general thrust of each argument or issue discussed, a general indication of any other pertinent matters discussed regarding patentability and the general results or outcome of the interview, to include an indication as to whether or not agreement was reached on the issues raised.

☐ Attachment

/Olisa Anwah/ Primary Examiner, Art Unit 2655	

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record
A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews
Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.
All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:
- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:
1) A brief description of the nature of any exhibit shown or any demonstration conducted,
2) an identification of the claims discussed,
3) an identification of the specific prior art discussed,
4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
5) a brief identification of the general thrust of the principal arguments presented to the examiner,
   (The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
6) a general indication of any other pertinent matters discussed, and
7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

OPAP AKIMA-2
OCT 04 2013
PATENT & TRADEMARK OFFICE

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PTO/SB/30 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	13559194
Filing Date	July26, 2012
First Named Inventor	Paul Poniatowski
Art Unit	2655
Examiner Name	Olisa Anwah
Attorney Docket Number	30071-00200 1

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114 Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

ii. ☐ Other _____

b. ☑ Enclosed

i. ☑ Amendment/Reply

ii. ☐ Affidavit(s)/ Declaration(s)

iii. ☐ Information Disclosure Statement (IDS)

iv. ☐ Other _____

2. Miscellaneous

a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

b. ☐ Other _____

3. Fees The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

a. ☐ The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. _____.

i. ☐ RCE fee required under 37 CFR 1.17(e)

ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)

iii. ☐ Other _____

b. ☑ Check in the amount of $ 300.00 enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature		Date	Sep27, 2013
Name (Print/Type)	Paul Poniatowski	Registration No.	

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature			
Name (Print/Type)	Paul Poniatowski	Date	Sep27, 2013

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

10/07/2013 EEKUBAY1 00000009 13559194
01 FC:3801 300.00 OP

OPAP AKIMA-2
OCT 0 4 2013
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Paul Poniatowski	Art Unit	: 2655
Serial No.	: 13/559,194	Examiner	: Olisa Anwah
Filed	: July 26, 2012	Conf. No.	: 1019
Title	: Mobile Payment System		

MAIL STOP AMENDMENT Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

REPLY TO FINAL ACTION

In response to the Final Office Action of September 20, 2013, the following is submitted :

An amendment to and a complete listing of claims begins at page 2 of this response, and Remarks/Arguments begin at page 6 of this response.

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In the Claims :

The following is an amendment to and complete listing of claims that replace all prior listings and versions of claims in this application.

1. (Original) An apparatus for engaging in wireless commercial transactions, said apparatus comprising a mobile phone equipped with a dedicated actuator for initiating a commercial transaction, and an optical input for receiving information concerning prices of goods, a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment, and a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone.

2. (Original) The apparatus of claim 1, mobile phone is configured to display information about goods scanned by said optical input on a display.

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APPLE EX1009 Page 251

3. (Original) The apparatus of claim 1, wherein the mobile phone is configured to provide a sequence of displays to guide a user of said mobile phone through a commercial transaction that includes identification of goods to be purchased and payment associated with said purchase.

4.(Original) The apparatus of claim 1, wherein the mobile phone is configured to generate a listing of items available for purchase.

5. (Original) The apparatus of claim 4, wherein the mobile phone is further configured to solicit a selection of a subset of items from said listing.

6. (Original) The apparatus of claim 1, wherein the mobile phone is configured to display information concerning an incomplete commercial transaction.

7. (Original) The apparatus of claim 1, wherein a communication between the mobile phone and the network hub is constrained to remain within the commercial establishment.

8. (Original) The apparatus of claim 1, wherein the dedicated actuator comprises a button labeled with a symbolic indication of a function thereof.

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9. (Original) The apparatus of claim 8, wherein the button comprises a touch-sensitive region on a display of the mobile phone.

10. (Original) The apparatus of claim 1, wherein actuation of the dedicated actuator causes information identifying the commercial establishment to be displayed on the mobile phone.

11. (Original) The apparatus of claim 1, wherein the mobile phone is configured to, on the basis of data provided by the optical input, display a price of an item.

12. (Original) The apparatus of claim 1, wherein the mobile phone is configured to receive a coupon applicable to a future transaction with the commercial establishment.

13. (Original) The apparatus of claim 1, wherein the mobile phone is configured to be remotely erased by the financial/authorization institution.

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14. (Cancelled)

15.(New) A method for engaging in a wireless commercial transaction, the method comprising at a mobile phone, receiving information concerning candidate items for a commercial transaction, selecting, on said phone, a set of selected items from the candidate items, establishing communication between said phone and a terminal associated with the commercial establishment, using the phone, communicating the set of selected items to the terminal, and using the phone, issuing an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone.

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REMARKS / ARGUMENT

As a initial matter, the cancelled Claim 14 was argued and intended to be added with new number, as per electronic entry via PAIR portal on Aug 29, 2013. However, typographical error occurred with listing of the correct number: "[[14]] 15". The claim 15 is a copy of the cancelled claim 14. The applicant regrets the error and submits correct entry.

§103(a) REJECTION OF CLAIMS 1-6,7, 8, 9, 11 ,12 AND 13
CLAIM 1

Claim 1 stands rejected over Herwig, combined with Barnes, Skowronek and Medamana.

Applicant draws attention to response and arguments filed on Aug 23,2013 in regards to alleged missing teaching limitation of claim 1 of PCT/CA2004/000513 , subsequently making Herwig not properly prior art , because PCT application has a priority date that pre-dates the filing dates of Herwig.

In response to examiners findings, the applicant responds with the following remarks:

To further distinguish the differences of the two inventions, the applicant would like to point out selected major differences - as per Herwig's Claim 1:

at least **one NFC tag** ,
the mobile device (must be) NFC **enabled** , the mobile device **comprising of:** an NFC communication module and a mobile processor.

This literally means that additional parts or components (NFC module, processor) must be integrated into the body of the mobile phone in order to enable NFC communications. It should also be noted that **NFC operates at 13.56 MHz** with a range of only 5-20cm.(about 8")[0083], whereas **cellular phone use 806-2500 MHz** covering large areas. Without the integration of NFC module and processor, the two cannot communicate.

In addition, items labeled with NFC tags, provide information about product via **radio frequency** means to the NFC module enabled phone [0077 and 0080] . This is inconsistent with presented invention, where's the product information is obtained via **optical** means, hence there is no need for a phone to be NFC enabled in order to obtain information about the product.

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Further , it is the NFC communication module "piggybacking" on the phone , arranged to output/receive an interrogation signal (9 line in Claim 1)

It is then clear, that it is not a phone but NFC module , that is **integrated into** the phone , sends/receives the **interrogation signal**, and that said signal carry **only a request** to mine product related information from other devices; in this instance it is a NFC tag. Only then, transaction could be initiated.

Below are relevant parts formatted in bold of Herwig's

Claim 1 :

A self-checkout system comprising:

*at least one **NFC tag**; and*

a near field communication enabled mobile device;

*the at least one NFC tag comprising an antenna and a tag processor storing data related to a product associated with the at least one NFC tag; the mobile device comprising an NFC communication module and a mobile processor; wherein the **NFC communication module is arranged to output an interrogation signal** and the antenna being arranged **to receive the interrogation signal** and to pass the interrogation signal to the tag processor which is*

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arranged to pass the product data related to a product associated with the at least one NFC tag to the antenna in response to receiving the interrogation signal; the antenna being further arranged to transmit the product data such that the product data is received by the NFC communications module; and [...]

In regards to examiner's actuator argument: Herwig discloses a keypad consisting of several independent keys, as clearly shown in Fig. 2, item 110.

As described, it is the NFC module (and NOT the phone) that is **activated by keypad 110**. Neither Fig. 2 or detailed description fail to show/disclose which key from the keypad is used to activate the module.

A keypad role is to type an item description, as supported in [0088] line 5 : entering item descriptions into the mobile telephone 102 via the keypad 110. Therefore it would be logical to accept that the keys on the keypad carry certain numeric and alphabetical values and are able to perform complex descriptive data entry.

A single actuator with moving or controlling functions(examiner's remarks) would not be able to perform multiple and complex descriptive data entries.

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On the subject of Herwig's mobile device exchanging information with commercial establishment:

As shown and discussed earlier, it is the NFC module thru mobile processor, "piggybacking" on the phone as additional equipment, that carries out communications:

The product signal is output (thru NFC tag 106) via the antenna 132. The product signal is received by the antenna 124 of the mobile telephone's NFC module 122. It passes to the processor 120 via the connector 126, where it is demodulated and the product data extracted. [0090 line 12]
It is then clearly shown that it is NOT the mobile phone that is exchanging information with commercial establishment.

In view of the foregoing, the purpose of the present invention is clearly distinguishable with respect to what is taught in the prior art reference to Herwig.

In the event the examiner objects allowance of the solicited application, submitted herewith is a Request for Continued Examination with the check in the amount of $300.00, as per fee requirement for micro entity.

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Conclusion

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of un-patentability of the claim prior to its amendment. Respectfully submitted,

Date: SEP 27, 2013

Paul Poniatowski

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APPLE EX1009 Page 260

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD

Substitute for Form PTO-875

Application or Docket Number	Filing Date	☐ To be Mailed
13/559,194	07/26/2012	

ENTITY: ☐ LARGE ☐ SMALL ☒ MICRO

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	RATE ($)	FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =	
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $310 ($155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).			
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))				
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL	

APPLICATION AS AMENDED – PART II

AMENDMENT **10/04/2013**

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 14	Minus	** 20	= 0	X $20 =	0
Independent (37 CFR 1.16(h))	* 2	Minus	***3	= 0	X $105 =	0
☐ Application Size Fee (37 CFR 1.16(s))						
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
					TOTAL ADD'L FEE	0

AMENDMENT

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =	
Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))						
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
					TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

LIE
/JOSEPHINE DOUGLAS/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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POWER OF ATTORNEY OR REVOCATION OF POWER OF ATTORNEY WITH A NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	13/559,194
Filing Date	July 26, 2012
First Named Inventor	Paul Poniatowski
Title	Mobile Payment System
Art Unit	2655
Examiner Name	Olisa Anwah
Attorney Docket Number	

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☐ I hereby appoint Practitioner(s) associated with the following Customer Number as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

OR

☐ I hereby appoint Practitioner(s) named below as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

Practitioner(s) Name	Registration Number

Please recognize or change the correspondence address for the above-identified application to:

☐ The address associated with the above-mentioned Customer Number.

OR

☐ The address associated with Customer Number:

OR

☒ Firm or Individual Name	Paul Poniatowski				
Address	125 The Queensway PO .Box 134				
City	Toronto	State	ON	Zip	M8Y 1H0
Country	Canada				
Telephone		Email			

I am the:

☒ Applicant/Inventor.

OR

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) (Form PTO/SB/96) submitted herewith or filed on _____.

SIGNATURE of Applicant or Assignee of Record

Signature	/ Paul Poniatowski /	Date	Oct 9,2013
Name	Paul Poniatowski	Telephone	
Title and Company			

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Electronic Acknowledgement Receipt

EFS ID:	17085063
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Customer Number:	69713
Filer:	Paul Poniatowski
Filer Authorized By:	
Attorney Docket Number:	30071-002002
Receipt Date:	09-OCT-2013
Filing Date:	26-JUL-2012
Time Stamp:	16:41:17
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Power of Attorney	POWER.pdf	1466501 551e561984397778b6d0ce04580103817c911dbb	no	2

Warnings:	
Information:	

Total Files Size (in bytes):	1466501

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
13/559,194	07/26/2012	Paul Poniatowski	30071-002002

CONFIRMATION NO. 1019

Paul Poniatowski
125 The Queensway PO .Box 134
Toronto, ON M8Y 1H0
CANADA

POA ACCEPTANCE LETTER

OC000000064332047

Date Mailed: 10/15/2013

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/09/2013.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/gbien-aime/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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13/559,194	07/26/2012	Paul Poniatowski	30071-002002

CONFIRMATION NO. 1019

POWER OF ATTORNEY NOTICE

69713
OCCHIUTI & ROHLICEK LLP
321 Summer St.
Boston, MA 02210

OC000000064331938

Date Mailed: 10/15/2013

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/09/2013.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/gbien-aime/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

IPR2024-00731
APPLE EX1009 Page 267

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 10/16/2013

Paul Poniatowski
125 The Queensway PO .Box 134
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CANADA

EXAMINER	
ANWAH, OLISA	

ART UNIT	PAPER NUMBER
2655	

MAIL DATE	DELIVERY MODE
10/16/2013	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 13/559,194	Applicant(s) PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	AIA (First Inventor to File) Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10/4/2013*.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

5)☒ Claim(s) *1-15* is/are pending in the application.

5a) Of the above claim(s) *14* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1-9,11-13 and 15* is/are rejected.

8)☒ Claim(s) *10* is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a)☐ All b)☐ Some * c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claim 15 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Shelton, U.S. Patent No. 5,345,501 (hereinafter Shelton).

With regards to Applicant's claim of priority, the examiner draws attention to page 10 of PCT/CA2004/000513, which states:

> Entering the code would then automatically connect the end user to the advertiser's telephone call-in center so the end user can then take advantage of the offer (e.g. a vacation trip for a low promotional price). Alternatively, end users may establish an account, with their credit cards on file, with the operators of the system. These end users may then do their shopping over the telephone based on what is being advertised on the display screens. End user choices, such as the colour, size, or type of merchandise, could be entered by the end user via the telephone keypad. To verify an end user's identity, PIN (personal identification numbers) could be associated with each end user account. Such PIN numbers would be required to validate/finalize the transaction before the end user's credit card is charged and before the item is shipped to the end user's on-file address or before the end user can pick up the item. As an alternative, an end user's bank account can be tied in with the end user's system account and the purchase price of the end-user's purchase can be automatically debited to from his/her bank account. The use of PIN numbers or some similar scheme for validation for this configuration would, of course, be required for security.

Just like the disclosure of page 10 of PCT/CA2004/000513, on the issue of claim 15, Shelton discloses a method for engaging in a commercial transaction, the method comprising at a phone, receiving information (from column 5, see An example of machine generated voice interactive dialogue in the example of a video store is given below) concerning candidate items for a commercial transaction, selecting (from column 5, see the customer selects a category or product or service) on said phone, a set of selected items from the candidate items, establishing communication (from column 4, see customer first places a call to the video store) between said phone and a terminal associated with the commercial establishment, using the phone, communicating (from column 5, see When selection of the last sub-category is made) the set of selected items to the terminal, and using the phone, issuing an instruction (from column 6, see the customer supplies his/her credit card number by entering a sequence of numbers at the telephone) to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent (from column 6, see The credit card number is relayed to the credit card validation center) directly from the phone.

Further regarding claim 15, Shelton fails to teach that the transaction is wireless and the phone is mobile. "Official Notice" is taken that this limitation is both old and well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shelton wherein the transaction is wireless and the phone is mobile. This modification would have improved the system's convenience by allowing customers to walk and talk.

3. Claims 1-6, 8, 9, 11 and 12 are rejected under 35 U.S.C § 103(a) as being unpatentable over Herwig et al, U.S. Patent Application Publication No. 2010/0161434 (hereinafter Herwig) combined with Barnes et al, U.S. Patent No. 2008/0305827 (hereinafter Barnes) and Skowronek et al, U.S. Patent Application Publication No. 2010/0023449 (hereinafter Skowronek) in further view of Medamana et al, U.S. Patent No. 5,181,238 (hereinafter Medamana).

Regarding claim 1, Herwig discloses an apparatus for engaging in wireless commercial transactions, said apparatus comprising a mobile phone (see Figure 2) equipped with an actuator (see unit 110 from Figure 2) for initiating a commercial transaction (from paragraph 0089, see The consumer activates the mobile telephones NFC module 122, typically via

the keypad 110), and an input (from paragraph 0089, see Upon finding an item 150 that they wish to purchase the user places the mobile telephone 102 close, typically within 5-15 cm, to the NFC tag 106) for receiving information concerning prices of goods (from paragraph 0090, see The product signal is received by the antenna 124 of the mobile telephone's NFC module 122), a network (from Figure 1, see unit 109) hub (from paragraph 0076, see Typically, the wireless transceiver 116 is a 802.11 Wifi) for wireless exchange of information between a commercial establishment (from paragraph 0087, see retailer) and said mobile phone within the boundaries of the establishment.

Further regarding claim 1, Herwig fails to teach that the input is optical. All the same, Barnes discloses that the input is optical (from paragraph 0009, see The scanner 106 is preferably a universal product code (UPC) barcode label reader, a radio frequency identification (RFID) reader, or a built-in camera of the mobile communication device). As a result, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herwig wherein the input is optical as taught by Barnes. This modification would have improved the system's flexibility by providing different kinds of inputs.

Again on the issue of claim 1, the combination of Herwig and Barnes fails to teach that the actuator is dedicated. All the same, Skowronek teaches that the actuator is dedicated (see unit 104 from Figure 1). And so, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Herwig and Barnes wherein the actuator is dedicated as taught by Skowronek. This modification would have improved the system's convenience by allowing the consumer to activate the program faster.

Further regarding claim 1, the combination of Herwig, Barnes and Skowronek fails to teach a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone. Nonetheless, Medamana discloses a financial/authorization institution for associating a PIN number (from column 4, see Enter PIN) with said phone (from column 4, see the ANI number) and for authorizing (from abstract, see authorized to access) transactions (see transactions from column 2) initiated by said phone. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Herwig, Barnes and Skowronek with a

financial/authorization institution for associating a PIN number with said phone and for authorizing transactions initiated by said phone as taught by Medamana. This modification would have improved the system's reliability by providing security.

Regarding claim 2, Herwig discloses the mobile phone is configured to display (from paragraph 0090, see the customer receives a prompt on the screen 112 of the mobile phone 102 to confirm that they wish to purchase the item 150. The prompt may contain pricing information about the item) information about goods inputted[1] by said input on a display.

Regarding claim 3, Herwig discloses the mobile phone is configured to provide a sequence of displays to guide the user of said mobile phone through a commercial transaction that includes identification of goods to be purchased and payment associated with said purchase (from paragraph 0090, see the customer receives a prompt on the screen 112 of the mobile phone 102 to confirm that they wish to purchase the item 150. The prompt may contain pricing information about the item).

[1] Per the rejection of claim 1, Barnes discloses the goods are scanned by an optical input.

Regarding claim 4, Herwig discloses the mobile phone is configured to generate a listing of items available for purchase (from paragraph 0088, see downloading a pre-produced list from a PC).

Regarding claim 5, Herwig discloses the mobile phone is configured to generate a listing of items available for purchase (from paragraph 0088, see selecting items from a menu on the mobile telephone).

Regarding claim 6, Herwig discloses the mobile phone is configured to display information concerning an incomplete commercial transaction (from paragraph 0090, see the customer receives a prompt on the screen 112 of the mobile phone 102 to confirm that they wish to purchase the item 150. The prompt may contain pricing information about the item).

Regarding claim 8, Herwig as modified by Barnes and Skowronek discloses that the dedicated actuator comprise a button (from Figure 1 of Skowronek, see Pay) labeled with a symbolic indication of a function thereof.

Regarding claim 9, Herwig as modified by Barnes and Skowronek discloses the button comprises a touch-sensitive region (from paragraph 0030 of Skowronek, see an icon on a touch screen) on a display of the mobile phone.

Regarding claim 11, Herwig discloses that the mobile phone is configured to, on the basis of data provided by the input[2], display a price of an item (from paragraph, see the customer receives a prompt on the screen 112 of the mobile phone 102 to confirm that they wish to purchase the item 150. The prompt may contain pricing information about the item).

Regarding claim 12, Herwig discloses, the mobile phone is configured to receive a coupon applicable to a future transaction with the commercial establishment (from paragraph 0098, see electronic discount coupons for a particular brand provided in the retail outlet).

4. Claim 7 is rejected under 35 U.S.C § 103(a) as being unpatentable over Herwig, Barnes, Skowronek and Medamana in further view of Johar et al, U.S. Patent Application Publication No. 2009/0168695 (hereinafter Johar).

[2] Per the rejection of claim 1, Barnes discloses the goods are scanned by an optical input.

Regarding claim 7, the combination of Herwig, Barnes, Skowronek and Medamana does not explicitly teach that a communication between the mobile phone and the network hub is constrained to remain with the commercial establishment. All the same, Johar discloses that the communication between the mobile phone and the network hub is constrained to remain within the establishment (from abstract, see limiting access to the wireless network to devices located within the boundary area). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Herwig, Barnes, Skowronek and Medamana wherein a communication between the mobile phone and the network hub is constrained to remain within the establishment as taught Johar. This modification would have improved the system's security by preventing unauthorized users from clandestinely connecting to the wireless network.

5. Claim 13 is rejected under 35 U.S.C § 103(a) as being unpatentable over Herwig combined with Barnes, Skowronek and Medamana in further view of Welingkar et al, U.S. Patent No. 8,135,798 (hereinafter Welingkar).

Regarding claim 13, the combination of Herwig, Barnes, Skowronek and Medamana does not clearly teach that the mobile

phone is configured to be remotely erased by the financial/authorization institution. All the same, Welingkar discloses that the mobile phone is configured to be remotely erased by the authorization institution (from Figure 10, see erase user data). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Herwig, Barnes, Skowronek and Medamana wherein the mobile phone is configured to be remotely erased by the authorization institution as taught by Welingkar. This modification would have improved the system reliability by allowing access to be restricted when the user is not in possession or direct control of the client device.

Response to Arguments

6. In response to Applicant's arguments that Herwig is not prior art, the examiner submits that PCT/CA2004/000513 does not teach all the claimed limitations of claim 1. For this reason, 10/19/2009 is the earliest priority date afforded to the pending claims. Because Herwig was filed on 12/18/2008, Herwig is prior art.

In response to Applicant's argument that the references fail to show certain features of applicant’s invention, it is noted that the features upon which applicant relies (i.e., there

is no need or purpose for the phone to be NFC enabled in order to obtain information about the product) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). More specifically, Applicant argues that there is no need or purpose for the phone to be NFC enabled in order to engage in the wireless transaction. However, Applicant's claims do not recite that there is no need or purpose for the phone to be NFC enabled in order to obtain information about the product.

Applicant also argues that the phone of Herwig does not send/receive an interrogation signal. The examiner respectfully disagrees. Because the NFC module is integrated into the phone and because the NFC module sends/receives the interrogation signal, the phone of Herwig sends/receives the interrogation signal.

Applicant further alleges that the phone of Herwig is not activated by the keypad. The examiner respectfully disagrees. Because the NFC module is integrated into the phone and because the NFC module is activated by the keypad, the phone of Herwig is activated by the keypad.

Applicant further states that Herwig does not disclose the wireless exchange of information between a commercial establishment and a mobile phone. The examiner does not agree. Because Herwig discloses discovery information being exchanged between the mobile telephone 102 and the retail server 109 (see paragraph 0096), Herwig discloses the wireless exchange of information between a commercial establishment and a mobile phone.

Allowable Subject Matter

7. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first

action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olisa Anwah whose telephone number is 571-272-7533. The examiner can normally be reached on Monday to Friday from 8.30 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Davetta Goins can be reached on 571-272-2957. The fax phone numbers for the

organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 571-273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

Olisa Anwah
Patent Examiner
October 16, 2013

/Olisa Anwah/

Primary Examiner, Art Unit 2655

Notice of References Cited	Application/Control No. 13/559,194	Applicant(s)/Patent Under Reexamination PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2010/0161434	06-2010	Herwig et al.	705/20
*	B	US-2008/0305827	12-2008	Barnes et al.	455/556.1
*	C	US-2010/0023449	01-2010	Skowronek et al.	705/39
*	D	US-5,181,238	01-1993	Medamana et al.	379/93.03
*	E	US-2009/0168695	07-2009	Johar et al.	370/328
*	F	US-8,135,798	03-2012	Welingkar et al.	709/217
*	G	US-2010/0151901	06-2010	Roden et al.	455/556.1
*	H	US-5,345,501	09-1994	Shelton, Norris N.	379/88.2
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
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	P					
	Q					
	R					
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NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
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*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Search Notes

Application/Control No.	Applicant(s)/Patent under Reexamination
13/559,194	PONIATOWSKI, PAUL
Examiner	**Art Unit**
OLISA ANWAH	2655

SEARCHED			
Class	Subclass	Date	Examiner
379	93.12	10/11/2013	OA
	93.17		
	93.22		
	91.01		
	201.01		
	201.02		
455	419		
235	462.45		
	472.01		
	472.02		
	262.46		

INTERFERENCE SEARCHED			
Class	Subclass	Date	Examiner

SEARCH NOTES (INCLUDING SEARCH STRATEGY)		
	DATE	EXMR
Spoke with Ahmad Matar	10/10/2013	OA
Spoke with Davetta Goins	10/10/2013	OA

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33-088-648 (08-04)

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 10/16/2013

Paul Poniatowski
125 The Queensway PO .Box 134
Toronto, ON M8Y 1H0
CANADA



EXAMINER	
ANWAH, OLISA	
ART UNIT	PAPER NUMBER
2655	
MAIL DATE	DELIVERY MODE
10/16/2013	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 13/559,194	Applicant(s) PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	AIA (First Inventor to File) Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10/4/2013*.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

5)☒ Claim(s) *1-15* is/are pending in the application.

5a) Of the above claim(s) *14* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1-9,11-13 and 15* is/are rejected.

8)☒ Claim(s) *10* is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a)☐ All b)☐ Some * c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

4) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claim 15 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Shelton, U.S. Patent No. 5,345,501 (hereinafter Shelton).

With regards to Applicant's claim of priority, the examiner draws attention to page 10 of PCT/CA2004/000513, which states:

> Entering the code would then automatically connect the end user to the advertiser's telephone call-in center so the end user can then take advantage of the offer (e.g. a vacation trip for a low promotional price). Alternatively, end users may establish an account, with their credit cards on file, with the operators of the system. These end users may then do their shopping over the telephone based on what is being advertised on the display screens. End user choices, such as the colour, size, or type of merchandise, could be entered by the end user via the telephone keypad. To verify an end user's identity, PIN (personal identification numbers) could be associated with each end user account. Such PIN numbers would be required to validate/finalize the transaction before the end user's credit card is charged and before the item is shipped to the end user's on-file address or before the end user can pick up the item. As an alternative, an end user's bank account can be tied in with the end user's system account and the purchase price of the end-user's purchase can be automatically debited to from his/her bank account. The use of PIN numbers or some similar scheme for validation for this configuration would, of course, be required for security.

Just like the disclosure of page 10 of PCT/CA2004/000513, on the issue of claim 15, Shelton discloses a method for engaging in a commercial transaction, the method comprising at a phone, receiving information (from column 5, see An example of machine generated voice interactive dialogue in the example of a video store is given below) concerning candidate items for a commercial transaction, selecting (from column 5, see the customer selects a category or product or service) on said phone, a set of selected items from the candidate items, establishing communication (from column 4, see customer first places a call to the video store) between said phone and a terminal associated with the commercial establishment, using the phone, communicating (from column 5, see When selection of the last sub-category is made) the set of selected items to the terminal, and using the phone, issuing an instruction (from column 6, see the customer supplies his/her credit card number by entering a sequence of numbers at the telephone) to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent (from column 6, see The credit card number is relayed to the credit card validation center) directly from the phone.

Further regarding claim 15, Shelton fails to teach that the transaction is wireless and the phone is mobile. "Official Notice" is taken that this limitation is both old and well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shelton wherein the transaction is wireless and the phone is mobile. This modification would have improved the system's convenience by allowing customers to walk and talk.

3. Claims 1-6, 8, 9, 11 and 12 are rejected under 35 U.S.C § 103(a) as being unpatentable over Herwig et al, U.S. Patent Application Publication No. 2010/0161434 (hereinafter Herwig) combined with Barnes et al, U.S. Patent No. 2008/0305827 (hereinafter Barnes) and Skowronek et al, U.S. Patent Application Publication No. 2010/0023449 (hereinafter Skowronek) in further view of Medamana et al, U.S. Patent No. 5,181,238 (hereinafter Medamana).

Regarding claim 1, Herwig discloses an apparatus for engaging in wireless commercial transactions, said apparatus comprising a mobile phone (see Figure 2) equipped with an actuator (see unit 110 from Figure 2) for initiating a commercial transaction (from paragraph 0089, see The consumer activates the mobile telephones NFC module 122, typically via

the keypad 110), and an input (from paragraph 0089, see Upon finding an item 150 that they wish to purchase the user places the mobile telephone 102 close, typically within 5-15 cm, to the NFC tag 106) for receiving information concerning prices of goods (from paragraph 0090, see The product signal is received by the antenna 124 of the mobile telephone's NFC module 122), a network (from Figure 1, see unit 109) hub (from paragraph 0076, see Typically, the wireless transceiver 116 is a 802.11 Wifi) for wireless exchange of information between a commercial establishment (from paragraph 0087, see retailer) and said mobile phone within the boundaries of the establishment.

Further regarding claim 1, Herwig fails to teach that the input is optical. All the same, Barnes discloses that the input is optical (from paragraph 0009, see The scanner 106 is preferably a universal product code (UPC) barcode label reader, a radio frequency identification (RFID) reader, or a built-in camera of the mobile communication device). As a result, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herwig wherein the input is optical as taught by Barnes. This modification would have improved the system's flexibility by providing different kinds of inputs.

Again on the issue of claim 1, the combination of Herwig and Barnes fails to teach that the actuator is dedicated. All the same, Skowronek teaches that the actuator is dedicated (see unit 104 from Figure 1). And so, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Herwig and Barnes wherein the actuator is dedicated as taught by Skowronek. This modification would have improved the system's convenience by allowing the consumer to activate the program faster.

Further regarding claim 1, the combination of Herwig, Barnes and Skowronek fails to teach a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone. Nonetheless, Medamana discloses a financial/authorization institution for associating a PIN number (from column 4, see Enter PIN) with said phone (from column 4, see the ANI number) and for authorizing (from abstract, see authorized to access) transactions (see transactions from column 2) initiated by said phone. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Herwig, Barnes and Skowronek with a

financial/authorization institution for associating a PIN number with said phone and for authorizing transactions initiated by said phone as taught by Medamana. This modification would have improved the system's reliability by providing security.

Regarding claim 2, Herwig discloses the mobile phone is configured to display (from paragraph 0090, see the customer receives a prompt on the screen 112 of the mobile phone 102 to confirm that they wish to purchase the item 150. The prompt may contain pricing information about the item) information about goods inputted[1] by said input on a display.

Regarding claim 3, Herwig discloses the mobile phone is configured to provide a sequence of displays to guide the user of said mobile phone through a commercial transaction that includes identification of goods to be purchased and payment associated with said purchase (from paragraph 0090, see the customer receives a prompt on the screen 112 of the mobile phone 102 to confirm that they wish to purchase the item 150. The prompt may contain pricing information about the item).

[1] Per the rejection of claim 1, Barnes discloses the goods are scanned by an optical input.

Regarding claim 4, Herwig discloses the mobile phone is configured to generate a listing of items available for purchase (from paragraph 0088, see downloading a pre-produced list from a PC).

Regarding claim 5, Herwig discloses the mobile phone is configured to generate a listing of items available for purchase (from paragraph 0088, see selecting items from a menu on the mobile telephone).

Regarding claim 6, Herwig discloses the mobile phone is configured to display information concerning an incomplete commercial transaction (from paragraph 0090, see the customer receives a prompt on the screen 112 of the mobile phone 102 to confirm that they wish to purchase the item 150. The prompt may contain pricing information about the item).

Regarding claim 8, Herwig as modified by Barnes and Skowronek discloses that the dedicated actuator comprise a button (from Figure 1 of Skowronek, see Pay) labeled with a symbolic indication of a function thereof.

Regarding claim 9, Herwig as modified by Barnes and Skowronek discloses the button comprises a touch-sensitive region (from paragraph 0030 of Skowronek, see an icon on a touch screen) on a display of the mobile phone.

Regarding claim 11, Herwig discloses that the mobile phone is configured to, on the basis of data provided by the input[2], display a price of an item (from paragraph, see the customer receives a prompt on the screen 112 of the mobile phone 102 to confirm that they wish to purchase the item 150. The prompt may contain pricing information about the item).

Regarding claim 12, Herwig discloses, the mobile phone is configured to receive a coupon applicable to a future transaction with the commercial establishment (from paragraph 0098, see electronic discount coupons for a particular brand provided in the retail outlet).

4. Claim 7 is rejected under 35 U.S.C § 103(a) as being unpatentable over Herwig, Barnes, Skowronek and Medamana in further view of Johar et al, U.S. Patent Application Publication No. 2009/0168695 (hereinafter Johar).

[2] Per the rejection of claim 1, Barnes discloses the goods are scanned by an optical input.

Regarding claim 7, the combination of Herwig, Barnes, Skowronek and Medamana does not explicitly teach that a communication between the mobile phone and the network hub is constrained to remain with the commercial establishment. All the same, Johar discloses that the communication between the mobile phone and the network hub is constrained to remain within the establishment (from abstract, see limiting access to the wireless network to devices located within the boundary area). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Herwig, Barnes, Skowronek and Medamana wherein a communication between the mobile phone and the network hub is constrained to remain within the establishment as taught Johar. This modification would have improved the system's security by preventing unauthorized users from clandestinely connecting to the wireless network.

5. Claim 13 is rejected under 35 U.S.C § 103(a) as being unpatentable over Herwig combined with Barnes, Skowronek and Medamana in further view of Welingkar et al, U.S. Patent No. 8,135,798 (hereinafter Welingkar).

Regarding claim 13, the combination of Herwig, Barnes, Skowronek and Medamana does not clearly teach that the mobile

phone is configured to be remotely erased by the financial/authorization institution. All the same, Welingkar discloses that the mobile phone is configured to be remotely erased by the authorization institution (from Figure 10, see erase user data). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Herwig, Barnes, Skowronek and Medamana wherein the mobile phone is configured to be remotely erased by the authorization institution as taught by Welingkar. This modification would have improved the system reliability by allowing access to be restricted when the user is not in possession or direct control of the client device.

Response to Arguments

6. In response to Applicant's arguments that Herwig is not prior art, the examiner submits that PCT/CA2004/000513 does not teach all the claimed limitations of claim 1. For this reason, 10/19/2009 is the earliest priority date afforded to the pending claims. Because Herwig was filed on 12/18/2008, Herwig is prior art.

In response to Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., there

is no need or purpose for the phone to be NFC enabled in order to obtain information about the product) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). More specifically, Applicant argues that there is no need or purpose for the phone to be NFC enabled in order to engage in the wireless transaction. However, Applicant's claims do not recite that there is no need or purpose for the phone to be NFC enabled in order to obtain information about the product.

Applicant also argues that the phone of Herwig does not send/receive an interrogation signal. The examiner respectfully disagrees. Because the NFC module is integrated into the phone and because the NFC module sends/receives the interrogation signal, the phone of Herwig sends/receives the interrogation signal.

Applicant further alleges that the phone of Herwig is not activated by the keypad. The examiner respectfully disagrees. Because the NFC module is integrated into the phone and because the NFC module is activated by the keypad, the phone of Herwig is activated by the keypad.

Applicant further states that Herwig does not disclose the wireless exchange of information between a commercial establishment and a mobile phone. The examiner does not agree. Because Herwig discloses discovery information being exchanged between the mobile telephone 102 and the retail server 109 (see paragraph 0096), Herwig discloses the wireless exchange of information between a commercial establishment and a mobile phone.

Allowable Subject Matter

7. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first

action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Olisa Anwah
Patent Examiner
October 16, 2013

/Olisa Anwah/

Primary Examiner, Art Unit 2655

Notice of References Cited	Application/Control No. 13/559,194	Applicant(s)/Patent Under Reexamination PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	Page 1 of 1

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on October 28, 2013

Signature

Typed or printed name Paul Poniatowski

Application Number	Filed
13559194	July 26, 2012

First Named Inventor: Paul Poniatowski

Art Unit	Examiner
2655	Olisa Anwah

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [x] applicant/inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [ ] attorney or agent of record. Registration number _____
- [ ] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

Signature

Paul Poniatowski
Typed or printed name

Telephone number

October 28, 2013
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

- [ ] *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Paul Poniatowski	Art Unit	: 2655
Serial No.	: 13/559,194	Examiner	: Olisa Anwah
Filed	: July 26, 2012	Conf. No.	: 1019
Title	: Mobile Payment System		

MAIL STOP AMENDMENT Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Dear Sir:

REQUEST FOR PRE- APPEAL BRIEFF REVIEW

In response to the Final Action issued October 16, 2013, Applicant respectfully requests a Pre-Appeal Brief review of this Application so that the rejection of the claims and the objections to the Application can be reconsidered prior to submission of an Appeal Brief.

IPR2024-00731
APPLE EX1009 Page 305

REMARKS

This Request for Pre-Appeal Brief Review is being filed with the provisions set forth in the Official Gazette Notices of July 12, 2005 and January 10, 2006. Pursuant to the Official Gazette Notices, this Request for Pre-Appeal Brief Review is being filed currently with a Notice of Appeal. Applicant respectfully request reconsideration of the Application in light of the remarks set forth below.

Claims 1-9 and 11-13 stands rejected under 35 U.S.C.§ 103(a) as being unpatentable over Herwig, U.S. Patent Application Publication No. 2010/0161434 (hereinafter Herwig).

Claim 15 stands rejected under 35 U.S.C.§ 103(a) as being unpatentable over Shelton, U.S. Patent No.5,345,501 (hereinafter Shelton).

In the prosecution of the present Application, the Examiner's objections, rejections, and assertions contain clear errors of law. To assist the Panel in the review of this Request for Pre-Appeal Brief Review, Applicant submits the following brief summary for consideration.

In the Final Action Of October 16, 2013, the Examiner states that Herwig allegedly discloses an apparatus for engaging in wireless commercial transaction and that the actuator initiates commercial transaction.

The activation of NFC module thru actuator does not establishes a connection between the telephone and the POS terminal or supports transaction activity. Activation of the NFC module 122 , translates only to ability to receive information about product from NFC tag (product info, price nutritional value) for viewing, comparison, selection making activity. Such activity is commonly known as **browsing** and is described here: [0090 line 15 and 0091]. Additional several steps must be implemented before actual commercial transaction could take place : confirmation of the product, price verification of selected products from PLU database, creation of a price list entry, and lastly -product identifier and producer/price comparison resulting in final changes to the product brand or change retail outlet by end user. **It is only then - once the final selections are made, the consumer approaches and engages the payment terminal 108 - the commercial transaction commences [0100].**

Similar behavior example, could be observed while browsing on-line. Just because a person enters a particular site , selects, view, read-on about product, calculates shipping costs, taxes, or even store an information about the item on their device - it doesn't mean that in that instance he/she is going-to or will ever purchase said item in the future. Therefore as clearly shown, actuator activating NFC module via keypad initiate only a browsing activity and that the same keypad/actuator can not have the capacity to act as a dedicated actuator initiating a commercial transaction.

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All of the above is largely inconsistent with 13559194 Application, where is the phones dedicated actuator right away initiates commercial transaction with POS terminal:

..**"Actuating the main actuator 360 establishes a connection between the telephone 330 and the POS terminal 320 of a particular establishment. This causes the name of the establishment name 325 to be displayed.."** FIG.4 , [0035] .

Therefore,for reasons stated above the rejection under 35 U.S.C.§ 103(a) as being unpatentable over Herwig is improper and should be withdrawn.

In regards to Shelton's - Firstly, in order to access the commercial establishment system and before any products selection or commercial transaction is permitted, a personal identification number (PIN) must be entered. Column 4,line 52-55 and Fig.3. Only then, the product selection and commercial transaction is possible.

This is inconsistent with currently presented Claim 15, where there is no PIN number required to initiate a commercial transaction or product selection.

Even if the the customer did manage to make selection of the candidate items for purchase, it is made **through the telephone** (as an intermediary or agent)keypad or speech recognition and then send **to the adjunct computer 22**, where inventory check of selected items is performed - a must requirement. Column 5,line 5-15.

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APPLE EX1009 Page 308

This is inconsistent with currently presented Claim 15 where is the selection of candidate items for purchase is made **on said phone** (as a medium for transmitting or storing), and items are tangibly available for purchase.

Therefore,for reasons stated above the rejection under 35 U.S.C.§ 103(a) as being unpatentable over Shelton is improper and should be withdrawn.

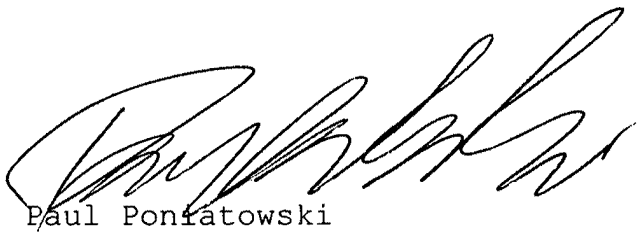
All claims dependent on Claim 1 are patentable for at least the same reasons as Claim 1 .

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CONCLUSION

Applicant has now made an ernest attempt to place this Application in condition for allowance. For the foregoing reasons and for other apparent reasons , Applicant respectfully requests allowance of all pending claims .

Respectfully submitted,



Paul Ponfatowski

October 28, 20013

IPR2024-00731
APPLE EX1009 Page 310

OPAP AKIMA-10
NOV 0 1 2013
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Paul Poniatowski	Art Unit	: 2655
Serial No.	: 13/559,194	Examiner	: Olisa Anwah
Filed	: July 26, 2012	Conf. No.	: 1019
Title	: Mobile Payment System		

MAIL STOP AMENDMENT Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Dear Sir:

NOTICE OF APPEAL

In response to the Final Action issued October 16, 2013, Applicant respectfully requests the Board Of Patent Appeals and Interferences to reconsider the rejections to the claims and the objections to the Application.

IPR2024-00731
APPLE EX1009 Page 311

REMARKS

This Application has been carefully reviewed in light of the Final Action issued October 16, 2013.Applicant respectfully requests consideration and favorable action in this Application

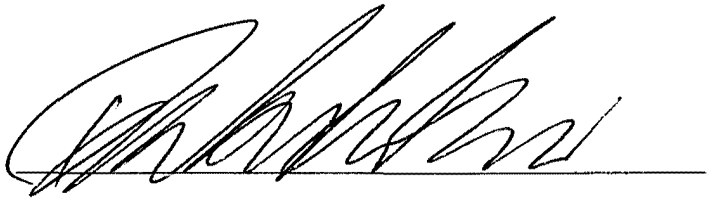
Applicant hereby appeals to the Board Of Patent Appeals and Interferences from the decision of the Examiner mailed October 16, 2013 finally rejecting the pending claims.

Attached herewith is a Request for Pre-Appeal Brief Review for consideration with this Notice of Appeal.

This Application claims micro entity status, and the check for the amount of $200 is enclosed to satisfy The Notice of Appeal fee requirement.

Respectfully submitted,

October 28, 2013



Paul Poniatowski

IPR2024-00731
APPLE EX1009 Page 312

OPAP AKIMA-10
NOV 0 1 2013
PATENT & TRADEMARK OFFICE

PTO/SB/31 (07-09)
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NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

Docket Number (Optional)

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on October 28, 2013

Signature

Typed or printed name Paul Poniatowski

In re Application of
Paul Poniatowski

Application Number	Filed
13559194	July 26 ,2012

For Mobile Payment System

Art Unit	Examiner
2655	Olisa Anwah

Applicant hereby **appeals** to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1)) $ 800

☑ Applicant claims ~~small~~ entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: $ 200

MKD

☑ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. _____ .

☐ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

☑ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☐ attorney or agent of record. Registration number _____ .

☐ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____

Signature

Paul Poniatowski
Typed or printed name

Telephone number

October 28, 2013
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
13/559,194	07/26/2012	Paul Poniatowski	30071-002002

CONFIRMATION NO. 1019

POA ACCEPTANCE LETTER

Paul Poniatowski
125 The Queensway PO .Box 134
Toronto, ON M8Y 1H0
CANADA





Date Mailed: 10/15/2013

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/09/2013.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/gbien-aime/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 01/15/2014

Paul Poniatowski
125 The Queensway PO .Box 134
Toronto, ON M8Y 1H0
CANADA

EXAMINER	
ANWAH, OLISA	

ART UNIT	PAPER NUMBER
2655	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Panel Decision from Pre-Appeal Brief Review	Application No. 13/559,194	Applicant(s) PONIATOWSKI, PAUL
	Examiner OLISA ANWAH	Art Unit 2655

This is in response to the Pre-Appeal Brief Request for Review filed 01 November, 2013.

1. ☐ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

☐ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
☐ The request does not include reasons why a review is appropriate.
☐ A proposed amendment is included with the Pre-Appeal Brief request.
☐ Other: .

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. ☒ **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

☒ The panel has determined the status of the claim(s) is as follows:
Claim(s) allowed: _____.
Claim(s) objected to: *10*.
Claim(s) rejected: *1-9, 11-13 and 15*.
Claim(s) withdrawn from consideration: *14*.

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. ☐ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) *OLISA ANWAH*.	(3) *Wellington Chin*.
(2) *Davetta Goins*.	(4)_____.

/OLISA ANWAH/ Primary Examiner, Art Unit 2655	/Wellington Chin/ Quality Assurance Specialist Technology Center 2600	/DAVETTA W. GOINS/ Supervisory Patent Examiner, Art Unit 2655

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PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

Docket Number (Optional)

Application Number	Filed
13559194	07/26/2012

For: Mobile Payment System

Art Unit	Examiner
2655	Anwah Olisa

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above-identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

	Fee	Small Entity Fee	Micro Entity Fee	
☐ One month (37 CFR 1.17(a)(1))	$200	$100	$50	$
☑ Two months (37 CFR 1.17(a)(2))	$600	$300	$150	$ 150
☐ Three months (37 CFR 1.17(a)(3))	$1,400	$700	$350	$
☐ Four months (37 CFR 1.17(a)(4))	$2,200	$1,100	$550	$
☐ Five months (37 CFR 1.17(a)(5))	$3,000	$1,500	$750	$

☐ Applicant asserts small entity status. See 37 CFR 1.27.

☑ Applicant certifies micro entity status. See 37 CFR 1.29.
Form PTO/SB/15A or B or equivalent must either be enclosed or have been submitted previously.

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☑ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number _____.

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I am the

☑ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. 37 CFR 3.73(b) statement is enclosed (Form PTO/SB/96).

☐ attorney or agent of record. Registration number _____.

☐ attorney or agent acting under 37 CFR 1.34. Registration number _____.

Signature — Date: 02/15/2014

Paul Poniatowski
Typed or printed name — Telephone Number

NOTE: This form must be signed in accordance with 37 CFR 1.33. See 37 CFR 1.4 for signature requirements and certifications. Submit multiple forms if more than one signature is required, see below*.

☐ * Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

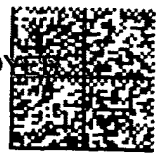
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 01/15/2014

Paul Poniatowski
125 The Queensway PO .Box 134
Toronto, ON M8Y 1H0
CANADA

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EXAMINER	
ANWAH, OLISA	
ART UNIT	PAPER NUMBER
2655	
MAIL DATE	DELIVERY MODE
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The time period for reply, if any, is set in the attached communication.

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Notice of Panel Decision from Pre-Appeal Brief Review	Application No. 13/559,194	Applicant(s) PONIATOWSKI, PAUL
	Examiner OLISA ANWAH	Art Unit 2655

This is in response to the Pre-Appeal Brief Request for Review filed 01 November, 2013.

1. ☐ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

☐ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
☐ The request does not include reasons why a review is appropriate.
☐ A proposed amendment is included with the Pre-Appeal Brief request.
☐ Other:

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

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☒ The panel has determined the status of the claim(s) is as follows:
Claim(s) allowed: _____.
Claim(s) objected to: *10*.
Claim(s) rejected: *1-9, 11-13 and 15*.
Claim(s) withdrawn from consideration: *14*.

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. ☐ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) *OLISA ANWAH*.	(3) *Wellington Chin*.
(2) *Davetta Goins*.	(4)_____.

/OLISA ANWAH/ Primary Examiner, Art Unit 2655	/Wellington Chin/ Quality Assurance Specialist Technology Center 2600	/DAVETTA W. GOINS/ Supervisory Patent Examiner, Art Unit 2655

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant	:	Paul Poniatowski	)	
			)	Group Art Unit: 2655
Appln. No.	:	13559194	)	
			)	Examiner: Anwah Olisa
Filed	:	07/26/2012	)	
			)	
For	:	Mobile Payment System		

APPEAL BRIEF

Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This brief is submitted in support of the Notice of Appeal of the Final

Rejection filed 10/16/2013.

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VIII. Conclusion 11

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X. Evidence Appendix 15

XI. Related Proceeding Appendix 16

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APPLE EX1009 Page 323

I. Real party in interest

The real party in interest is Paul Poniatowski, the inventor.

II. Related appeals and interferences

None.

III. Status of claims

Claims 1-15 are pending in the application.

Claims 1-9 and 11-15 are being appealed.

Claim 10 is objected to.

IV. Status of amendments

No amendments were filed following the Final Rejection.

V. Summary of claimed subject matter

Claim 1 is best understood with references to Figures 4 -11, and with the following citations to Appellant's specification.

Independent Claim 1

An apparatus comprising :

An apparatus for engaging in wireless commercial transactions, said apparatus comprising a mobile phone 330 equipped with a dedicated

IPR2024-00731
APPLE EX1009 Page 324

actuator 360 initiating a commercial transaction [0033, line 3][0035] and an optical input 385 for receiving information concerning prices of goods [0033, line 1-2] [0042, line 4-10], a network hub for wireless exchange of information between a commercial establishments POS(point-of-sale) terminal 320 and said mobile phone 330 within the boundaries of the establishment [0032][0034][0035], and a financial/authorization institution for associating a PIN 345 number with said mobile phone 330 and for authorizing transactions initiated by said mobile phone[0039][0040][0045].

VI. Grounds of rejection to be reviewed on appeal

1. The rejection of claims 1-9, 11-13 are under 35 U.S.C. § 103(a) as being unpatentable over Herwig et al, U.S. Patent Application Publication No. 2010/0161434 (hereinafter Herwig), combined with Barnes et al, U.S. Patent No. 2008/0305827 (hereinafter Barnes) and Skowronek et al, U.S. Patent Application Publication No. 2010/0023449 (hereinafter Skowronek) in further view of Medamana et al, U.S. Patent No. 5, 181, 238 (hereinafter Medamana), Welingkar et al, U.S. Patent No. 8, 135, 798 (hereinafter Welingkar) and Johar et al, U.S. Patent Publication No. 2009/0168695 (hereinafter Johar).

2. Claim 15 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Shelton, U.S. Patent No. 5, 345, 501 (hereinafter Shelton).

IPR2024-00731
APPLE EX1009 Page 325

VII. Arguments

1. The rejection of claims 1-9, 11-13 are under 35 U.S.C. § 103(a) as being unpatentable over Herwig et al, U.S. Patent Application Publication No. 2010/0161434 (hereinafter Herwig), combined with Barnes et al, U.S. Patent No. 2008/0305827 (hereinafter Barnes) and Skowronek et al, U.S. Patent Application Publication No. 2010/0023449 (hereinafter Skowronek) in further view of Medamana et al, U.S. Patent No. 5, 181, 238 (hereinafter Medamana), Welingkar et al, U.S. Patent No. 8, 135, 798 (hereinafter Welingkar) and Johar et al, U.S. Patent Publication No. 2009/0168695 (hereinafter Johar).

The Examiner asserts that Herwig's mobile phone 102 engages in wireless commercial transaction, exchanging informations about prices of goods via network hub with the retailers server 109 and that the said phone's NFC module 122 - when activated by keypad 110 Fig.2 - initiates commercial transaction with the said retailers server 109 .

IPR2024-00731
APPLE EX1009 Page 326

Herwig's system and its mobile phone 102 as described in detailed description and Fig.1, can not engage nor initiate a commercial transaction with the establishment because the network hub does not exist .

The Examiner makes assumption that the transceiver 116 is 802.11 Wi-Fi and the "cloud" image represents the network hub.

However, the full first sentence in paragraph [0076] states :

Typically, the wireless transceiver 116 is a 802.11 Wifi, or a Bluetooth transceiver.

and, Herwig's [0076 , line 4] very clearly states that:

The invention will be described with reference to a Bluetooth transceiver.

Hence it is then absolutely certain that the wireless transceiver 116 of the mobile phone 102 is a bluetooth transceiver, and that the communications occurring between the said phone and the retailer's server 109 equipped with corresponding transceiver 148 are done in a bluetooth mode.

Bluetooth is a telecommunications industry specification that permits mobile phones, computers, or personal digital assistants (PDAs) for easy interconnection using a short-range wireless connection without a Internet

IPR2024-00731
APPLE EX1009 Page 327

connection or a wireless router (hub) , and that a transceiver must be included in each device (in Herwigs case -transceivers 116 and 148).

In addition, the other "cloud" in Fig.1, represents a cellular connection between a mobile phone 102 and remote host 154 carried out via cellular transceiver 118 [0098 line 4].

And further, the payment terminal 108, Fig.1, discloses two types of communications: an NFC module 136 establishing connection with NFC module 122 of the mobile phone 102 [0100 , line 5-8], and a network connection 142 connecting solely with the remote payment authorisation host [0100], line 8], typically through PPP, Point-to-Point Protocol. No connection with a retail server 109 or network hub is shown or disclosed.

As a final thought, the Appellant would like to point out to paragraph [0013] in Herwig's, that states : *Such a system provides a user driven system where the retailer has responsibility for maintaining the check out only*.

Therefore for reasons stated above, the rejection under 35 U.S.C.§ 103(a) as being unpatentable over Herwig is improper and should be withdrawn.

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2. Claim 15 is rejected under 35 U.S.C. § 113(a) as being unpatentable over Shelton, U.S. Patent No. 5, 345, 501(hereinafter Shelton).

The Examiner alleges that Sheton discloses a method for engaging in a commercial transaction , the method comprising of a phone, receiving information (machine generated voice interactive dialogue), concerning candidate items from the commercial establishment (video store) terminal for commercial transaction ["..."].

Regardless of the Shelton's cited priority date, in order for it's phone to engage in commercial transaction and receive information about candidate items, or to make any product or category or service selection, the customer must enter correct personal identification number (PIN),which is then matched with the consumer data stored on the vendors adjunct computer 22 memory data 26, Col. 4, line 21-25. Only upon PIN approval, connection with the VRU 20 (voice response unit) is made and further informational and transactional menu's are made available to the user, Col. 4, line 27 . Further details of this procedure are shown in Fig.3, wherein the customer first places a call 32 and is requested to enter his PIN 34 in order to

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establish communication with VRU 20. Upon approval, the welcome message 42 is send with additional menu category 44. Only then, the customer is able to receive information concerning candidate items, conduct products selection, make choices and request payment authorization. In case the PIN is incorrect the call is disconnected. Column 4, line 52-68 .

This is inconsistent with currently presented Claim 15, where it is not required to enter any PIN number whatsoever, in order to:

- engage in a wireless commercial transaction with a mobile phone,
- receive information concerning candidate items for a commercial transaction,
- select on said phone, a set of selected items from the candidate items,
- establish communication between said phone and a terminal associated with the commercial establishment,
- use the phone to communicate the set of selected items to the terminal,
- use the phone to issue an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone.

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Therefore for reasons stated above, the rejection under 35 U.S.C.§ 103(a) as being unpatentable over Shelton is improper and should be withdrawn.

All claims dependent on Claim 1 are patentable for at least the same reasons as Claim 1.

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VIII. Conclusion

Applicant has clearly demonstrated that the present invention as claimed is clearly distinguishable over all the art cited of the record, either alone or in combination, and satisfies all requirements under 35 U.S.C.§ 103(a). Therefore, Applicant respectfully requests the Board of Patent appeals and Interferences to reverse the rejection of the Examiner and instruct the Examiner to issue a Notice of Allowance of all pending claims.

Respectfully submitted,

Date: Mar 23, 2014

/paul poniatowski/

Paul Poniatowski

Toronto,
ON, Canada

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APPLE EX1009 Page 332

IX. Claims appendix

1.(Original) An apparatus for engaging in wireless commercial transactions, said apparatus comprising a mobile phone equipped with a dedicated actuator for initiating a commercial transaction, and an optical input for receiving information concerning prices of goods, a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment, and a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone.

2.(Original) The apparatus of claim 1, mobile phone is configured to display information about goods scanned by said optical input on a display.

3.(Original) The apparatus of claim 1, wherein the mobile phone is configured to provide a sequence of displays to guide a user of said mobile phone through a commercial transaction that includes identification of goods to be purchased and payment associated with said purchase.

4.(Original) The apparatus of claim 1, wherein the mobile phone is

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configured to generate a listing of items available for purchase.

5.(Original) The apparatus of claim 4, wherein the mobile phone is further configured to solicit a selection of a subset of items from said listing.

6.(Original) The apparatus of claim 1, wherein the mobile phone is configured to display information concerning an incomplete commercial transaction.

7.(Original) The apparatus of claim 1, wherein a communication between the mobile phone and the network hub is constrained to remain within the commercial establishment.

8.(Original) The apparatus of claim 1, wherein the dedicated actuator comprises a button labeled with a symbolic indication of a function thereof.

9.(Original) The apparatus of claim 8, wherein the button comprises a touch-sensitive region on a display of the mobile phone.

10.(Original) The apparatus of claim 1, wherein actuation of the dedicated actuator causes information identifying the commercial establishment to be displayed on the mobile phone.

11.(Original) The apparatus of claim 1, wherein the mobile phone is

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configured to, on the basis of data provided by the optical input, display a price of an item.

12.(Original) The apparatus of claim 1, wherein the mobile phone is configured to receive a coupon applicable to a future transaction with the commercial establishment.

13.(Original) The apparatus of claim 1, wherein the mobile phone is configured to be remotely erased by the financial/authorization institution.

14.(Cancelled)

15.(New) A method for engaging in a wireless commercial transaction, the method comprising at a mobile phone, receiving information concerning candidate items for a commercial transaction, selecting, on said phone,a set of selected items from the candidate items,establishing communication between said phone and a terminal associated with the commercial establishment, using the phone, communicating the set of selected items to the terminal, and using the phone, issuing an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone.

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X. Evidence appendix

None.

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XI. Related proceedings appendix

None.

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APPLE EX1009 Page 337

Electronic Acknowledgement Receipt

EFS ID:	18555923
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Correspondence Address:	Paul Poniatowski - 125 The Queensway PO .Box 134 - Toronto ON M8Y 1H0 CA - -
Filer:	Paul Poniatowski
Filer Authorized By:	
Attorney Docket Number:	30071-002002
Receipt Date:	23-MAR-2014
Filing Date:	26-JUL-2012
Time Stamp:	18:46:20
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Appeal Brief Filed	Appealbrief.pdf	83736 81598b43d310ab5c5c0140e27079ed1b790b06fc	no	16

Warnings:	
Information:	
Total Files Size (in bytes):	83736

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 04/10/2014

EXAMINER	

Paul Poniatowski
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Toronto, ON M8Y 1H0
CANADA

ART UNIT	PAPER NUMBER

DATE MAILED: 04/10/2014

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 13/559,194	Applicant(s) Paul Pniatowski	
	Examiner Anwah Olisa	Art Unit 2655	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on *March 23, 2014* is defective for failure to comply with one or more provisions of 37 CFR 41.37(c).

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the rejected independent claims, referring to the specification in the Record by page and line number or by paragraph number and to the drawings, if any, by reference characters; and/or (b) the brief fails to identify, for each rejected independent claim and for each dependent claim argued separately that contains a means plus function or step plus function recitation under 35 U.S.C. 112, sixth paragraph, the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification in the Record by page and line number or paragraph number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(iii)).

3. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(v)).

4. ☒ Other (including any explanation in support of the above items):

Section III, (Section V) the Summary of Claimed Subject Matter, is incorrect because it is mapped to the printed publication rather than the original specification. Since the PG Publication is not considered to be part of the official Record, the appellant(s) MUST provide mapping from the original specification, dated July 26, 2012.

The mappings should be done in the format consistent with the original specification; i.e. page and line number, or page and paragraph number.

In addition, independent claim no. 15 should be mapped separately.

Another appeal brief is not required, just the corrected section can be submitted..

M. Twitty, Paralegal
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Paul Poniatowski	Art Unit	: 2655
Serial No.	: 13/559,194	Examiner	: Olisa Anwah
Filed	: July 26, 2012	Conf. No.	: 1019
Title	: Mobile Payment System		

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPLICANTS INTERVIEW SUMMARY

This is applicants summary of communications (a phone call and emails) that took place in April 11-21, 2014 with the examiner Olisa Anwah. Discussion covered issues related to the Claim 1 and Claim 15.

In regards to Claim 1 and the cited prior art of Herwig et al, US Patent Application Publication No. 2010/0161434, applicant submitted an email on April 14,2014 and following testimony, which disqualifies Herwig as proper prior art :

There is a printing error in Herwig's paper; [0095] line 1 it says - processor 126 , but it should actually state - processor 120.
In Detailed Description item 126 is listed as a connector and not processor .
The error is real and pivotal because the simple connector 126 as presented, does not have the computing/operational capability to store the required connection data or to establish wireless connections between phone 102 and retail server 109 [0095]

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APPLE EX1009 Page 343

In order for NFC module 122 engage in commercial transaction, the communication with the retailers server 109(POS) must take place . However the processor 120 is not part of NFC module 122 . Therefore activating NFC module 122 with the keypad 110 allows for wireless communication exchange only, between the phones NFC module and the NFC tag , hence the phone does not engage or initiate in a commercial transaction.

In an emailed response dated April 17,2014 the examiner has indicated immediate patent grant, pending further amendment to Claim 1 (based on the alleged missing disclosure in the applicant DETAILED DESCRIPTION) and cancelation of Claim 15.
Applicant respectfully rejected the offer on April 21, 2014 via email and argued in regards to amending Claim 1 with the following remarks:

Network hub acts/has the same capacity as POS terminal and the first line in applicants application clearly states [0032]:

*The system **310** includes a POS (point-of-sale) terminal **320** that transmits its ID **signal** within the perimeter of a commercial establishment.*

It is well known to those skilled in art, that there are may types of signals :

signal [1] |ˈsignəl|

noun
***1** a gesture, action, or sound that is used to convey information or instructions ...*

And applicants Claim 1 clearly embodies that : ...a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment...

- and in regards to Claim 15 :

The examiner suggests that Shelton discloses a method for mobile phone to engage in a commercial transaction .
This is incorrect . In fact what Shelton is describing is a method for forwarding information on customer orders through a telephone and a telephone network to a central office switch with an adjunct computer ,which then does the processing. As per Shelton's DISCLOSURE section, line 1.
This is inconsistent with proposed claim 15, wherein the phone receives information concerning candidate items for a commercial transaction and the said phone selects and communicate those items to the terminal .
The examiner also suggests that - " The credit card number is relayed to the credit card validation centre directly from the phone."
This is incorrect . From the DISCLOSURE column 2 lines 25-33 and 44-48 :
A central office switch is controlled by a dedicated central office computer and a voice message system platform (VMS) .The VMS platform preferably includes two separate memory regions. The first region of memory stores preprogrammed messages to be sent to customers. The second stores customer identification and inventory information downloaded from vendor sites. The computer is then further in communication with a credit card validation center. The public data network (PDN) or data links may be used to communicate with the credit card validation center.
This is inconsistent with proposed claim 15 , wherein the instruction requesting payment authorization is sent directly from the phone.

No formal agreement was reached, however it is believed that all the issues has been resolved and the application is ready for issuance.

Applicant has pleaded with examiner for speedy response in view of the looming filing deadlines with the Appeal Board.

Respectfully submitted,

April 24, 2014

Date: _____

/Paul Poniatowski/

_____

Paul Poniatowski

IPR2024-00731
APPLE EX1009 Page 346

Electronic Acknowledgement Receipt

EFS ID:	18852167
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Correspondence Address:	Paul Poniatowski - 125 The Queensway PO .Box 134 - Toronto ON M8Y 1H0 CA - -
Filer:	Paul Poniatowski
Filer Authorized By:	
Attorney Docket Number:	30071-002002
Receipt Date:	24-APR-2014
Filing Date:	26-JUL-2012
Time Stamp:	15:53:55
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Applicant summary of interview with examiner	Interviewsum.pdf	156324 191fa50b9ddc43d4848e1f69d022f20032ca2c12	no	4
Warnings:					
Information:					
		Total Files Size (in bytes):	156324		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 05/05/2014

Paul Poniatowski
125 The Queensway PO .Box 134
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CANADA

EXAMINER	
ANWAH, OLISA	

ART UNIT	PAPER NUMBER
2655	

MAIL DATE	DELIVERY MODE
05/05/2014	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Applicant-Initiated Interview Summary	Application No.	Applicant(s)	
	13/559,194	PONIATOWSKI, PAUL	
	Examiner	Art Unit	
	OLISA ANWAH	2655	

All participants (applicant, applicant's representative, PTO personnel):

(1) *OLISA ANWAH*. (3)_____.

(2) *Paul Poniatowski*. (4)_____.

Date of Interview: *01 May 2014*.

Type: ☒ Telephonic ☐ Video Conference
☐ Personal [copy given to: ☐ applicant ☐ applicant's representative]

Exhibit shown or demonstration conducted: ☐ Yes ☐ No.
If Yes, brief description: _____.

Issues Discussed ☐101 ☐112 ☐102 ☒103 ☒Others
(For each of the checked box(es) above, please describe below the issue and detailed description of the discussion)

Claim(s) discussed: *1*.

Identification of prior art discussed: *Herwig*.

Substance of Interview
(For each issue discussed, provide a detailed description and indicate if agreement was reached. Some topics may include: identification or clarification of a reference or a portion thereof, claim interpretation, proposed amendments, arguments of any applied references etc...)

See Continuation Sheet.

Applicant recordation instructions: The formal written reply to the last Office action must include the substance of the interview. (See MPEP section 713.04). If a reply to the last Office action has already been filed, applicant is given a non-extendable period of the longer of one month or thirty days from this interview date, or the mailing date of this interview summary form, whichever is later, to file a statement of the substance of the interview

Examiner recordation instructions: Examiners must summarize the substance of any interview of record. A complete and proper recordation of the substance of an interview should include the items listed in MPEP 713.04 for complete and proper recordation including the identification of the general thrust of each argument or issue discussed, a general indication of any other pertinent matters discussed regarding patentability and the general results or outcome of the interview, to include an indication as to whether or not agreement was reached on the issues raised.

☐ Attachment

/OLISA ANWAH/ Primary Examiner, Art Unit 2655	

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record
A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews
Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.
All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:
- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:
1) A brief description of the nature of any exhibit shown or any demonstration conducted,
2) an identification of the claims discussed,
3) an identification of the specific prior art discussed,
4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
5) a brief identification of the general thrust of the principal arguments presented to the examiner,
   (The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
6) a general indication of any other pertinent matters discussed, and
7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

The examiner stated that Applicant is free to include new arguments when amending the defective Appeal Brief of 3/23/2014.

Applicant indicated that the paragraph 0032 of the instant application clearly states that the system 310 includes a POS terminal 320 that transmits its ID signal within the perimeter of a commercial establishment. The examiner responded that the instant claims to not explicitly claim that the system 310 includes a POS terminal 320 that transmits its ID signal within the perimeter of a commercial establishment. Among other things, the examiner pointed out that the claims do not mention the disclosed POS terminal nor the transmitted ID signal. To be sure, the claims merely recite an apparatus for engaging in wireless commerical transactions and a network hub for the wireless exchange of information between a commercial establishment and said mobile phone. With regards to the explicit claim language, the examiner stated that "An apparatus for engaging in wireless commercial transactions" is well known to one of ordinary skill in the art. Additionally, the examiner noted that "a network hub for the wireless exchange of information between a commerical establishment and said mobile phone" is also well known to one of ordinary skill in the art.

Lastly, the examiner offered to broaden claim 10 to recite that actuation of the dedicated actuator causes information identifying the commerical establishment to be announced (as opposed to displayed as presently claimed) on the mobile phone. By replacing displayed with annouced, the applicant's coverage would encompass text, audio, video and other formats of announcements. Indeed, the examiner indicated that claim 1 would be allowable if amended to include the suggested amendment to claim 10. Applicant respectfully declined the offer. As a result, the examiner advised Applicant to file a correction to the defective Appeal Brief of 3/23/2014. Upon receipt of a proper brief, the examiner will provide an appropriate response.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 05/08/2014

Paul Poniatowski
125 The Queensway PO .Box 134
Toronto, ON M8Y 1H0
CANADA

EXAMINER	
ANWAH, OLISA	

ART UNIT	PAPER NUMBER
2655	

MAIL DATE	DELIVERY MODE
05/08/2014	PAPER

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The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
13/559,194	26 July, 2012	PONIATOWSKI, PAUL	30071-002002

Paul Poniatowski
125 The Queensway PO .Box 134
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EXAMINER	
OLISA ANWAH	
ART UNIT	PAPER
2655	20140502

DATE MAILED:

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Commissioner for Patents

Swartz et al, U.S. Patent No. 7,040,541 is pertinent to the instant invention. Swartz is directed towards an appartus (from abstract, see portable terminal) for engaging in wireless (from column 4, see wireless) commercial communication (from column 14, see In-Store Marketing), said apparatus (from Figure 2, see unit 70) comprising a mobile phone (from Figure 3, see unit 706) equipped with a dedicated actuator (from Figure 9, see unit 246) for initiating (from column 4, see "add" an item) a commercial transaction (from column 4, see list of purchased items), and an optical input (from Figure 2, see unit 75) for receiving information concerning prices of goods (from column 9, see displays product information such as price), a network hub (from Figure 1, see unit 13A) for wireless (from column 5, see wireless radio) exchange of information (from column 6, see retransmits data to the portable terminals) between a commerical establishment (from column 4, see retail facility) and said mobile phone (from column 12, see telephone subsystem) within the boundaries of the establishment.

With regards to finalizing the initiated transaction, Swartz teaches payment may be made by electronic means via a card swipe/reader 175 or through a standard cash/check transaction (see column 7). As per the limitations of a commercial transaction and a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone, the authenticated communication access service of Medamana et al, U.S. Patent No. 5,181,238 would allow the customer of Swartz to make a payment by dialing the number of a service provider in the unfortunate event that the customer forgets the customer's credit card, cash or checkbook at home.

/OLISA ANWAH/
Primary Examiner, Art Unit 2655

PTO-90C (Rev.04-03)

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 04/10/2014

EXAMINER

Paul Poniatowski
125 The Queensway PO .Box 134
Toronto, ON M8Y 1H0
CANADA

ART UNIT	PAPER NUMBER

DATE MAILED: 04/10/2014

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No.	Applicant(s)	
	13/559,194	Paul Pniatowski	
	Examiner	Art Unit	
	Anwah Olisa	2655	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on *March 23, 2014* is defective for failure to comply with one or more provisions of 37 CFR 41.37(c).

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the rejected independent claims, referring to the specification in the Record by page and line number or by paragraph number and to the drawings, if any, by reference characters; and/or (b) the brief fails to identify, for each rejected independent claim and for each dependent claim argued separately that contains a means plus function or step plus function recitation under 35 U.S.C. 112, sixth paragraph, the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification in the Record by page and line number or paragraph number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(iii)).

3. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(v)).

4. ☒ Other (including any explanation in support of the above items):

Section III, (Section V) the Summary of Claimed Subject Matter, is incorrect because it is mapped to the printed publication rather than the original specification. Since the PG Publication is not considered to be part of the official Record, the appellant(s) MUST provide mapping from the original specification, dated July 26, 2012.

The mappings should be done in the format consistent with the original specification; i.e. page and line number, or page and paragraph number.

In addition, independent claim no. 15 should be mapped separately.

Another appeal brief is not required, just the corrected section can be submitted..

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APPLE EX1009 Page 357

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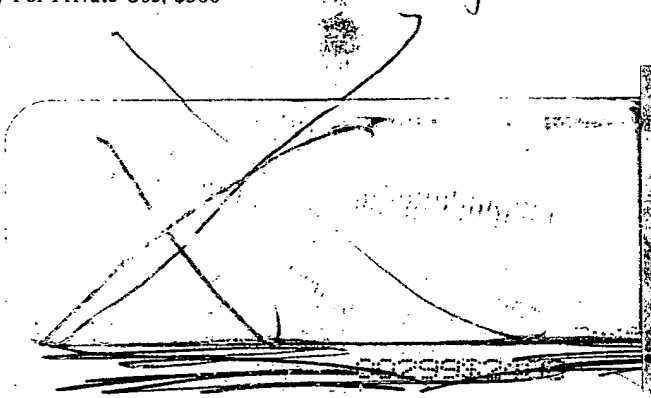
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant	:	Paul Poniatowski	)	
			)	Group Art Unit: 2655
Appln. No.	:	13559194	)	
			)	Examiner: Anwah Olisa
Filed	:	07/26/2012	)	
			)	
For	:	Mobile Payment System		

APPEAL BRIEF

Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This brief is submitted in support of the Notice of Appeal of the Final Rejection filed October 16, 2013 and Notification of Non-Compliant Appeal Brief filed April 10, 2014.

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I. Real party in interest

The real party in interest is Paul Poniatowski, the inventor.

II. Related appeals and interferences

None.

III. Status of claims

Claims 1-15 are pending in the application.

Claims 1-9 and 11-15 are being appealed.

Claim 10 is objected to.

IV. Status of amendments

No amendments were filed following the Final Rejection.

V. Summary of claimed subject matter

Independent Claim 1

An apparatus 310 for engaging in wireless commercial transactions, said apparatus comprising a mobile phone 330 equipped with a dedicated actuator 360 for initiating a commercial transaction, and an optical input 385 for receiving information concerning prices of goods, a network hub 320 for wireless exchange of information between a commercial establishment 325 and said mobile phone within the boundaries of the

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establishment, and a financial/authorization institution for associating a PIN number 345 with said mobile phone and for authorizing transactions initiated by said mobile phone. (Figures 4, 8-11; Page 11, lines 3-24)

Claim 15

A method for engaging in a wireless commercial transaction, the method comprising at a mobile phone receiving information concerning candidate items for a commercial transaction, selecting, on said phone, a set of selected items from the candidate items, establishing communication between said phone and a terminal associated with the commercial establishment, using the phone, communicating the set of selected items to the terminal, and using the phone, issuing an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone. (Page 11, lines 3-24)

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VI. Grounds of rejection to be reviewed on appeal

1. The rejection of claims 1-9, 11-13 are under 35 U.S.C. § 103(a) as being unpatentable over Herwig et al, U.S. Patent Application Publication No. 2010/0161434 (hereinafter Herwig), combined with Barnes et al, U.S. Patent No. 2008/0305827 (hereinafter Barnes) and Skowronek et al, U.S. Patent Application Publication No. 2010/0023449 (hereinafter Skowronek) in further view of Medamana et al, U.S. Patent No. 5, 181, 238 (hereinafter Medamana), Welingkar et al, U.S. Patent No. 8, 135, 798 (hereinafter Welingkar) and Johar et al, U.S. Patent Publication No. 2009/0168695 (hereinafter Johar).

2. Claim 15 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Shelton, U.S. Patent No. 5, 345, 501 (hereinafter Shelton).

VII. Arguments

1. The rejection of claims 1-9, 11-13 are under 35 U.S.C. § 103(a) as being unpatentable over Herwig et al, U.S. Patent Application Publication No. 2010/0161434 (hereinafter Herwig), combined with Barnes et al, U.S. Patent No. 2008/0305827 (hereinafter Barnes) and Skowronek et al, U.S. Patent Application Publication No. 2010/0023449 (hereinafter Skowronek) in further view of Medamana et al, U.S. Patent

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No. 5, 181, 238 (hereinafter Medamana), Welingkar et al, U.S. Patent No. 8, 135, 798 (hereinafter Welingkar) and Johar et al, U.S. Patent Publication No. 2009/0168695 (hereinafter Johar).

The Examiner incorrectly asserts that Herwig's system engages in wireless commercial transaction. Herwig's system does not engage in a commercial transaction. The retail server 109 and the payment terminal 108 (lacking wireless transceiver) are not connected or have any means to exchange any informations concerning goods and prices with each other in the course of the transaction. Payment terminal 108 (not part of network hub) connects with the phone 102 using NFC type technology, via it's respective NFC modules 136 and 122, uploads the product list with a total price from the phones processor 120, and sends that "grand total"(via processor 138) to a remote authorization/financial institution with whom the customer has a bank account or a store /charging account via network connection 142 [0100] with request for payment. That is where the commercial transaction occurs : between payment terminal and authorization/financial institution. Herwig's phone engages in a wireless information exchange only.

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In addition, activating the NFC module 122 on Herwig's phone with the keypad 110, initiates a wireless exchange of information between the NFC tag 106 and the said NFC module 122 only, and has no means to form a connection with the retailers server 109. Examiner assumes that the NFC module 122 consists of the processor 126 and wireless transceiver, and thus able to connect with the retailer's server 109, as implied in [0095]. However the disclosed configuration is flawed because it is in fact the independent processor 120 via it's wireless transceiver 116 that connects with the server 109 in an alternative embodiment. The DETAILED DESCRIPTION, lists the item 126 as a connector 126, (not as a processor) without the wireless transceiver and as a component of the NFC Module 122 [0077]. It is than clear that the simple connector 126, would not have computing/operational capability to store the required connection data or to establish wireless connections with the retail server 109. Hence then, activating NFC module 122 with the keypad 110 allows only for wireless communication exchange between the said phone's NFC module 122 and the NFC tag 106 and does not cause the said module to engage or initiate a commercial transaction.

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This is inconsistent with currently proposed Claim 1 wherein the activation of the dedicated actuator on the mobile phone, directly and instantly connects the mobile phone with the retailers POS (point of sale) terminal and a financial/authorization institution for associating said mobile phone for authorizing transactions initiated by said mobile phone.

In addition, during subsequent communications, examiner suggested further amendment to Claim 1, chiefly to include subject matter of claim 10 (..information identifying the commercial establishment to be displayed on the mobile phone). Applicant respectfully rejected the offer, citing that the sentence from applicants detailed disclosure "transmits it's ID signal" would be interpreted by one of ordinary skilled in the art with the following logic; word definition for - transmit : allow heat, light, sound, electricity, or other energy to pass through a medium; and word definition for - signal : gesture, action, impulse or sound that is used to convey information. It would then be clearly understood by those skilled in art that the signal does not have to be limited to the visual nature .

Examiner also states in the Interview Summary that applicants claims do

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not explicitly claim that the apparatus 310 includes a POS terminal 320 and that the communication is restricted to the perimeter of of the commercial establishment. Applicant respectfully submits that giving the Claim 1 broadest reasonable interpretation it would be easily understood by one of ordinary skill in art that since the phone and the establishment engage in commercial transaction in order to facilitate such activity the retailer network hub (disclosed in the Claim 1) will have to have trait/configuration of the POS terminal in order to achieve the gist of commercial transaction. In regards to lack of evidence supporting communication being restricted to the perimeter of the commercial establishment, applicant points out to page 9 line 25-28 and claim 1. In regards to transmitting ID signal, Claim 1 discloses that the communication between the phone and the commercial establishment is a wireless exchange type and such configuration would certainly support communication/transmition of variety types of signals such as: light, sound, radio, electricity.

Examiner also states that : " To be sure, the claims merely recite an apparatus for engaging in wireless commercial transactions and a network

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hub for wireless exchange of information between a commercial establishment and said said mobile phone." and that "both of those elements are well know to those skilled in the art". That is incorrect.

Examiner omits very important aspect . Applicant's apparatus (phone) is equipped with a dedicated actuator that initiates a commercial transaction.

A proper rejection under section 103 requires that the combination of references teach or suggest the claimed invention, viewed as a whole, to one of ordinary skill in the art at the time the invention was made. The invention was made so long ago that perhaps it seems commonplace today and therefore difficult to put one's self in the position of one of ordinary skill in the art almost ten years ago. However, back then, the subject matter of the claimed invention, viewed as a whole, was not obvious. The individual pieces of the claimed invention, in isolation, may have existed at the time of the invention. But this is almost always true. If the standard for patentability were "did the elements of the claim exist prior to the filing date?" virtually nothing would be patentable. In fact, the first chief judge for the Federal Circuit, Judge Markey, was addressing this very issue when

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quoted in Fromson: "This case typifies an observation by the late Chief Judge Markey, our first Chief Judge, that "[o]nly God works from nothing. Men must work with old elements." Thus, the question is not whether the individual elements of the claim were known. The answer to that question is almost always a resounding "yes." The question is whether, if one were to travel back in time to the moment of invention, one of ordinary skill in the art would have found it obvious to combine all those elements in order to make the subject matter of the claim as a whole. In the present case, the evidence of record clearly answers that question in the negative.

Therefore for reasons stated above, the rejection under 35 U.S.C.§ 103(a) as being unpatentable over Herwig is improper and should be withdrawn.

2. Claim 15 is rejected under 35 U.S.C. § 113(a) as being unpatentable over Shelton, U.S. Patent No. 5, 345, 501(hereinafter Shelton). The examiner suggests that Shelton discloses a method for mobile phone to engage in a commercial transaction . This is incorrect . In fact what Shelton is describing is a method for forwarding information on customer orders through a telephone and a telephone network to a central office switch

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with an adjunct computer ,which then does the processing. As per Shelton's DISCLOSURE section, line 1.This is inconsistent with proposed claim 15, wherein the phone receives information concerning candidate items for a commercial transaction and the said phone selects and communicate those items to the terminal. The examiner also suggests that - " The credit card number is relayed to the credit card validation centre directly from the phone". This is incorrect. From the DISCLOSURE column 2 lines 25-33 and 44-48 : A central office switch is controlled by a dedicated central office computer and a voice message system platform (VMS) .The VMS platform preferably includes two separate memory regions. The first region of memory stores preprogrammed messages to be sent to customers. The second stores customer identification and inventory information downloaded from vendor sites. The computer is then further in communication with a credit card validation center. The public data network (PDN) or data links may be used to communicate with the credit card validation center.
This is inconsistent with proposed claim 15, wherein the instruction requesting payment authorization is sent directly from the phone.

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Therefore for reasons stated above, the rejection under 35 U.S.C.§ 103(a) as being unpatentable over Shelton is improper and should be withdrawn.

All claims dependent on Claim 1 are patentable for at least the same reasons as Claim 1.

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VIII. Conclusion

Applicant has clearly demonstrated that the present invention as claimed is clearly distinguishable over all the art cited of the record, either alone or in combination, and satisfies all requirements under 35 U.S.C.§ 103(a). Therefore, Applicant respectfully requests the Board of Patent Appeals and Interferences to reverse the rejection of the Examiner and instruct the Examiner to issue a Notice of Allowance of all pending claims.

Respectfully submitted,

Date: May 10, 2014

/Paul Poniatowski/

Paul Poniatowski

Toronto,
ON, Canada

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IX. Claims appendix

1.(Original) An apparatus for engaging in wireless commercial transactions, said apparatus comprising a mobile phone equipped with a dedicated actuator for initiating a commercial transaction, and an optical input for receiving information concerning prices of goods, a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment, and a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone.

2.(Original) The apparatus of claim 1, mobile phone is configured to display information about goods scanned by said optical input on a display.

3.(Original) The apparatus of claim 1, wherein the mobile phone is configured to provide a sequence of displays to guide a user of said mobile phone through a commercial transaction that includes identification of goods to be purchased and payment associated with said purchase.

4.(Original) The apparatus of claim 1, wherein the mobile phone is

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configured to generate a listing of items available for purchase.

5.(Original) The apparatus of claim 4, wherein the mobile phone is further configured to solicit a selection of a subset of items from said listing.

6.(Original) The apparatus of claim 1, wherein the mobile phone is configured to display information concerning an incomplete commercial transaction.

7.(Original) The apparatus of claim 1, wherein a communication between the mobile phone and the network hub is constrained to remain within the commercial establishment.

8.(Original) The apparatus of claim 1, wherein the dedicated actuator comprises a button labeled with a symbolic indication of a function thereof.

9.(Original) The apparatus of claim 8, wherein the button comprises a touch-sensitive region on a display of the mobile phone.

10.(Original) The apparatus of claim 1, wherein actuation of the dedicated actuator causes information identifying the commercial establishment to be displayed on the mobile phone.

11.(Original) The apparatus of claim 1, wherein the mobile phone is

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configured to, on the basis of data provided by the optical input, display a price of an item.

12.(Original) The apparatus of claim 1, wherein the mobile phone is configured to receive a coupon applicable to a future transaction with the commercial establishment.

13.(Original) The apparatus of claim 1, wherein the mobile phone is configured to be remotely erased by the financial/authorization institution.

14.(Cancelled)

15.(New) A method for engaging in a wireless commercial transaction, the method comprising at a mobile phone, receiving information concerning candidate items for a commercial transaction, selecting, on said phone,a set of selected items from the candidate items,establishing communication between said phone and a terminal associated with the commercial establishment, using the phone, communicating the set of selected items to the terminal, and using the phone, issuing an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone.

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X. Evidence appendix

None.

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XI. Related proceedings appendix

None.

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Electronic Acknowledgement Receipt

EFS ID:	18996327
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Correspondence Address:	Paul Poniatowski - 125 The Queensway PO .Box 134 - Toronto ON M8Y 1H0 CA - -
Filer:	Paul Poniatowski
Filer Authorized By:	
Attorney Docket Number:	30071-002002
Receipt Date:	10-MAY-2014
Filing Date:	26-JUL-2012
Time Stamp:	16:20:12
Application Type:	Utility under 35 USC 111(a)

Payment information:

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National Stage of an International Application under 35 U.S.C. 371

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New International Application Filed with the USPTO as a Receiving Office

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant	:	Paul Poniatowski	)	
			)	Group Art Unit: 2655
Appln. No.	:	13559194	)	
			)	Examiner: Anwah Olisa
Filed	:	07/26/2012	)	

For : Mobile Payment System

Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Please disregard todays earlier entered Appeal Brief .

/Paul Poniatowski/

Paul Poniatowski Toronto, May 10, 2014

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APPLE EX1009 Page 380

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant	:	Paul Poniatowski	)	
			)	Group Art Unit: 2655
Appln. No.	:	13559194	)	
			)	Examiner: Anwah Olisa
Filed	:	07/26/2012	)	

For : Mobile Payment System

SUPPLEMENTARY APEAL BRIEF

Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir,

This is supplementary to the Appeal Brief filed on May 10,2014.

To further elaborate on the aspect that Herwig's system is unable to engage in commercial transaction , applicant would like to assert that in order for the commercial transaction as a whole to be completed the customers phone must be engaged/connected with the commercial establishment retail server throughout the entire length of the transaction and that such requirement would be well known to those skilled in the art and was discussed with the

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Examiner in one of the phone conversations.

That is not the case in Herwig instance, because the [0100] first line states :

" Irrespective of whether the pricing data is downloaded from the tag or uploaded from the PLU database of the retail store 109, ..."

Even though the phone obtained some data from the server and uploads the said data via his mobile phone processor 120 it is in fact a wireless information exchange only because the phone 102 is not connected with the server at the time of transmission, and that is commonly known as browsing [0091]. Planning to buy something does not qualify as an actual transaction. The consumer then has additional option of comparing the prices with a remote host 154 to compare the prices and change the place of shopping/ retailer all together [0098] and the same time is breaking the "continuity cycle" of commercial transaction. The moment the phone disconnects from the server the transaction is interrupted. Even at the time when the communication occurs between the phone 102 and the payment terminal via theirs respective NFC modules 122/136 and the phones processor 120 uploads the list data in to the processor 138 of the payment terminal it's

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only a wireless data exchange from one device on to the other .

The retail server certainly is not aware of that exchange - not connected with the phone or payment terminal 10 -and therefore no commercial transaction is possible.

The actual transaction takes place when terminal 108 and it's processor 138 opens a connection to a payment authorization and request for payment covering the total price from the list as stated in the main body of the Brief.

It should be noted that payment terminals are owned by the financial/ authorization companies and such terminal 'll be registered/assigned (serial number/retailer merchant details) with the said financial/authorization company for accounting/record keeping purposes and often are not connected to the retailer server. Such terminals are usually owned by the financial/authorization companies and the retailer pays monthly fees for service and equipment rental/maintenance.

Respectfully submitted : /Paul Poniatowski/

Paul Poniatowski

May 12, 2014 Toronto

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APPLE EX1009 Page 383

Electronic Acknowledgement Receipt

EFS ID:	18998480
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Correspondence Address:	Paul Poniatowski - 125 The Queensway PO .Box 134 - Toronto ON M8Y 1H0 CA - -
Filer:	Paul Poniatowski
Filer Authorized By:	
Attorney Docket Number:	30071-002002
Receipt Date:	12-MAY-2014
Filing Date:	26-JUL-2012
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Application Type:	Utility under 35 USC 111(a)

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If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

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If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 05/13/2014

Paul Poniatowski
125 The Queensway PO .Box 134
Toronto, ON M8Y 1H0
CANADA

EXAMINER	
ANWAH, OLISA	

ART UNIT	PAPER NUMBER
2655	

MAIL DATE	DELIVERY MODE
05/13/2014	PAPER

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The time period for reply, if any, is set in the attached communication.

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Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
13/559,194	26 July, 2012	PONIATOWSKI, PAUL	30071-002002

Paul Poniatowski
125 The Queensway PO .Box 134
Toronto, ON M8Y 1H0

EXAMINER	
OLISA ANWAH	
ART UNIT	PAPER
2655	20140509

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Zalewski et al, U.S. Patent Application Publication No. 2005/0017068 (hereinafter Zalewski) and Hammad et al, U.S. Patent No. 8,589,300 (hereinafter Hammad) are considered pertinent to the instant invention. Zalewski teaches a method for engaging in a wireless commercial communication, the method comprising at a mobile phone (from paragraph 0097, see phone), receiving information (from paragraph 0097, see menu) concerning candidate items for a commerical transaction (from paragraph 0096, see transactions), selecting, on said phone a set of selected items (from paragraph 0097, see choice) from the candidate items, establishing communication (from paragraph 0097, see message) between said phone and a terminal (from paragraph 0097, see POS) associated with the commercial establishment (from parargaph 0096, see restaurant), using the phone, communicating the set of selected items to the terminal.

With regards to payment, Zalewski discloses that the customer would then approach the counter where his/her meal would be waiting for payment which requires simply swiping the mobile station over the POS RFID reader (see paragraph 0097). Hammad discloses using the phone (see unit 30 from Figure 1), issuing an instruction (from column 6, see consumer 20 may interact his mobile communication device 30 with access device 42 at merchant 40 to initiate the transaction) to the terminal (see unit 42 from Figure 1) to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone (from column 8, see mobile communication device 30 relays the transaction information and information associated with the mobile communication device 30 directly to the issuer 70). The direct request of Hammad would reduce fraud in Zalewski.

/OLISA ANWAH/
Primary Examiner, Art Unit 2655

PTO-90C (Rev.04-03)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant	:	Paul Poniatowski	)	
			)	Group Art Unit: 2655
Appln. No.	:	13559194	)	
			)	Examiner: Anwah Olisa
Filed	:	07/26/2012	)	

For : Mobile Payment System

Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir,
Please find below an applicant's communication concerning this application.

Regarding Swartz, U.S. Pat. 7,040,541;
Swartz is not relevant because :
- the phone as allegedly cited in Fig.3 is as a part of **basic subcomponent system** of the portable terminal 70 from the Fig. 2, that includes telephone **subsystem 706** Col. 6 line 6, Fig. 3. All communications in the terminal 70 are handled first by it's CPU 701, Col. 6 line 7, and NOT by the phone as stipulated by currently presented Claim 1.
In addition, Swartz's system also does not disclose :
- a phone equipped with dedicated actuator that initiates commercial transaction (unit 246 Fig. 9 belongs to bar code reader 240 and NOT the phone)

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- an optical input for receiving information concerning prices of goods is not attached to the phone (scanner is attached to CPU 701 and NOT the phone as per Fig.2.
- a phone that solicits selection of a subset items from said listing thereof for purchase to the authorization institution.
- a financial/authorization institution for associating a PIN number with said mobile phone

Regarding Zalewski, US Pat. App. No. 2005/0017068 ;
Zalewski is not relevant because currently presented Claim 15 requires "using the phone, issuing an instruction to the terminal [associated with the commercial establishment] to request authorization of payment."
The cited art does not teach this limitation.
Zalewski teaches a payment method that uses something called "digital cash" (see ¶73).
This "digital cash" is expected to have all the attributes of conventional cash. Thus, the buyer, i.e the party tendering the digital cash, would not be expected to ask the receiving party to seek authorization for payment any more than the buyer would be expected to do so if the cash were conventional cash. Cash is a legal tender.

Hammand's US patent 8,589,300 filed on Jun.11, 2012 is irrelevant, because the present application is a continuation of it's parent US patent 8,270,578 filed on Oct.19, 2009 that discloses a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone.

/Paul Poniatowski/

Paul Poniatowski Toronto, May 18, 2014

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Electronic Acknowledgement Receipt

EFS ID:	19058441
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Correspondence Address:	Paul Poniatowski - 125 The Queensway PO .Box 134 - Toronto ON M8Y 1H0 CA - -
Filer:	Paul Poniatowski
Filer Authorized By:	
Attorney Docket Number:	30071-002002
Receipt Date:	18-MAY-2014
Filing Date:	26-JUL-2012
Time Stamp:	10:23:01
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Transmittal Letter	communicationform.pdf	36280 0c9377a55ac237aedae9ebc501ee29227458b3d3	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	36280		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 05/21/2014

Paul Poniatowski
125 The Queensway PO .Box 134
Toronto, ON M8Y 1H0
CANADA

EXAMINER	
ANWAH, OLISA	

ART UNIT	PAPER NUMBER
2655	

MAIL DATE	DELIVERY MODE
05/21/2014	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 13/559,194	Applicant(s) PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	AIA (First Inventor to File) Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *5/10/2014*.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

5)☒ Claim(s) *1-15* is/are pending in the application.

5a) Of the above claim(s) *14* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1-9, 11-13 and 15* is/are rejected.

8)☒ Claim(s) *10* is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a)☐ All b)☐ Some** c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

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DETAILED ACTION

1. In view of the Appeal Brief filed on 5/10/2014, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

(at the end of the Office Action)

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112(a):

> (a) IN GENERAL.—The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor or joint inventor of carrying out the invention.

The following is a quotation of the first paragraph of pre-AIA 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 15 is rejected under 35 U.S.C. 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor or a joint inventor, or for pre-AIA the inventor(s), at the time the application was filed, had possession of the claimed invention. More specifically, claim 15 explicitly recites that the instruction requesting authorization is sent directly from the phone. Indeed, the instant specification teaches that once selections have been made, the

customer presses the ORDER key 488 to send the full order information to the POS (see page 12). The specification also discloses that authorization takes place in the processing center (see page 11). However, the specification does not clearly teach that the instruction requesting authorization is sent directly from the phone. Assuming that Applicant believes that the specification supports this limitation, the examiner requests that Applicant point out where the specification describes that the instruction requesting authorization is sent directly from the phone.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-3, 6, 8, 9, 11 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Swartz et al, U.S. Patent No. 7,040,541 (hereinafter Swartz) combined with Medamana et al,

U.S. Patent No. 5,181,238 (hereinafter Medamana), Hammad[1] et al, U.S. Patent No. 8,219,490 (hereinafter Hammad) and Skowronek et al, U.S. Patent Application Publication No. 2010/0023449 (hereinafter Skowronek).

Regarding claim 1, Swartz discloses an apparatus (from abstract, see portable terminal), said apparatus comprising a mobile phone (from Figure 3, see unit 706), and an optical input[2] (from Figure 2, see unit 75) for receiving information concerning prices of goods, a network hub (from Figure 1, see unit 13A) for wireless exchange of information between a commercial establishment (from column 4, see retail facility) and said mobile within the boundaries of the establishment.

Still on the issue of claim 1, Swartz does not teach a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone. All the same, Medamana discloses a financial/authorization institution for associating a PIN number (from column 4, see Enter PIN) with said mobile phone (from column 4, see ANI number) and for authorizing (from abstract, see authorized) transactions initiated by said phone.

[1] Hammad qualifies as prior art because it was filed before October 19, 2009.

[2] For other examples of an optical unit for receiving information concerning the prices of goods, see paragraph 0009 of Barnes et al, U.S. Patent No. 2008/0305827 (hereinafter Barnes) and Figure 1 of Ogasawara, U.S. Patent No. 6,577,861 (hereinafter Ogasawara).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Swartz with a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said phone as taught by Medamana. This modification would allow the customer to make a payment by dialing the number of a service provider in the unfortunate event that the customer forgets the customer's credit card, cash or checkbook at home.

Again on the issue of claim 1, the combination of Swartz and Medamana does not teach the apparatus engages in wireless commercial transactions, said apparatus equipped with an actuator for initiating a commercial transaction. All the same, Hammad discloses that the apparatus (see unit 30 from Figure 1) engages in wireless commercial transactions, said apparatus equipped with an actuator for initiating (from column 6, see initiate the transaction) a commercial transaction. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Swartz and Medamana wherein the apparatus engages in wireless commercial transactions, said apparatus equipped with an actuator for initiating a commercial transaction as taught by Hammad. This modification would have improved the

system's flexibility by enabling any suitable form of communication such as a text message, a multimedia message, a phone call, a voice message, a voicemail message, an instant messaging message, an email message, etc. as suggested by Hammad (see column 4).

Further regarding claim 1, the combination of Swartz, Medamana and Hammad fails to teach that the actuator is dedicated. All the same, Skowronek discloses that the actuator (see unit 104 from Figure 1) is dedicated. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Swartz, Medamana and Hammad wherein the actuator is dedicated as taught by Skowronek. This modification would have improved the system's flexibility by providing different kinds of actuators as suggested by Skowronek (see paragraph 0004).

Regarding claim 2, see Figure 7 of Swartz.

Regarding claim 3, see Figure 7 of Swartz.

Regarding claim 6, see Figure 7 of Swartz.

Regarding claim 8, Swartz as modified by Medamana, Hammad and Skowronek discloses that the dedicated actuator comprises a button labeled (from Figure 1 of Skworonek, see Pay) with a symbolic indication of a function thereof.

Regarding claim 9, Swartz as modified by Medamana, Hammad and Skowronek discloses the button comprises a touch-sensitive region (from paragraph 0030 of Skowronek, see an icon on a touch screen) on a display of the mobile phone.

Regarding claim 11, see Figure 7 of Swartz.

Regarding claim 12, see column 14 of Swartz.

6. Claim 15 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Zalewski et al, U.S. Patent Application Publication No. 2005/0017068 (hereinafter Zalewski) in view of Hammad.

Regarding claim 15, Zalewski teaches a method for engaging in a wireless commercial communication, the method comprising at a mobile phone (from paragraph 0097, see phone), receiving information (from paragraph 0097, see menu) concerning candidate items for a commercial transaction (from paragraph 0096, see transactions), selecting, on said phone a set of selected items

(from paragraph 0097, see choice) from the candidate items, establishing communication (from paragraph 0097, see message) between said phone and a terminal (from paragraph 0097, see POS) associated with the commercial establishment (from paragraph 0096, see restaurant), using the phone, communicating the set of selected items to the terminal.

Further regarding claim 15, Zalewski does not explicitly teach using the phone, issuing an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone. Regardless, Hammad discloses using the phone (see unit 30 from Figure 1), issuing an instruction (from column 6, see consumer 20 may interact his mobile communication device 30 with access device 42 at merchant 40 to initiate the transaction) to the terminal (see unit 42 from Figure 1) to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone (from column 8, see mobile communication device 30 relays the transaction information and information associated with the mobile communication device 30 directly to the issuer 70). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zalewski with using the phone,

issuing an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone as taught by Hammad. This modification would have improved the reliability of Zalewski by reducing identity theft and fraud as suggested by Hammad (see column 1).

7. Claim 7 is rejected under 35 U.S.C § 103(a) as being unpatentable over Swartz combined with Medamana, Hammad and Skowronek in further view of Johar et al, U.S. Patent Application Publication No. 2009/0168695 (hereinafter Johar).

Regarding claim 7, the combination of Swartz, Medamana, Hammad and Skowronek does not explicitly teach that a communication between the mobile phone and the network hub is constrained to remain with the commercial establishment. All the same, Johar discloses that the communication between the mobile phone and the network hub is constrained to remain within the establishment (from abstract, see limiting access to the wireless network to devices located within the boundary area). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Swartz, Medamana, Hammad and Skowronek wherein a communication between the mobile phone and the network

hub is constrained to remain within the establishment as taught Johar. This modification would have improved the system's security by preventing unauthorized users from clandestinely connecting to the wireless network.

8. Claim 13 is rejected under 35 U.S.C § 103(a) as being unpatentable over Swartz combined with Medamana, Hammad and Skowronek in further view of Welingkar et al, U.S. Patent No. 8,135,798 (hereinafter Welingkar).

Regarding claim 13, the combination of Swartz combined with Medamana, Hammad and Skowronek does not clearly teach that the mobile phone is configured to be remotely erased by the financial/authorization institution. All the same, Welingkar discloses that the mobile phone is configured to be remotely erased by the authorization institution (from Figure 10, see erase user data). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Swartz combined with Medamana, Hammad and Skowronek wherein the mobile phone is configured to be remotely erased by the authorization institution as taught by Welingkar. This modification would have improved the system reliability by allowing access to be

restricted when the user is not in possession or direct control of the client device.

9. Claims 4 and 5 are rejected under 35 U.S.C § 103(a) as being unpatentable over Swartz combined with Medamana, Hammad and Skowronek in further view of Zalewski.

Regarding claim 4, the combination of base references does not clearly teach the mobile phone is further configured to generate a listing of items available for purchase. All the same, Zalewski teaches that the mobile phone is further configured to generate a listing[3] of items available for purchase (see paragraph 0097). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of base references wherein the mobile phone is further configured to generate a listing of items available for purchase as taught by Zalewski. This modification would have improved the system's flexibility by allowing for the device to be used in a restaurant as suggested by Zalewski (see paragraph 0095).

[3] Also see paragraph 0088 of Herwig et al, U.S. Patent Application Publication No. 2010/0161434 (hereinafter Herwig).

Regarding claim 5, the combination of Swartz, Medamana, Hammad and Skowronek as modified by Zalewski (see paragraph 0097) inherently teaches the claimed feature.

Response to Arguments

10. Applicant's arguments have been considered but are deemed to be moot in view of the new grounds of rejection.

Allowable Subject Matter

11. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olisa Anwah whose telephone number is 571-272-7533. The examiner can normally be reached on Monday to Friday from 8.30 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Davetta Goins can be reached on 571-272-2957. The fax phone numbers for the organization where this application or proceeding is assigned

are 571-273-8300 for regular communications and 571-273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

Olisa Anwah
Patent Examiner
May 20, 2014

/Olisa Anwah/

Primary Examiner, Art Unit 2655

/DAVETTA W. GOINS/

Supervisory Patent Examiner, Art Unit 2655

Notice of References Cited	Application/Control No. 13/559,194	Applicant(s)/Patent Under Reexamination PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-7,040,541	05-2006	Swartz et al.	235/472.02
*	B	US-5,181,238	01-1993	Medamana et al.	379/93.03
*	C	US-8,219,490	07-2012	Hammad et al.	705/44
*	D	US-2010/0023449	01-2010	Skowronek et al.	705/39
*	E	US-2005/0017068	01-2005	Zalewski et al.	235/380
*	F	US-2009/0168695	07-2009	Johar et al.	370/328
*	G	US-8,135,798	03-2012	Welingkar et al.	709/217
*	H	US-2008/0305827	12-2008	Barnes et al.	455/556.1
*	I	US-6,577,861	06-2003	Ogasawara, Nobuo	455/419
*	J	US-2010/0161434	06-2010	Herwig et al.	705/20
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Search Notes

Application/Control No.	Applicant(s)/Patent under Reexamination
13/559,194	PONIATOWSKI, PAUL
Examiner	**Art Unit**
OLISA ANWAH	2655

SEARCHED			
Class	Subclass	Date	Examiner
379	93.12	5/14/2014	OA
	93.17		
	93.22		
	91.01		
	201.01		
	201.02		
455	419		
235	462.45		
	472.01		
	472.02		
	262.46		

INTERFERENCE SEARCHED			
Class	Subclass	Date	Examiner

SEARCH NOTES (INCLUDING SEARCH STRATEGY)		
	DATE	EXMR
Spoke with Ahmad Matar	5/12/2014	OA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant	:	Paul Poniatowski	)	
			)	Group Art Unit: 2655
Appln. No.	:	13559194	)	
			)	Examiner: Anwah Olisa
Filed	:	07/26/2012	)	
			)	
For	:	Mobile Payment System		

APPEAL BRIEF

Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This brief is submitted in support of the Notice of Appeal of the Non-Final Rejection mailed May 21, 2014, under 37 CFR 41.37 .

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X. Evidence Appendix 18

XI. Related Proceeding Appendix 19

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I. Real party in interest

The real party in interest is Paul Poniatowski, the inventor.

II. Related appeals and interferences

None.

III. Status of claims

Claims 1-15 are pending in the application.

Claims 1-9 and 11-15 are being appealed.

Claim 10 is objected to.

IV. Status of amendments

No amendments were filed following the Non-Final Rejection.

V. Summary of claimed subject matter

Independent Claim 1

An apparatus 310 for engaging in wireless commercial transactions, said apparatus comprising a mobile phone 330 equipped with a dedicated actuator 360 for initiating a commercial transaction, and an optical input 385 for receiving information concerning prices of goods, a network hub 320 for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the

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establishment, and a financial/authorization institution for associating a PIN number 345 with said mobile phone and for authorizing transactions initiated by said mobile phone. (Figures 4, 8-11; Page 11, lines 3-24)

Claim 15

A method for engaging in a wireless commercial transaction, the method comprising at a mobile phone 330 receiving information concerning candidate items for a commercial transaction, selecting, on said phone 330, a set of selected items from the candidate items, establishing communication between said phone 330 and a terminal associated with the commercial establishment 320, using the phone, communicating the set of selected items to the terminal 320, and using the phone, issuing an instruction to the terminal 320 to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone 330.

(Figures 4, 8-11, Page 11, lines 3-24)

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VI. Grounds of rejection to be reviewed on appeal

1. Claim 15 rejection under 35 USC § 112(a) or 35 USC § 112 (pre-AIA).

2. The rejection of claims 1-9, 11-13 are under 35 U.S.C. § 103(a) as being unpatentable over Swartz et al, U.S. Patent No. 7,040,541 combined with Medamana et al, U.S. Patent No. 5,181,238, Hammad et al, U.S. Patent No. 8,219,490, Skowronek et al, U.S. Patent Application Publication No. 2010/0023449, Zalewski et al , U.S. Patent Application No. 2005/0017068, Johar et al, U.S. Patent Publication No. 2009/0168695 and Welingkar et al, U.S. Patent No. 8, 135, 798.

3. Rejection of claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Zalewski et al U.S. Patent Application No. 2005/0017068 in view of Hammad et al, U.S. Patent No. 8,219,490.

VII. Arguments

1. Claim 15 rejection under 35 USC § 112(a) or 35 USC § 112 (pre-AIA).

Applicant would like to point out that the agreement was reached during the telephone interview on April 2 , 2013 with the examiner, applicant and the applicant's attorney at the time to amend the claim in such way in order to further distinguished it from Zalewski. Regarding the argument that " the specification does not clearly teach that the instruction requesting

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authorization is sent directly from the phone " applicant would like to point out to the page 11 line 16-22 and Figures 9-11 that clearly teaches that: the phone is in a PAY mode, the phone displays transaction details, (the phone) displays various types of payments, (the phone) invites to make a selection of payment type and (the phone) invites entry of the customers PIN on to the mobile phone to finalize the sale. It is well understood by one skilled in art that proceeding a transaction along with the PIN number to the financial organization would be inherently synonymous to submitting authorization request to approve/decline the said transaction by the financial organization pending funds/credit availability. Therefore rejection under 35 USC §112(a) or 35 USC § 112 (pre-AIA) is improper and should be withdrawn.

2. The rejection of claims 1-9, 11-13 is under 35 U.S.C. § 103(a) as being unpatentable over Swartz et al, U.S. Patent No. 7,040,541 combined with Medamana et al, U.S. Patent No. 5,181,238, Hammad et al, U.S. Patent No. 8,219,490, Skowronek et al, U.S. Patent Application Publication No. 2010/0023449, Zalewski et al, U.S. Patent Application Publication No. 2005/0017068, Johar et al, U.S. Patent Application Publication No.

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2009/0168695 and Welingkar et al, U.S. Patent No.8,135,798.

Swartz is cited for allegedly disclosing an portable terminal comprised of a mobile phone (Figure 3, unit 706) and an optical input (Figure 2, unit 75) for receiving information concerning prices of goods and a network hub Figure 1, unit 13A) for wireless exchange of information between a commercial establishment and the said mobile phone within the boundaries of the establishment . That is incorrect.

Applicant's Claim 1 stipulates (..) a mobile phone equipped with (..) an optical input for receiving information concerning prices of goods and a network hub for wireless information exchange between the said mobile phone and the commercial establishment. Swartz does not disclose a phone that exchange information concerning prices of goods with commercial establishment. The system discloses portable terminal (70) that is comprised of : relative simple microprocessor and system architecture providing graphic and audio support, from Summary of the Invention Column 2 line 7-9, and wireless communication radio for communicating data to a central computer (..) Column 4, line 15-17. Figure 2 illustrates in detail the

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portable terminal 70 and the detailed description Column 4, line 46 thru Column 6 line 4. The terminal 70 communicates with central host through wireless radio 80 Column 5 line 41- 42. Figure 3 illustrates basic subcomponent system of the portable terminal 70 shown in Figure 2, Column 6 line 6-7. The subcomponent system simply illustrates a secondary/alternate system set-up to the one disclosed in Figure 2.

As shown and disclosed hereinbefore the preferred embodiment of portable terminal 70 consists of microprocessor that handles communications in said terminal and not the phone. Similarly subcomponent system is fit with CPU 701 handling all it's communications Column 6, line 6-11 Fig. 3.

In order for the system to perform as envisioned "the portable shopping system is provided with an improved portable terminal which is provided with telephony, as well enhanced video capabilities " Column 2 , line 25. The word definition of telephony is : "use of a telephone system to send and receive sounds over long distances". In the case of the basic subcomponent system, the phone 706 enables audio/voice communication abilities, the very same as offered by preferred embodiment of terminal 70 and it's

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speaker 74 and microphone 71, Column 5, line 1-6. Additional telephony description is disclosed in Column 5, line 16-18.

Therefore it is clearly shown that the phone subsystem 706, illustrated in basic subcomponent system of the portable terminal 70 Figure 3, is only used for audio/conversation purposes and does not handle any hub data computing/exchange concerning prices of goods with the commercial establishment. In addition, Swartz's Figure 2 illustrates detailed preferred embodiment of the portable terminal 70 and it's graphic/audio architecture Column 4, line 46-67, Column 5 and Column 6, line 1-5 . Examiner believes that the data from the optical input 75 is displayed on the phone. That is incorrect. From the Summary : " the terminal is provided with a display for illustrating help and instructional files associated with a selected item identified with the machine code reader Column 2, line 62-64, and as per Detailed Description : "Terminal 70 is provided with display 72 and the display will function both as a video display and a data input device ", Column 4 line 47-51, Fig.2 and that the "plus"/"add" , "minus"/"delist" function keys can be defined on the screen of a touch sensitive scanner

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Column 4 , line 55-65.

It is then clear that looking at the basic subsystem in Figure 3 and based on disclosed specifications, the data input obtained from central host or the scanner 704 will be displayed on the video (display) subsystem 705 via the CPU 701 of the basic subcomponent terminal 70 and not on the phone. Therefore the rejection under the §103(a) is improper and should be withdrawn .

All claims dependent on Claim 1 are patentable for at least the same reasons as Claim 1.

3. Rejection of claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Zalewski et al U.S. Patent Application No. 2005/0017068 in view of Hammad et al, U.S. Patent No. 8,219,490.

Applicant's Claim 15 requires: (..) establishing communication between phone and a terminal associated with the commercial establishment, using the phone, communicating the set of selected items to the terminal (of the commercial establishment), and using the phone, issuing an instruction to the terminal (of the commercial establishment) to request authorization of payment, wherein the instruction requesting authorization is sent directly

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from the phone. Zalewski does not teach using the phone issuing an instruction to the terminal associated with the commercial establishment to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone. Examiner argues that Hammad discloses: a phone unit 30 interacting with access device 42 of merchant 40, that initiates a transaction and that the phone 30 issues an instruction to the access device 42 to request authorization of payment, wherein the instruction requesting authorization is send directly from the phone to issuer 70. That is incorrect. Examiner omits some important facts: the request authorization must be send to the terminal of the commercial establishment and not to the payment processing network or issuer and that both the payment processing network 60 and the issuer 70 are independent entities not affiliated with the commercial establishment terminal. Column 4 line 47 and Column 6 line 19.

Hammad consumer initiate the purchase by selecting items at merchant 40. The list is displayed at access device 24 Column 6 line 45-50. The transaction information may contain a transaction code Column 4 line 24-38. Consumer initiates transaction and uploads the transaction information from device 42 on to his phone 30 Column 6 line 51-58. Phone 30 relays that information to payment processing network 60 Column 6 line

63-66. Network 60 consists of cluster of computers : server unit 60(a), computer readable medium (CRM) 60(b) and database 60(c).

The CRM is able to process transaction codes Column 5 line 53-67 and Column 6 line 1-8. Server 60(a) and the computers in the cluster, processes the information received from phone 30 Column 7 line 4-18 and sends an authorization request to issuer 70 to finalize transaction Column 7 line 33-36. Phone 30 may also relay the transaction information directly to independent entity issuer 70, along with a coded message Column 8 line 14-21. Issuer 70 is able to process such transaction because similarly to network 60 it has a cluster of computers : server computer 70(a), computer readable medium (CRM) 70(b) and database 70(c) Column 6 line 19-44, enabling to process the transaction information along with suitable transaction code and forwarding final confirmation to consumer 30 or to merchant 40 Column 8 line 25-28.

It is then clear that the server computers 60(a) and 70(a) upon completing the processing aspect within it's computer cluster are responsible for sending the payment authorization request to the payment network and the issuer and not the mobile phone as allegedly stipulated by the examiner.

Hammad's teachings are inconsistent with instant Claim 15 wherein (..) the phone selects/generates the transaction information data, the phone connects

with the commercial establishment terminal, the phone communicates the said data to the commercial establishments terminal and the said phone requests a payment authorization from the commercial establishment terminal.

Therefore rejection under 35 U.S.C.103(a) is improper and should be withdrawn.

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VIII. Conclusion

Applicant has clearly demonstrated that the present invention as claimed is clearly distinguishable over all the art cited of the record, either alone or in combination, and satisfies all requirements under 35 U.S.C.§ 103(a) and 35 USC § 112(a) or 35 USC § 112 (pre-AIA) .

Therefore, Applicant respectfully requests the Board of Patent Appeals and Interferences to reverse the rejection of the Examiner and instruct the Examiner to issue a Notice of Allowance of all pending claims.

Respectfully submitted,

Date: June 2, 2014

/Paul Poniatowski/

Paul Poniatowski

Toronto,
ON, Canada

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IX. Claims appendix

1.(Original) An apparatus for engaging in wireless commercial transactions, said apparatus comprising a mobile phone equipped with a dedicated actuator for initiating a commercial transaction, and an optical input for receiving information concerning prices of goods, a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment, and a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone.

2.(Original) The apparatus of claim 1, mobile phone is configured to display information about goods scanned by said optical input on a display.

3.(Original) The apparatus of claim 1, wherein the mobile phone is configured to provide a sequence of displays to guide a user of said mobile phone through a commercial transaction that includes identification of goods to be purchased and payment associated with said purchase.

4.(Original) The apparatus of claim 1, wherein the mobile phone is

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configured to generate a listing of items available for purchase.

5.(Original) The apparatus of claim 4, wherein the mobile phone is further configured to solicit a selection of a subset of items from said listing.

6.(Original) The apparatus of claim 1, wherein the mobile phone is configured to display information concerning an incomplete commercial transaction.

7.(Original) The apparatus of claim 1, wherein a communication between the mobile phone and the network hub is constrained to remain within the commercial establishment.

8.(Original) The apparatus of claim 1, wherein the dedicated actuator comprises a button labeled with a symbolic indication of a function thereof.

9.(Original) The apparatus of claim 8, wherein the button comprises a touch-sensitive region on a display of the mobile phone.

10.(Original) The apparatus of claim 1, wherein actuation of the dedicated actuator causes information identifying the commercial establishment to be displayed on the mobile phone.

11.(Original) The apparatus of claim 1, wherein the mobile phone is

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configured to, on the basis of data provided by the optical input, display a price of an item.

12.(Original) The apparatus of claim 1, wherein the mobile phone is configured to receive a coupon applicable to a future transaction with the commercial establishment.

13.(Original) The apparatus of claim 1, wherein the mobile phone is configured to be remotely erased by the financial/authorization institution.

14.(Cancelled)

15.(New) A method for engaging in a wireless commercial transaction, the method comprising at a mobile phone, receiving information concerning candidate items for a commercial transaction, selecting, on said phone,a set of selected items from the candidate items,establishing communication between said phone and a terminal associated with the commercial establishment, using the phone, communicating the set of selected items to the terminal, and using the phone, issuing an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone.

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X. Evidence appendix

None.

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XI. Related proceedings appendix

None.

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Electronic Acknowledgement Receipt

EFS ID:	19191027
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Correspondence Address:	Paul Poniatowski - 125 The Queensway PO .Box 134 - Toronto ON M8Y 1H0 CA - -
Filer:	Paul Poniatowski
Filer Authorized By:	
Attorney Docket Number:	30071-002002
Receipt Date:	02-JUN-2014
Filing Date:	26-JUL-2012
Time Stamp:	22:21:34
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Notice of Appeal Filed	Appealnotice2.pdf	66384 c41586c70c5e5f54b5620c7a1aecee81b5d0dd58	no	2
Warnings:					
Information:					
2	Appeal Brief Filed	Appealbrieftwo.pdf	76403 0b7846abf282530f449a82e94c0acd04681f181c	no	19
Warnings:					
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		Total Files Size (in bytes):	142787		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Paul Poniatowski	Art Unit	: 2655
Serial No.	: 13/559,194	Examiner	: Olisa Anwah
Filed	: July 26, 2012	Conf. No.	: 1019
Title	: Mobile Payment System		

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

NOTICE OF APPEAL

In response to the Non-Final Action mailed May 21, 2014, and under 37 CFR 41.31, Applicant respectfully requests the Board Of Patent Appeals and Interferences to reconsider the rejections to the claims and the objections to the Application.

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REMARKS

This Application has been carefully reviewed in light of the Non-Final Action mailed May 21,2014.

Applicant respectfully requests consideration and favorable action in this Application.

Applicant hereby appeals to the Board Of Patent Appeals and Interferences from the decision of the Examiner mailed May 21, 2014 rejecting the pending claims.

Previously paid appeal fee filed on November 1, 2013 is to be re-applied to this new appeal.

Respectfully submitted,

June 2 , 2014

/Paul Poniatowski/

_____

Paul Poniatowski

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APPLE EX1009 Page 431

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 05/05/2014

Paul Poniatowski
125 The Queensway PO .Box 134
Toronto, ON M8Y 1H0
CANADA



EXAMINER	
ANWAH, OLISA	
ART UNIT	PAPER NUMBER
2655	
MAIL DATE	DELIVERY MODE
05/05/2014	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Applicant-Initiated Interview Summary	Application No.	Applicant(s)	
	13/559,194	PONIATOWSKI, PAUL	
	Examiner	Art Unit	
	OLISA ANWAH	2655	

All participants (applicant, applicant's representative, PTO personnel):

(1) *OLISA ANWAH*. (3)_____.

(2) *Paul Poniatowski*. (4)_____.

Date of Interview: *01 May 2014*.

Type: ☒ Telephonic ☐ Video Conference
☐ Personal [copy given to: ☐ applicant ☐ applicant's representative]

Exhibit shown or demonstration conducted: ☐ Yes ☐ No.
If Yes, brief description: _____.

Issues Discussed ☐101 ☐112 ☐102 ☒103 ☒Others
(For each of the checked box(es) above, please describe below the issue and detailed description of the discussion)

Claim(s) discussed: *1*.

Identification of prior art discussed: *Herwig*.

Substance of Interview
(For each issue discussed, provide a detailed description and indicate if agreement was reached. Some topics may include: identification or clarification of a reference or a portion thereof, claim interpretation, proposed amendments, arguments of any applied references etc...)

See Continuation Sheet.

Applicant recordation instructions: The formal written reply to the last Office action must include the substance of the interview. (See MPEP section 713.04). If a reply to the last Office action has already been filed, applicant is given a non-extendable period of the longer of one month or thirty days from this interview date, or the mailing date of this interview summary form, whichever is later, to file a statement of the substance of the interview

Examiner recordation instructions: Examiners must summarize the substance of any interview of record. A complete and proper recordation of the substance of an interview should include the items listed in MPEP 713.04 for complete and proper recordation including the identification of the general thrust of each argument or issue discussed, a general indication of any other pertinent matters discussed regarding patentability and the general results or outcome of the interview, to include an indication as to whether or not agreement was reached on the issues raised.

☐ Attachment

/OLISA ANWAH/ Primary Examiner, Art Unit 2655	

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record
A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews
Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.
All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:
- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:
1) A brief description of the nature of any exhibit shown or any demonstration conducted,
2) an identification of the claims discussed,
3) an identification of the specific prior art discussed,
4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
5) a brief identification of the general thrust of the principal arguments presented to the examiner,
   (The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
6) a general indication of any other pertinent matters discussed, and
7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

The examiner stated that Applicant is free to include new arguments when amending the defective Appeal Brief of 3/23/2014.

Applicant indicated that the paragraph 0032 of the instant application clearly states that the system 310 includes a POS terminal 320 that transmits its ID signal within the perimeter of a commercial establishment. The examiner responded that the instant claims to not explicitly claim that the system 310 includes a POS terminal 320 that transmits its ID signal within the perimeter of a commercial establishment. Among other things, the examiner pointed out that the claims do not mention the disclosed POS terminal nor the transmitted ID signal. To be sure, the claims merely recite an apparatus for engaging in wireless commerical transactions and a network hub for the wireless exchange of information between a commercial establishment and said mobile phone. With regards to the explicit claim language, the examiner stated that "An apparatus for engaging in wireless commercial transactions" is well known to one of ordinary skill in the art. Additionally, the examiner noted that "a network hub for the wireless exchange of information between a commerical establishment and said mobile phone" is also well known to one of ordinary skill in the art.

Lastly, the examiner offered to broaden claim 10 to recite that actuation of the dedicated actuator causes information identifying the commerical establishment to be announced (as opposed to displayed as presently claimed) on the mobile phone. By replacing displayed with annouced, the applicant's coverage would encompass text, audio, video and other formats of announcements. Indeed, the examiner indicated that claim 1 would be allowable if amended to include the suggested amendment to claim 10. Applicant respectfully declined the offer. As a result, the examiner advised Applicant to file a correction to the defective Appeal Brief of 3/23/2014. Upon receipt of a proper brief, the examiner will provide an appropriate response.

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APPLE EX1009 Page 437

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 05/08/2014

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125 The Queensway PO .Box 134
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EXAMINER	
ANWAH, OLISA	
ART UNIT	PAPER NUMBER
2655	
MAIL DATE	DELIVERY MODE
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
13/559,194	26 July, 2012	PONIATOWSKI, PAUL	30071-002002

Paul Poniatowski
125 The Queensway PO .Box 134
Toronto, ON M8Y 1H0

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OLISA ANWAH	
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Commissioner for Patents

Swartz et al, U.S. Patent No. 7,040,541 is pertinent to the instant invention. Swartz is directed towards an appartus (from abstract, see portable terminal) for engaging in wireless (from column 4, see wireless) commercial communication (from column 14, see In-Store Marketing), said apparatus (from Figure 2, see unit 70) comprising a mobile phone (from Figure 3, see unit 706) equipped with a dedicated actuator (from Figure 9, see unit 246) for initiating (from column 4, see "add" an item) a commercial transaction (from column 4, see list of purchased items), and an optical input (from Figure 2, see unit 75) for receiving information concerning prices of goods (from column 9, see displays product information such as price), a network hub (from Figure 1, see unit 13A) for wireless (from column 5, see wireless radio) exchange of information (from column 6, see retransmits data to the portable terminals) between a commerical establishment (from column 4, see retail facility) and said mobile phone (from column 12, see telephone subsystem) within the boundaries of the establishment.

With regards to finalizing the initiated transaction, Swartz teaches payment may be made by electronic means via a card swipe/reader 175 or through a standard cash/check transaction (see column 7). As per the limitations of a commercial transaction and a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone, the authenticated communication access service of Medamana et al, U.S. Patent No. 5,181,238 would allow the customer of Swartz to make a payment by dialing the number of a service provider in the unfortunate event that the customer forgets the customer's credit card, cash or checkbook at home.

/OLISA ANWAH/
Primary Examiner, Art Unit 2655

PTO-90C (Rev.04-03)

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 05/13/2014

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OPAP AKIMA-13 JUN 13 2014 PATENT & TRADEMARK OFFICE

EXAMINER	
ANWAH, OLISA	
ART UNIT	PAPER NUMBER
2655	
MAIL DATE	DELIVERY MODE
05/13/2014	PAPER

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
13/559,194	26 July, 2012	PONIATOWSKI, PAUL	30071-002002

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EXAMINER	
OLISA ANWAH	
ART UNIT	PAPER
2655	20140509

DATE MAILED:

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Commissioner for Patents

Zalewski et al, U.S. Patent Application Publication No. 2005/0017068 (hereinafter Zalewski) and Hammad et al, U.S. Patent No. 8,589,300 (hereinafter Hammad) are considered pertinent to the instant invention. Zalewski teaches a method for engaging in a wireless commercial communication, the method comprising at a mobile phone (from paragraph 0097, see phone), receiving information (from paragraph 0097, see menu) concerning candidate items for a commerical transaction (from paragraph 0096, see transactions), selecting, on said phone a set of selected items (from paragraph 0097, see choice) from the candidate items, establishing communication (from paragraph 0097, see message) between said phone and a terminal (from paragraph 0097, see POS) associated with the commercial establishment (from parargaph 0096, see restaurant), using the phone, communicating the set of selected items to the terminal.

With regards to payment, Zalewski discloses that the customer would then approach the counter where his/her meal would be waiting for payment which requires simply swiping the mobile station over the POS RFID reader (see paragraph 0097). Hammad discloses using the phone (see unit 30 from Figure 1), issuing an instruction (from column 6, see consumer 20 may interact his mobile communication device 30 with access device 42 at merchant 40 to initiate the transaction) to the terminal (see unit 42 from Figure 1) to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone (from column 8, see mobile communication device 30 relays the transaction information and information associated with the mobile communication device 30 directly to the issuer 70). The direct request of Hammad would reduce fraud in Zalewski.

/OLISA ANWAH/
Primary Examiner, Art Unit 2655

PTO-90C (Rev.04-03)

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 06/20/2014

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EXAMINER	
ANWAH, OLISA	

ART UNIT	PAPER NUMBER
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Application Number: 13/559,194
Filing Date: July 26, 2012
Appellant(s): PONIATOWASKI, PAUL

Paul Poniatowski
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 2, 2014.

(1) Grounds of Rejection to be Reviewed on Appeal

Every ground of rejection set forth in the Office action dated May 21, 2014 from which the appeal is taken is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "Withdrawn Rejections." New grounds of rejection (if any) are provided under the subheading "New Grounds of Rejection."

(2) Withdrawn Rejections

- Claim 15 of the instant application explicitly recites wherein the instruction requesting authorization is sent directly from the phone.

- In the Non-Final Rejection mailed on 5/21/2014, the examiner pointed out that the instant specification does not clearly disclose wherein the instruction requesting authorization is sent directly from the phone.

- In response to this argument, the Appeal Brief filed on 6/2/2014 explains that because the mobile phone finalizes the sale (see page 6 of the brief), the specification discloses that the instruction requesting authorization is sent directly from the phone.

- More specifically, Applicant states that preceding a transaction along with the PIN number to the financial organization[1] would be inherently synonymous to submitting authorization request to approve/decline the said transaction by the financial organization pending funds/credit availability (see page 6 of the brief).

- To be sure, Figure 5 of the instant specification depicts mobile phone 330 in communication with the POS terminal 320. At Figure 6, the customer enters the PIN information 345 and selects an OK icon 375 to commence further processing. After the processing and authorization 342 takes place, a final e-receipt is issued and stored on the telephone 330, as shown in Figure 7.

- In light of Figures 5 through 7 of the instant specification, the examiner's understanding is that the claimed limitation of wherein the instruction requesting authorization is sent directly from the phone occurs when

[1] It is unclear as to whether the mentioned financial organization is the POS terminal of Figure 5 or the processing center described at page 11 of the instant specification. The examiner concedes that the specification teaches direct communication between the mobile phone 330 and the POS terminal 320 (see Figure 5); however, the specification does not support direct communication between the mobile phone 330 and the processing center of page 11. Indeed, the instant specification describes that authorization takes place in the processing center (see page 11), but the specification does not teach the instruction requesting authorization is sent directly from the phone to the processing center. Consequently, the examiner's understanding is that the instruction requesting authorization is sent directly from the phone to the POS terminal (see Figure 5). Lastly, an instruction requesting authorization that is sent directly from the phone to the processing center is old and well known in the art as evidenced by Hammad's disclosure that the mobile communication device 30 relays the transaction information and information associated with the mobile communication device 30 directly to the issuer 70 (see lines 15-20 of column 8).

the mobile phone 330 is communication with the POS terminal 320 and the customer enters the PIN information 345 and selects an OK icon 375 to commence further processing.

- Put in an another way, the claimed limitation of wherein the instruction requesting authorization is sent directly from the phone occurs when the mobile phone 330 sends an instruction to the POS terminal 320, whereby the instruction instructs the POS to finalize the sale (see page 6 of the brief).

- Given this interpretation, the 112 rejection of 5/21/2014 is hereby withdrawn.

(3) Response to Arguments

A. The Board Should Affirm the Rejection of Claim 15 Because the Prior Art, When Viewed as a Whole and as Combined in the Rejection, Suggests All the Limitations of the Claims.

- Applicant mentions that the request authorization must be send to the terminal of the commercial establishment (see page 11 of the brief). Because Hammad discloses that the consumer 20 can interact with his mobile communication device 30 with access device 42 at merchant 40 to initiate the transaction (see lines 50-60 of column 6), Hammad

discloses that the request authorization may be sent to the terminal of the commercial establishment.

- Applicant argues that the mobile phone of Hammad is not responsible for sending the payment authorization request to the payment network (see page 12 of the brief). Because Hammad discloses that the consumer 20 can interact with his mobile communication device 30 with access device 42 at merchant 40 to initiate the transaction (see lines 50-60 of column 6), Hammad discloses that the mobile phone is responsible for sending the payment authorization request to the payment network.

- All in all, Because Hammad discloses that the consumer 20 may interact his mobile device 30 with access device 42 at merchant 40 to initiate the transaction (see lines 50-60 of column 6) and because Hammad discloses that the authorization response message may be sent from the payment processing network 60 directly to the mobile communication device 30 (see lines 50-55 of column 7), Hammad discloses using the phone, issuing an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone.

- More specifically, similar to Figure 5 of the instant specification depicting the mobile phone 330 in communication with the POS terminal 320 and similar to Figure 6 of the instant specification showing that the customer enters the PIN information 345 and selects an OK icon 375 to commence further processing, Hammad discloses that the consumer 20 may interact his mobile communication 30 with access device 42 at merchant 40 to initiate the transaction (see lines 50-60 of column 6). In the same way that Figure 7 explains that after the processing and authorization 342 takes place, a final e-receipt is issued and stored on the telephone 330, Hammad discloses that the authorization response message may be sent from the payment processing network 60 directly to the mobile communication device 30 (see lines 50-55 of column 7). Put in another way, because the mobile phone of Hammad sends an instruction to the POS terminal, whereby the instruction instructs the POS to finalize the sale (see page 6 of the brief), Hammad teaches using the phone, issuing an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone.

B. The Board Should Affirm the Rejection of Claim 1 Because the Prior Art, When Viewed as a Whole and as Combined in the Rejection, Suggests All the Limitations of the Claims.

- Applicant argues that Swartz does not teach a phone that exchanges information concerning prices of goods with commercial establishment (see page 7 of the brief).

- However, Applicant does not claim a phone that exchanges information concerning prices of goods with commercial establishment.

- Applicant argues the data input obtained from the central host or the scanner 704 will be displayed on the video (display) subsystem 705 via the CPU 701 of the basic subcomponent terminal 70 and not on the phone.

- However Applicant's claim does not recite the data input obtained from the central host or the scanner 704 will be displayed on the video (display) subsystem 705 via the CPU 701 of the basic subcomponent terminal 70 and not on the phone.

- To be sure, Applicant's claims are broadly directed towards an optical input for receiving information concerning prices of goods, and a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment.

- The rejection of claim 1 is proper because Swartz discloses an apparatus (from abstract, see portable terminal), said apparatus comprising a mobile phone (from Figure 3, see unit 706), and an optical input (from Figure 2, see unit 75) for receiving information concerning prices of goods, a network hub (from Figure 1, see unit 13A) for wireless exchange of information between a commercial establishment (from column 4, see retail facility) and said mobile within the boundaries of the establishment.

For the above reasons, it is believed that the rejections should be sustained.

Requirement to pay appeal forwarding fee. In order to avoid dismissal of the instant appeal in any application or ex parte reexamination proceeding, 37 CFR 41.45 requires payment of an appeal forwarding fee within the time permitted by 37 CFR

41.45(a), unless appellant had timely paid the fee for filing a brief required by 37 CFR 41.20(b) in effect on March 18, 2013.

Respectfully submitted,

/Olisa Anwah/

Primary Examiner, Art Unit 2655

Conferees:

/DAVETTA W. GOINS/

Supervisory Patent Examiner, Art Unit 2655

/FAN TSANG/

Supervisory Patent Examiner, Art Unit 2653

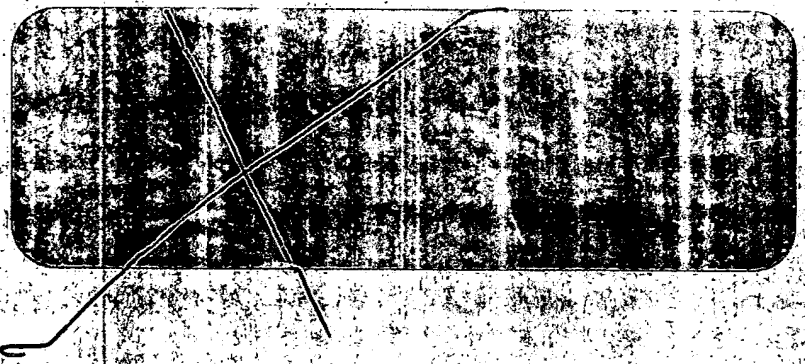
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 05/21/2014

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OPAP AKIMA-13
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EXAMINER	
ANWAH, OLISA	
ART UNIT	PAPER NUMBER
2655	
MAIL DATE	DELIVERY MODE
05/21/2014	PAPER

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The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 13/559,194	Applicant(s) PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	AIA (First Inventor to File) Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 5/10/2014.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

5)☒ Claim(s) 1-15 is/are pending in the application.

5a) Of the above claim(s) 14 is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) 1-9, 11-13 and 15 is/are rejected.

8)☒ Claim(s) 10 is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a)☐ All b)☐ Some** c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

4) ☐ Other: _____.

DETAILED ACTION

1. In view of the Appeal Brief filed on 5/10/2014, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

(at the end of the Office Action)

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112(a):

> (a) IN GENERAL.—The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor or joint inventor of carrying out the invention.

The following is a quotation of the first paragraph of pre-AIA 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 15 is rejected under 35 U.S.C. 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor or a joint inventor, or for pre-AIA the inventor(s), at the time the application was filed, had possession of the claimed invention. More specifically, claim 15 explicitly recites that the instruction requesting authorization is sent directly from the phone. Indeed, the instant specification teaches that once selections have been made, the

customer presses the ORDER key 488 to send the full order information to the POS (see page 12). The specification also discloses that authorization takes place in the processing center (see page 11). However, the specification does not clearly teach that the instruction requesting authorization is sent directly from the phone. Assuming that Applicant believes that the specification supports this limitation, the examiner requests that Applicant point out where the specification describes that the instruction requesting authorization is sent directly from the phone.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-3, 6, 8, 9, 11 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Swartz et al, U.S. Patent No. 7,040,541 (hereinafter Swartz) combined with Medamana et al,

U.S. Patent No. 5,181,238 (hereinafter Medamana), Hammad[1] et al, U.S. Patent No. 8,219,490 (hereinafter Hammad) and Skowronek et al, U.S. Patent Application Publication No. 2010/0023449 (hereinafter Skowronek).

Regarding claim 1, Swartz discloses an apparatus (from abstract, see portable terminal), said apparatus comprising a mobile phone (from Figure 3, see unit 706), and an optical input[2] (from Figure 2, see unit 75) for receiving information concerning prices of goods, a network hub (from Figure 1, see unit 13A) for wireless exchange of information between a commercial establishment (from column 4, see retail facility) and said mobile within the boundaries of the establishment.

Still on the issue of claim 1, Swartz does not teach a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone. All the same, Medamana discloses a financial/authorization institution for associating a PIN number (from column 4, see Enter PIN) with said mobile phone (from column 4, see ANI number) and for authorizing (from abstract, see authorized) transactions initiated by said phone.

[1] Hammad qualifies as prior art because it was filed before October 19, 2009.

[2] For other examples of an optical unit for receiving information concerning the prices of goods, see paragraph 0009 of Barnes et al, U.S. Patent No. 2008/0305827 (hereinafter Barnes) and Figure 1 of Ogasawara, U.S. Patent No. 6,577,861 (hereinafter Ogasawara).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Swartz with a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said phone as taught by Medamana. This modification would allow the customer to make a payment by dialing the number of a service provider in the unfortunate event that the customer forgets the customer's credit card, cash or checkbook at home.

Again on the issue of claim 1, the combination of Swartz and Medamana does not teach the apparatus engages in wireless commercial transactions, said apparatus equipped with an actuator for initiating a commercial transaction. All the same, Hammad discloses that the apparatus (see unit 30 from Figure 1) engages in wireless commercial transactions, said apparatus equipped with an actuator for initiating (from column 6, see initiate the transaction) a commercial transaction. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Swartz and Medamana wherein the apparatus engages in wireless commercial transactions, said apparatus equipped with an actuator for initiating a commercial transaction as taught by Hammad. This modification would have improved the

system's flexibility by enabling any suitable form of communication such as a text message, a multimedia message, a phone call, a voice message, a voicemail message, an instant messaging message, an email message, etc. as suggested by Hammad (see column 4).

Further regarding claim 1, the combination of Swartz, Medamana and Hammad fails to teach that the actuator is dedicated. All the same, Skowronek discloses that the actuator (see unit 104 from Figure 1) is dedicated. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Swartz, Medamana and Hammad wherein the actuator is dedicated as taught by Skowronek. This modification would have improved the system's flexibility by providing different kinds of actuators as suggested by Skowronek (see paragraph 0004).

Regarding claim 2, see Figure 7 of Swartz.

Regarding claim 3, see Figure 7 of Swartz.

Regarding claim 6, see Figure 7 of Swartz.

Regarding claim 8, Swartz as modified by Medamana, Hammad and Skowronek discloses that the dedicated actuator comprises a button labeled (from Figure 1 of Skworonek, see Pay) with a symbolic indication of a function thereof.

Regarding claim 9, Swartz as modified by Medamana, Hammad and Skowronek discloses the button comprises a touch-sensitive region (from paragraph 0030 of Skowronek, see an icon on a touch screen) on a display of the mobile phone.

Regarding claim 11, see Figure 7 of Swartz.

Regarding claim 12, see column 14 of Swartz.

6. Claim 15 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Zalewski et al, U.S. Patent Application Publication No. 2005/0017068 (hereinafter Zalewski) in view of Hammad.

Regarding claim 15, Zalewski teaches a method for engaging in a wireless commercial communication, the method comprising at a mobile phone (from paragraph 0097, see phone), receiving information (from paragraph 0097, see menu) concerning candidate items for a commercial transaction (from paragraph 0096, see transactions), selecting, on said phone a set of selected items

(from paragraph 0097, see choice) from the candidate items, establishing communication (from paragraph 0097, see message) between said phone and a terminal (from paragraph 0097, see POS) associated with the commercial establishment (from paragraph 0096, see restaurant), using the phone, communicating the set of selected items to the terminal.

Further regarding claim 15, Zalewski does not explicitly teach using the phone, issuing an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone. Regardless, Hammad discloses using the phone (see unit 30 from Figure 1), issuing an instruction (from column 6, see consumer 20 may interact his mobile communication device 30 with access device 42 at merchant 40 to initiate the transaction) to the terminal (see unit 42 from Figure 1) to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone (from column 8, see mobile communication device 30 relays the transaction information and information associated with the mobile communication device 30 directly to the issuer 70). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zalewski with using the phone,

issuing an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone as taught by Hammad. This modification would have improved the reliability of Zalewski by reducing identity theft and fraud as suggested by Hammad (see column 1).

7. Claim 7 is rejected under 35 U.S.C § 103(a) as being unpatentable over Swartz combined with Medamana, Hammad and Skowronek in further view of Johar et al, U.S. Patent Application Publication No. 2009/0168695 (hereinafter Johar).

Regarding claim 7, the combination of Swartz, Medamana, Hammad and Skowronek does not explicitly teach that a communication between the mobile phone and the network hub is constrained to remain with the commercial establishment. All the same, Johar discloses that the communication between the mobile phone and the network hub is constrained to remain within the establishment (from abstract, see limiting access to the wireless network to devices located within the boundary area). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Swartz, Medamana, Hammad and Skowronek wherein a communication between the mobile phone and the network

hub is constrained to remain within the establishment as taught Johar. This modification would have improved the system's security by preventing unauthorized users from clandestinely connecting to the wireless network.

8. Claim 13 is rejected under 35 U.S.C § 103(a) as being unpatentable over Swartz combined with Medamana, Hammad and Skowronek in further view of Welingkar et al, U.S. Patent No. 8,135,798 (hereinafter Welingkar).

Regarding claim 13, the combination of Swartz combined with Medamana, Hammad and Skowronek does not clearly teach that the mobile phone is configured to be remotely erased by the financial/authorization institution. All the same, Welingkar discloses that the mobile phone is configured to be remotely erased by the authorization institution (from Figure 10, see erase user data). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Swartz combined with Medamana, Hammad and Skowronek wherein the mobile phone is configured to be remotely erased by the authorization institution as taught by Welingkar. This modification would have improved the system reliability by allowing access to be

restricted when the user is not in possession or direct control of the client device.

9. Claims 4 and 5 are rejected under 35 U.S.C § 103(a) as being unpatentable over Swartz combined with Medamana, Hammad and Skowronek in further view of Zalewski.

Regarding claim 4, the combination of base references does not clearly teach the mobile phone is further configured to generate a listing of items available for purchase. All the same, Zalewski teaches that the mobile phone is further configured to generate a listing[3] of items available for purchase (see paragraph 0097). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of base references wherein the mobile phone is further configured to generate a listing of items available for purchase as taught by Zalewski. This modification would have improved the system's flexibility by allowing for the device to be used in a restaurant as suggested by Zalewski (see paragraph 0095).

[3] Also see paragraph 0088 of Herwig et al, U.S. Patent Application Publication No. 2010/0161434 (hereinafter Herwig).

Regarding claim 5, the combination of Swartz, Medamana, Hammad and Skowronek as modified by Zalewski (see paragraph 0097) inherently teaches the claimed feature.

Response to Arguments

10. Applicant's arguments have been considered but are deemed to be moot in view of the new grounds of rejection.

Allowable Subject Matter

11. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olisa Anwah whose telephone number is 571-272-7533. The examiner can normally be reached on Monday to Friday from 8.30 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Davetta Goins can be reached on 571-272-2957. The fax phone numbers for the organization where this application or proceeding is assigned

are 571-273-8300 for regular communications and 571-273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

Olisa Anwah
Patent Examiner
May 20, 2014

/Olisa Anwah/

Primary Examiner, Art Unit 2655

/DAVETTA W. GOINS/

Supervisory Patent Examiner, Art Unit 2655

Notice of References Cited	Application/Control No. 13/559,194	Applicant(s)/Patent Under Reexamination PONIATOWSKI, PAUL	
	Examiner OLISA ANWAH	Art Unit 2655	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-7,040,541	05-2006	Swartz et al.	235/472.02
*	B	US-5,181,238	01-1993	Medamana et al.	379/93.03
*	C	US-8,219,490	07-2012	Hammad et al.	705/44
*	D	US-2010/0023449	01-2010	Skowronek et al.	705/39
*	E	US-2005/0017068	01-2005	Zalewski et al.	235/380
*	F	US-2009/0168695	07-2009	Johar et al.	370/328
*	G	US-8,135,798	03-2012	Welingkar et al.	709/217
*	H	US-2008/0305827	12-2008	Barnes et al.	455/556.1
*	I	US-6,577,861	06-2003	Ogasawara, Nobuo	455/419
*	J	US-2010/0161434	06-2010	Herwig et al.	705/20
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

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	N					
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NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant	:	Paul Poniatowski	)	
			)	Group Art Unit: 2655
Appln. No.	:	13559194	)	
			)	Examiner: Anwah Olisa
Filed	:	07/26/2012	)	

For : Mobile Payment System

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U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Swartz's U.S. Patent No. 7,040,541 detailed telephony disclosure :

Column 13 lines 14-39.

/Paul Poniatowski/

Paul Poniatowski

Toronto, June 30, 2014

IPR2024-00731
APPLE EX1009 Page 470

Electronic Acknowledgement Receipt

EFS ID:	19460654
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Correspondence Address:	Paul Poniatowski - 125 The Queensway PO .Box 134 - Toronto ON M8Y 1H0 CA - -
Filer:	Paul Poniatowski
Filer Authorized By:	
Attorney Docket Number:	30071-002002
Receipt Date:	30-JUN-2014
Filing Date:	26-JUL-2012
Time Stamp:	20:13:18
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Miscellaneous Incoming Letter	Swartztelephony.pdf	22187 18c9783741d6e607096d932696b1d3ff679e4483	no	1

Warnings:	
Information:	
Total Files Size (in bytes):	22187

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

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If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant	:	Paul Poniatowski	)
			) Group Art Unit: 2655
Appln. No.	:	13559194	)
			) Examiner: Anwah Olisa
Filed	:	07/26/2012	)

For : Mobile Payment System

Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Applicant has appealed to the Board of Patent Appeals and Interferences from the Non Final Action of the Examiner issued May 21, 2014 rejecting Claims 1-9, 11-13 and 15 . Applicant respectfully submitted Notice of Appeal and Appeal Brief on June 2, 2014. In response to the Examiners Answer issued June 20, 2014, Applicant respectfully submits herewith his Brief in reply .

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APPLE EX1009 Page 473

REMARKS

A. Rejection of Claim 15 based on 35 U.S.C. § 103(a).

Examiner persists that Mammad's phone requests authorization of payment. In-part, Claim 15 requires that: the phone receives information concerning candidate items and selecting on said phone a set of selected items from the candidate items for a commercial transaction. In Hammad's the product list selection/transaction is created and completed/total amount at the merchant 40 terminal and NOT the phone, Column 6 line 45-54. Hammad's mobile device 30 only relays (retransmits) such transaction information along with other transaction information (eg.authorization request code) created at merchant 40 to server 60(a) of payment processing network Column 6, line 63-66, Column 4 line 33-35. Server 60(a) processes the relayed information with server data base 60(c) to further the transaction, Column 7 line 8-27. Based on the result the server 60(a) generates and sends an authorization request message to issuer 70 to finalize the transaction Column 7 line 33-36. In an alternative embodiment the transaction information generated and conveyed from merchant 40 may contain special message/

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APPLE EX1009 Page 474

code (eg. authorization request). Both the payment terminal 60 and issuer 70 are equipped with computer readable medium (CRM)60(b) and 70(b) respectively capable of processing such special message/code received from the merchant 40 Column 5 line 62 - Column 6 line 5; Column 7 line 32-35. To clarify further, the Hammad's phone does not receive information on candidate items, does not make selection from the candidate items and does not issue the authorization request of payment but only relays transaction information generated at merchant 40 to be processed at payment terminal 60 computer cluster (60(a) and 60(c)) and that after the processing the server 60(a) generates the authorization request and forward's it to issuer 70 to be finalized, and that the transaction information sent from merchant 40 may also contain a special code (eg. authorization request) that can be relayed directly to issuer 70 to finalize transaction because terminal 70 has CRM 70(b) capable of decoding such message. Authorization confirmation can be send back to the phone, because both payment terminal 60 or issuer 70 are able to support and deliver authorization services, Column 5 line 42-44 and Column 6 line 19-20; once the processing is done and necessary

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customer data is retrieved, suitable authorization response message is routed back to the appropriate phone or merchant.

In fact, Hammads Claim 1 states : A method comprising: receiving transaction information associated with a transaction at a mobile communication device from a merchant (..) wherein the payment processing network, not the merchant network, generates an authorization request message (..). This submission alone should disqualify the cited art.

Lastly, Examiner's claim of mobile device 30 initiating transaction with merchant 40 is misinterpreted because text in Column 6 line 50-60 is inadequate. Full description is found in Column 10, line 44-46 which states: "Consumer .. initiates the transmission of the transaction information". The transaction was initiated long time ago at the merchant 40 by the consumer. Therefore rejection is improper and should be withdrawn.

B. Rejection of Claim 1 based on 35 U.S.C. § 103(a).

- (However..) Applicant claims a phone that exchanges information concerning prices of goods with commercial establishment, as supported by Figures 8-9, and Page 10, lines 5-6 .

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APPLE EX1009 Page 476

- (However..) Examiners remarks here are dubious and confusing. Applicant does not claim what Examiner alleges. In fact as per Applicants application data, input obtained from optical input is displayed on the phone Page 11, lines 6-12, Figures 8-9 and Claims 2 and 11.

- (To be sure..) Examiner remark that (..) the claims are broadly directed towards optical input receiving information (..) is simply wrong. In order for the optical input to receive any data, the dedicated actuator must be actuated, initiating transaction and offering menu options, Page 10 line 7-11 and Figure 4. Upon the menu selection, customer then aims the phone and it's optical input to collect data, Page 11 line 6-12 , Figure 8. There is really no confusion in the claims to one of skill in the art in respect to how the system operates.

- The rejection of Claim 1 based on Swartz is wrong. Swartz does not discloses a phone engaging in commercial transaction or phone equipped with dedicated actuator initiating commercial transaction or a phone equipped with optical input receiving price info of goods, or a phone exchanging communications of such data with the retailer or a phone

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requesting transaction authorization initiated by said phone.

Swartz's CPU 701 does all the processing/communications at it's portable terminal and not the phone, Column 2 line 7-9. The phone disclosed in subcomponent system (Figure 3) is to provide support for audio communications /telephony activity (SUMMARY) and as stipulated by the requirements of portable terminal in the preferred embodiment: voice communication system and it's microphone 71 and speaker 74 units. Column 4, line 66-67 and Column 5, line 1-6.

Therefore rejection is improper and should be withdrawn.

Lastly, Applicant appreciate withdrawing the 112 rejection.

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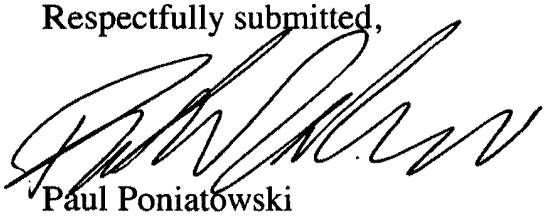
CONCLUSION

Applicant has clearly demonstrated that the present invention as claimed is clearly distinguishable over all the art cited of record, either alone or in combination, and satisfies all requirements under 35 U.S.C. § 103.

Therefore, Applicant respectfully requests the Board of Patent Appeals and Interferences to reverse the rejection of the Examiner and instructs the Examiner to issue a Notice of Allowance of all pending Claims .

Attached is a check in the amount of $500 covering forwarding fee, as per Applicant's micro entity status.

Respectfully submitted,



Paul Poniatowski

June 28, 2014
Toronto, Canada

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APPLE EX1009 Page 479

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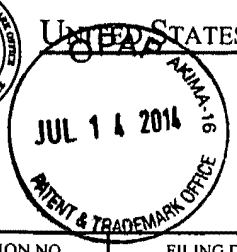
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 06/20/2014

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125 The Queensway PO .Box 134
Toronto, ON M8Y 1H0
CANADA

EXAMINER	
ANWAH, OLISA	
ART UNIT	**PAPER NUMBER**
2655	

MAIL DATE	DELIVERY MODE
06/20/2014	PAPER

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Application Number: 13/559,194
Filing Date: July 26, 2012
Appellant(s): PONIATOWASKI, PAUL

MAILED
JUN 20 2014
GROUP 2600

Paul Poniatowski
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 2, 2014.

(1) Grounds of Rejection to be Reviewed on Appeal

Every ground of rejection set forth in the Office action dated May 21, 2014 from which the appeal is taken is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "Withdrawn Rejections." New grounds of rejection (if any) are provided under the subheading "New Grounds of Rejection."

(2) Withdrawn Rejections

- Claim 15 of the instant application explicitly recites wherein the instruction requesting authorization is sent directly from the phone.

- In the Non-Final Rejection mailed on 5/21/2014, the examiner pointed out that the instant specification does not clearly disclose wherein the instruction requesting authorization is sent directly from the phone.

- In response to this argument, the Appeal Brief filed on 6/2/2014 explains that because the mobile phone finalizes the sale (see page 6 of the brief), the specification discloses that the instruction requesting authorization is sent directly from the phone.

- More specifically, Applicant states that preceding a transaction along with the PIN number to the financial organization[1] would be inherently synonymous to submitting authorization request to approve/decline the said transaction by the financial organization pending funds/credit availability (see page 6 of the brief).

- To be sure, Figure 5 of the instant specification depicts mobile phone 330 in communication with the POS terminal 320. At Figure 6, the customer enters the PIN information 345 and selects an OK icon 375 to commence further processing. After the processing and authorization 342 takes place, a final e-receipt is issued and stored on the telephone 330, as shown in Figure 7.

- In light of Figures 5 through 7 of the instant specification, the examiner's understanding is that the claimed limitation of <u>wherein the instruction requesting authorization is sent directly from the phone</u> occurs when

[1] It is unclear as to whether the mentioned financial organization is the POS terminal of Figure 5 or the processing center described at page 11 of the instant specification. The examiner concedes that the specification teaches direct communication between the mobile phone 330 and the POS terminal 320 (see Figure 5); however, the specification does not support direct communication between the mobile phone 330 and the processing center of page 11. Indeed, the instant specification describes that authorization takes place in the processing center (see page 11), but the specification does not teach the instruction requesting authorization is sent directly from the phone to the processing center. Consequently, the examiner's understanding is that the instruction requesting authorization is sent directly from the phone to the POS terminal (see Figure 5). Lastly, an instruction requesting authorization that is sent directly from the phone to the processing center is old and well known in the art as evidenced by Hammad's disclosure that the mobile communication device 30 relays the transaction information and information associated with the mobile communication device 30 directly to the issuer 70 (see lines 15-20 of column 8).

the mobile phone 330 is communication with the POS terminal 320 and the customer enters the PIN information 345 and selects an OK icon 375 to commence further processing.

- Put in an another way, the claimed limitation of wherein the instruction requesting authorization is sent directly from the phone occurs when the mobile phone 330 sends an instruction to the POS terminal 320, whereby the instruction instructs the POS to finalize the sale (see page 6 of the brief).

- Given this interpretation, the 112 rejection of 5/21/2014 is hereby withdrawn.

(3) Response to Arguments

A. The Board Should Affirm the Rejection of Claim 15 Because the Prior Art, When Viewed as a Whole and as Combined in the Rejection, Suggests All the Limitations of the Claims.

- Applicant mentions that the request authorization must be send to the terminal of the commercial establishment (see page 11 of the brief). Because Hammad discloses that the consumer 20 can interact with his mobile communication device 30 with access device 42 at merchant 40 to initiate the transaction (see lines 50-60 of column 6), Hammad

discloses that the request authorization may be sent to the terminal of the commercial establishment.

- Applicant argues that the mobile phone of Hammad is not responsible for sending the payment authorization request to the payment network (see page 12 of the brief). Because Hammad discloses that the consumer 20 can interact with his mobile communication device 30 with access device 42 at merchant 40 to initiate the transaction (see lines 50-60 of column 6), Hammad discloses that the mobile phone is responsible for sending the payment authorization request to the payment network.

- All in all, Because Hammad discloses that the consumer 20 may interact his mobile device 30 with access device 42 at merchant 40 to initiate the transaction (see lines 50-60 of column 6) and because Hammad discloses that the authorization response message may be sent from the payment processing network 60 directly to the mobile communication device 30 (see lines 50-55 of column 7), Hammad discloses using the phone, issuing an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone.

- More specifically, similar to Figure 5 of the instant specification depicting the mobile phone 330 in communication with the POS terminal 320 and similar to Figure 6 of the instant specification showing that the customer enters the PIN information 345 and selects an OK icon 375 to commence further processing, Hammad discloses that the consumer 20 may interact his mobile communication 30 with access device 42 at merchant 40 to initiate the transaction (see lines 50-60 of column 6). In the same way that Figure 7 explains that after the processing and authorization 342 takes place, a final e-receipt is issued and stored on the telephone 330, Hammad discloses that the authorization response message may be sent from the payment processing network 60 directly to the mobile communication device 30 (see lines 50-55 of column 7). Put in another way, because the mobile phone of Hammad sends an instruction to the POS terminal, whereby the instruction instructs the POS to finalize the sale (see page 6 of the brief), Hammad teaches using the phone, issuing an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone.

B. The Board Should Affirm the Rejection of Claim 1 Because the Prior Art, When Viewed as a Whole and as Combined in the Rejection, Suggests All the Limitations of the Claims.

- Applicant argues that Swartz does not teach a phone that exchanges information concerning prices of goods with commercial establishment (see page 7 of the brief).

- However, Applicant does not claim a phone that exchanges information concerning prices of goods with commercial establishment.

- Applicant argues the data input obtained from the central host or the scanner 704 will be displayed on the video (display) subsystem 705 via the CPU 701 of the basic subcomponent terminal 70 and not on the phone.

- However Applicant's claim does not recite the data input obtained from the central host or the scanner 704 will be displayed on the video (display) subsystem 705 via the CPU 701 of the basic subcomponent terminal 70 and not on the phone.

- To be sure, Applicant's claims are broadly directed towards an optical input for receiving information concerning prices of goods, and a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment.

- The rejection of claim 1 is proper because Swartz discloses an apparatus (from abstract, see portable terminal), said apparatus comprising a mobile phone (from Figure 3, see unit 706), and an optical input (from Figure 2, see unit 75) for receiving information concerning prices of goods, a network hub (from Figure 1, see unit 13A) for wireless exchange of information between a commercial establishment (from column 4, see retail facility) and said mobile within the boundaries of the establishment.

For the above reasons, it is believed that the rejections should be sustained.

Requirement to pay appeal forwarding fee. In order to avoid dismissal of the instant appeal in any application or ex parte reexamination proceeding, 37 CFR 41.45 requires payment of an appeal forwarding fee within the time permitted by 37 CFR

41.45(a), unless appellant had timely paid the fee for filing a brief required by 37 CFR 41.20(b) in effect on March 18, 2013.

Respectfully submitted,

/Olisa Anwah/

Primary Examiner, Art Unit 2655

Conferees:

/DAVETTA W. GOINS/

Supervisory Patent Examiner, Art Unit 2655

/FAN TSANG/

Supervisory Patent Examiner, Art Unit 2653

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 07/31/2014

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125 The Queensway PO .Box 134
Toronto, ON M8Y 1H0
CANADA

EXAMINER	
ANWAH, OLISA	

ART UNIT	PAPER NUMBER
2655	

MAIL DATE	DELIVERY MODE
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PAUL PONIATOWSKI
125 THE QUEENSWAY PO .BOX 134
TORONTO, ON M8Y 1H0

Appeal No: 2014-007989
Application: 13/559,194
Appellant: Paul Poniatowski

Patent Trial and Appeal Board Docketing Notice

Application 13/559,194 was received from the Technology Center at the Board on July 17, 2014 and has been assigned Appeal No: 2014-007989.

In all future communications regarding this appeal, please include both the application number and the appeal number.

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By order of the Patent Trial and Appeal Board.

LW

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Application Number	13559194
Filing Date	7/26/2012
First Named Inventor	Paul Poniatowski
Art Unit	2655
Examiner Name	Olisa Anwah
Attorney Docket Number	

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Signature /Paul Poniatowski/

Typed or Printed Name Paul Poniatowski

Date Aug 4 2014	Telephone

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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Electronic Acknowledgement Receipt

EFS ID:	19764148
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Correspondence Address:	Paul Poniatowski - 125 The Queensway PO .Box 134 - Toronto ON M8Y 1H0 CA - -
Filer:	Paul Poniatowski
Filer Authorized By:	
Attorney Docket Number:	30071-002002
Receipt Date:	04-AUG-2014
Filing Date:	26-JUL-2012
Time Stamp:	14:04:21
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Change of Address	aia0122.pdf	248268 2687912b60b52c1389f71cb5d1932b13c07cb8a3	no	2
Warnings:					
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National Stage of an International Application under 35 U.S.C. 371

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New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

92425 7590 06/23/2016

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EXAMINER	
ANWAH, OLISA	

ART UNIT	PAPER NUMBER
2655	

NOTIFICATION DATE	DELIVERY MODE
06/23/2016	ELECTRONIC

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paulponiatowski@hotmail.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PAUL PONIATOWSKI

Appeal 2014-007989
Application 13/559,194
Technology Center 2600

Before KRISTEN L. DROESCH, JOHN P. PINKERTON, and MONICA S. ULLAGADDI, *Administrative Patent Judges*.

PINKERTON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant[1] appeals under 35 U.S.C. § 134(a) from the Examiner's Non-Final Rejection of claims 1–9, 11–13, and 15.[2] Claim 14 is canceled. *See* App. Br. 17. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

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[1] Appellant identifies himself as the real party in interest. App. Br. 3.
[2] Claim 10 is objected to as being dependent upon a rejected base claim and is not before us. *See* Ans. 13.

STATEMENT OF THE CASE

Introduction

Appellant's disclosed and claimed invention generally relates to an apparatus and method for engaging in commercial transactions. Spec. 2:15–16.[3]

Claim 1 is representative of the claims on appeal and reads as follows:

> 1. An apparatus for engaging in wireless commercial transactions, said apparatus comprising:
>
> a mobile phone equipped with a dedicated actuator for initiating a commercial transaction, and an optical input for receiving information concerning prices of goods, a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment, and a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone.

App. Br. 15 (Claims App'x.).

Rejections on Appeal[4]

Claims 1–3, 6, 8, 9, 11, and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Swartz (US 7,040,541 B2; issued May 9, 2006), Medamana (US 5,181,238; issued Jan 19, 1993), Hammad (US 8,219,490 B2; issued July 10, 2012), and Skowronek (US 2010/0023449 A1; published Jan. 28, 2010).

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[3] Our Decision refers to the Non-Final Office Action mailed May 21, 2014 ("Non-Final Act."); Appellant's Appeal Brief filed June 2, 2014 ("App. Br."); the Examiner's Answer mailed June 20, 2014 ("Ans."); Appellant's Reply Brief filed July 7, 2014 ("Reply Br."); and, the Specification filed July 26, 2012 ("Spec.").

[4] The Examiner has withdrawn the rejection of claim 15 under 35 U.S.C. § 112, first paragraph. *See* Ans. 3–5.

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Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Zalewski (US 2005/0017068 A1; published Jan. 27, 2005) and Hammad.

Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Swartz, Medamana, Hammad, Skowronek, and Johar (US 2009/0168695 A1; published July 2, 2009).

Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Swartz, Medamana, Hammad, Skowronek, and Welingkar (US 8,135,798 B2; issued Mar. 13, 2012).

Claims 4 and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Swartz, Medamana, Hammad, Skowronek, and Zalewski.

ANALYSIS

Rejection of Claim 1 under 35 U.S.C. § 103(a)

Appellant contends Swartz does not teach or suggest a portable terminal comprised of a mobile phone and "an optical input for receiving information concerning prices of goods" and "a network hub for wireless exchange of information between a commercial established and said mobile phone within the boundaries of the establishment," as recited in claim 1. App. Br. 6–10; Reply Br. 4–6. In particular, Appellant argues "Swartz does not disclose a phone that exchange information concerning prices of goods with commercial establishment." App. Br. 7. Appellant also argues the phone subsystem 706 shown in Figure 3 of Swartz "is only used for audio/conversation purposes and does not handle any hub data

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computing/exchange concerning prices of goods with the commercial establishment." *Id.* at 9.

We are not persuaded by Appellant's arguments that the Examiner has erred. First, we are not persuaded by Appellant's arguments regarding Swartz because they are not commensurate with the scope of claim 1. *See In re Self*, 671 F.2d 1344, 1348 (CCPA 1982) ("[A]ppellant's arguments fail from the outset because . . . they are not based on limitations appearing in the claims."). Although Appellant argues Swartz does not teach a phone that (1) "exchanges information concerning prices of goods with commercial establishment" or (2) handles "any hub data computing/exchange concerning prices of goods with the commercial establishment," claim 1 does not recite that the mobile phone communicates with the commercial establishment about "prices of goods." Instead, claim 1 recites a mobile phone with "an optical input for receiving information concerning prices of goods." *See* App. Br. 15 (Claims App'x.).

Second, we agree with the Examiner that Swartz teaches or suggests the limitations at issue in claim 1. Specifically, the Examiner finds as follows:

> The rejection of claim 1 is proper because Swartz discloses an apparatus (from abstract, see portable terminal), said apparatus comprising a mobile phone (from Figure 3, see unit 706), and an optical input (from Figure 2, see unit 75) for receiving information concerning prices of goods, a network hub (from Figure 1, see unit 13A) for wireless exchange of information between a commercial establishment (from column 4, see retail facility) and said mobile within the boundaries of the establishment.

Ans. 9 (*see also* col. 4, ll. 38–39). In regard to the optical input unit 75, Swartz also teaches that "[c]ollection of data is preferably performed by a

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bar code scanner 75," which may be used to retrieve data files "including items such as prices." *See* Swartz, col. 3, ll. 9–13; col. 5, ll. 19–20. Appellant has failed to provide persuasive evidence or arguments to rebut the Examiner's findings. Thus, for the reasons stated by the Examiner, we agree with the Examiner's findings and adopt them as our own.

Third, in the Reply Brief, Appellant argues the rejection of claim 1 based on Swartz is wrong for several reasons not argued in the Appeal Brief. *See* Reply Br. 5–6. For example, Appellant argues Swartz does not disclose "a phone engaging commercial transaction or a phone equipped with a dedicated actuator" or "a phone exchanging communications of such data with the retailer or a phone requesting transaction authorization initiated by said phone." *Id.* Because these arguments are raised by Appellant for the first time in the Reply Brief without a showing of good cause, they are waived. *See* 37 C.F.R. § 41.41(b)(2) (2012); *see also Ex parte Borden*, 93 USPQ2d 1473, 1474 (BPAI 2010) (informative) ("[T]he reply brief [is not] an opportunity to make arguments that could have been made in the principal brief on appeal to rebut the Examiner's rejections, but were not.").

Thus, based on this record, we do not find error (1) in the Examiner's findings that Swartz teaches or suggests the disputed limitations of claim 1 or (2) in the Examiner's conclusion that the combination of Swartz, Medamana, Hammad, and Skowronek renders the subject matter of claim 1 obvious under 35 U.S.C. § 103(a). Accordingly, we sustain the Examiner's rejection of claim 1, as well as claims 2–9 and 11–13, which depend from claim 1 and are not argued separately.[5] *See* 37 C.F.R. § 41.37(c)(1)(iv).

---

[5] We note that claim 1 recites an apparatus comprising a mobile phone and, among other things, "a network hub" and "a financial/authorization

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Rejection of Claim 15 under 35 U.S.C. § 103(a)

Appellant contends the combination of Zalewski and Hammad does not teach or suggest the limitation "using the phone, issuing an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone," as recited in claim 15. App. Br. 10–13; Reply Br. 2–4. The Examiner finds that Hammad teaches this limitation because Hammad teaches (1) the consumer 20 may interact with his mobile communication device 30 with access device 42 at merchant 40 to initiate the transaction (citing Hammad, col. 6, ll. 50–60) and (2) the authorization response message may be sent from the payment processing network 60 directly to the mobile communication device 30 (citing Hammad, col. 7, ll. 50–55). Ans. 5–7. Appellant argues Hammad does not teach the limitation at issue because, although it teaches the customer initiates the transaction, uploads the transaction information from the device 42 to phone 30, and the phone relays that information to the processing network 60 (*see* Hammad, col. 6, ll. 51–66), Hammad teaches the server computer 60(a) of the payment processing network generates the payment authorization request and sends it to the issuer 70, not the mobile

---

institution." We do not think it is physically possible for an apparatus comprising a mobile phone to include either, or both of, "a network hub" or "a financial/authorization institution." "An inoperative invention . . . does not satisfy the requirement of 35 U.S.C. 101 that an invention be useful." *In re Harwood*, 390 F.2d 985, 989 (CCPA 1968). In the event of further prosecution of claims 1–9 and 11–13, we leave it to the Examiner to determine whether these claims fail to comply with the utility requirement of § 101. We also leave it to the Examiner to determine whether claim 1 complies with (1) the enablement requirement of 35 U.S.C. § 112, first paragraph, and (2) the definiteness requirement of 35 U.S.C. § 112, second paragraph, due to the unclear scope of the claim language.

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phone. App. Br. 11–13; Reply Br. 2–4. We are persuaded by Appellant's argument because Hammad teaches the "[s]erver computer 60(a) of the processing network 60 processes the information received from mobile communication device 30" and "[s]erver computer 60(a) sends the information in an authorization request message to issuer 70 [which] processes the authorization request message and determines whether to authorize or decline the transaction." Hammad, col. 7, ll. 4–6 and 33–36. Thus, because Hammad does not teach "using the phone, issuing an instruction to the terminal to request authorization of payment, wherein the instruction requesting authorization is sent directly from the phone," as recited in claim 15, we do not sustain the Examiner's rejection of claim 15.

DECISION

We affirm the Examiner's decision rejecting claims 1–9 and 11–13 under 35 U.S.C. § 103(a).

We reverse the Examiner's decision rejecting claim 15 under 35 U.S.C. § 103(a).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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Paul Poniatowski
11 Keniga , m 12
Warsaw, 02-495
POLAND

Courtesy Reminder for
Application Serial No: 13/559,194

Attorney Docket No: 30071-002002
Customer Number: 92425
Date of Electronic Notification: 06/23/2016

This is a courtesy reminder that new correspondence is available for this application. If you have not done so already, please review the correspondence. The official date of notification of the outgoing correspondence will be indicated on the form PTOL-90 accompanying the correspondence.

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paulponiatowski@hotmail.com

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OPAP
AUG 2 2 2016
PATENT & TRADEMARK OFFICE

AF / DTM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant	:	Paul Poniatowski	)
			) Group Art Unit: 2655
Appln. No.	:	13559194	)
			) Examiner: Anwah Olisa
Filed	:	07/26/2012	)

For : Mobile Payment System

Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR REHEARING

In timely response to decision of USPTO Appeal Board dated June 23 2016 Appellant elects to proceed under 37 CFR 41.52 and file a request for rehearing of the Board's decision. The rule requires that the request for rehearing "must address any new ground of rejection and state with particularity the points believed to have been misapprehended or overlooked in rendering the decision and also state all other grounds upon which rehearing is sought."

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The rule was revised to limit requests to the points of law or fact which appellant feels were overlooked or misapprehended by the Board. Arguments not raised in the briefs before the Board and evidence not previously relied upon in the brief and any reply brief(s) are not permitted in the request for rehearing (...) MPEP 1214.03 section.

Appellant affirm that factual evidence was disclosed in reply brief and was overlooked by the Board. The board also overlooked the fact that the appellant is pro se individual with no formal education or training in the complex field of IP law and/or Patent Office procedures and regulations and that the applicant had no knowledge or ability to correctly conduct himself in such complexed proceedings. Appellant hereby respectfully request the Board to reconsider their decision in regards to evidence disclosed in the reply brief and as per MPEP 1214.03 section.



Paul Poniatowski Toronto, August 20, 2014

IPR2024-00731
APPLE EX1009 Page 507

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant	:	Paul Poniatowski	)	
			)	Group Art Unit: 2655
Appln. No.	:	13559194	)	
			)	Examiner: Anwah Olisa
Filed	:	07/26/2012	)	

For : Mobile Payment System

Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

REHEARING SUPPLEMENTARY

In regards to the Boards decision rendered on June 23 2016 and timely filed Rehearing Request on Aug 22, 2016 appellant further submits the following:

Appellant is baffled with Boards decision to waive arguments stated in the Reply Brief. The rule 41.41(2) from MPEP states :

(2) Any argument raised in the reply brief which was not raised in the appeal brief, or is not responsive to an argument raised in the examiner's answer, including any designated new ground of rejection, will not be

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considered by the Board for purposes of the present appeal, unless good cause is shown.

Evidence filed in the Reply Brief is **directly responsive** to arguments raised by the examiner and covers all three bullet points in section B of examiners response.

Appellant request the board to reconsider because the Board did not address or scrutinize the applicants findings / arguments **submitted in both briefs**.

Appellant requests that the Board responds the evidence filed by the appellant.

In addition, on the first remark by the Board :

It should be noted that the (..) symbols used in the brief stipulate that only selected content from a full claim/paragraph it was reproduced from.

Appellants complete Claim 1 states :

An apparatus for engaging in wireless commercial transactions,

said apparatus comprising a mobile phone equipped with a dedicated actuator for initiating a commercial transaction, and an optical input for receiving information concerning prices of goods, a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment,

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and a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone.

It is irrelevant whether the phone has optical input or not; data can be entered manually (similar to cashier manually entering the barcode content) optical input presence would obviously expedite the process.

The phone however must be equipped with a dedicated actuator initiating a connection with store's network hub and the said actuator commences a commercial transaction between a commercial establishment and said mobile phone, based on the screen menu selection.

In Swartz any exchange of information is solely done by 701 CPU (simple microprocessor) and the radio 702 **of the terminal 70**. Figure 3. Mobile phone 706 is not equipped with dedicated actuator and provides only audio/ telephony support architecture and does not handle computing/exchange of any hub data. A detailed factual lawful evidence was disclosed in both briefs and numerous previous office actions.

On second remark by the Board :

Swartz Figure 3 illustrates basic subcomponent system of the primary portable terminal shown in Figure 2. (column 6, line 6-11)

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Portable terminal 70 consists of CPU(microprocessor) 701 which handles all data scanned by the bar code scanner 704. The unit 704 is connected with unit 701 and not unit 706 . The unit 706 provides only **telephony** aspect: talk/listen ability - speaker 74 /microphone 71 as per Swartz primary embodiment description Column 4 line 66 thru Column 5 line 7 and supported by Figure 2.

A detailed, factual, lawful evidence was submitted in both briefs and was not addressed by the Board.

Further detailed telephony disclosure was submitted on June 30 2014. (Column 13 lines 14-39.)

Concluding, Appellant request for a due process of law rehearing.

Paul Poniatowski Sep 22, 2014 Toronto
/ Paul Poniatowski /

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APPLE EX1009 Page 511

Electronic Acknowledgement Receipt

EFS ID:	27011270
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Customer Number:	92425
Filer:	Paul Poniatowski
Filer Authorized By:	
Attorney Docket Number:	30071-002002
Receipt Date:	22-SEP-2016
Filing Date:	26-JUL-2012
Time Stamp:	21:46:04
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Request for Rehearing of Patent Board Decision	supplementary.pdf	44181 d0784390c037caddf462d0967e898179f7af9003	no	5

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Total Files Size (in bytes):	44181

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National Stage of an International Application under 35 U.S.C. 371

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New International Application Filed with the USPTO as a Receiving Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

92425 7590 10/31/2016

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EXAMINER	
ANWAH, OLISA	

ART UNIT	PAPER NUMBER
2655	

NOTIFICATION DATE	DELIVERY MODE
10/31/2016	ELECTRONIC

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paulponiatowski@hotmail.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PAUL PONIATOWSKI

Appeal 2014-007989
Application 13/559,194
Technology Center 2600

Before KRISTEN L. DROESCH, JOHN P. PINKERTON, and MONICA S. ULLAGADDI, *Administrative Patent Judges*.

PINKERTON, *Administrative Patent Judge*.

DECISION ON REQUST FOR REHEARING

Pursuant to Appellant's Request for Rehearing ("Request"or "Req. Reh'g") under 37 C.F.R. § 41.52, Appellant requests a rehearing of our Decision of June 23, 2016 ("Decision" or "Dec.") in which we affirmed the Examiner's rejection of claims 1–9 and 11–13 under 35 U.S.C. § 103(a) and reversed the Examiner's rejection of claim 15 under 35 U.S.C. § 103(a).

INTRODUCTION

Appellant argues "factual evidence was disclosed in [the] reply brief and was overlooked by the Board." Req. Reh'g 2. Appellant also argues the Board overlooked the fact that Appellant is a "pro se individual with no

formal education or training in the complex field of IP law and/or Patent Office procedures and regulations and that the applicant had no knowledge or ability to correctly conduct himself in such complex[] proceedings." *Id.*

On September 22, 2016, Appellant filed a paper entitled Rehearing Supplementary ("Supplement" or "Supp."). In the Supplement, Appellant argues the evidence in the Reply Brief should be considered because it "is **directly responsive** to arguments raised by the examiner and covers all three bullet points in section B of examiners response." *See* Supp. 1–2 (citing 37 C.F.R. § 41.41(b)(2)) ("Any argument raised in the reply brief which . . . is not responsive to an argument raised in the examiner's answer . . . will not be considered . . . unless good cause is shown."). Appellant requests reconsideration by the Board, alleging the Board did not address Appellant's arguments submitted in both briefs. *Id.* at 2. Appellant further presents arguments regarding the "first remark" and "second remark" in the Decision. *Id.* at 2–4.

ANALYSIS

A request for rehearing "must state with particularity the points believed to have been misapprehended or overlooked by the Board." 37 C.F.R. § 41.52(a)(1). After quoting this requirement as set forth in MPEP § 1214.03, Appellant stated "that factual evidence was disclosed in the reply brief and was overlooked by the Board" and that he was a "pro se individual" with no formal training in patent law or Patent Office procedures and regulations. *See* Req. Reh'g 2. Appellant's statement that evidence was disclosed in the reply brief that was overlooked by the Board is conclusory and fails to specifically identify the evidence believed to have been

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overlooked. *See id.* Regarding Appellant's pro se appearance, we recognize, and fully appreciate, that Appellant is representing himself in this appeal. The fact of Appellant's pro se appearance, however, is not a point of evidence or law that can properly support a request for rehearing, even it is misapprehended or overlooked. Similarly, Appellant's argument that he is not trained in patent law or Patent Office procedure is not a point of evidence or law to properly support a request for rehearing. Thus, because Appellant failed to state with "particularity" the points believed to have been overlooked by the Board as required by § 41.52(a)(1), we deny Appellant's Request for Rehearing.

Regarding the Supplement, 37 C.F.R. § 41.52(a)(1) provides that "Appellant may file a single request for rehearing within two months of the date of the original decision of the Board." Although the Request was timely filed on August 22, 2016, within two months of the Decision on June 23, 2016, the Supplement was not filed until September 22, 2016, one day short of three months of the date of the Decision. Thus, because the Supplement was not timely filed, it is not properly before us and, therefore, will not be considered.

Even assuming *arguendo* that the points addressed in the Supplement were properly before us, we would nevertheless find Appellant's arguments that we overlooked evidence regarding claim 1 unpersuasive. In the Decision regarding what Appellant refers to as "the first remark by the Board" (*see* Supp. 2), we found Appellant's arguments that Swartz does not teach the "optical input" and "network hub" limitations were not persuasive because claim 1 does not recite, as Appellant argued, that the mobile phone communicates with the commercial establishment about "prices of goods."

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See Dec. 4. We noted that claim 1 instead recites a mobile phone with "an optical input for receiving information concerning prices of goods." *See id.* (citing App. Br. 15 (Claims App'x.)). Appellant argues in the Supplement that "[i]t is irrelevant whether the phone has optical input or not;[1] data can be entered manually" and "[t]he phone however must be equipped with a dedicated actuator initiating a connection with [the] store's network hub." Supp. 3. According to Appellant, Swartz's "[m]obile phone 706 is not equipped with dedicated actuator and provides only audio/telephony support architecture and does not handle computing/exchange of any hub data." *Id.*

The term "actuator" appears in the limitation of claim 1 reciting "a mobile phone equipped with a dedicated actuator for initiating a commercial transaction." *See* App. Br. 15 (Claims App'x.). This limitation was not argued in the Appeal Brief, nor was the term "actuator" mentioned in the "Arguments" section of the Appeal Brief. *See* App. Br. 5–10. Instead, the argument that Swartz does not disclose a "phone equipped with an actuator initiating commercial transaction" was raised for the first time in the Reply Brief. *See* Reply Br. 5.

We find nothing in the Answer that would necessitate a new argument focused on the "actuator" limitation. In other words, we see no reason why this new argument in the Reply Brief could not have been presented in the Appeal Brief. In the absence of a showing of good cause by Appellant, an argument raised for the first time in the Reply Brief is untimely and waived, unless it was necessitated by the Examiner's arguments. *See* 37 C.F.R.

---

[1] Because claim 1 expressly recites "an optical input for receiving information concerning prices of goods," this limitation is relevant and cannot be ignored, notwithstanding Appellant's argument.

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§ 41.41(b)(2); *Ex parte Borden*, 93 USPQ2d 1473, 1477 (BPAI 2010) (informative) ("Properly interpreted, the Rules do not require the Board to take up a belated argument that has not been addressed by the Examiner, absent a showing of good cause."); *see also* Decision 5. If we were to automatically consider such newly raised arguments, "[r]ather than reviewing a record for error, the Board would be considering, in the first instance, findings of fact proposed by the Appellants, but not weighed by the Examiner [in the Examiner's Answer] against the other evidence of record." *Borden*, 93 USPQ2d at 1475. We also find there was no shift in the Examiner's reasoning or evidence in the Answer that would have necessitated Appellant's new argument regarding the "actuator" limitation.

Even though this argument was not considered in the Examiner's Answer, we note the Examiner finds in the Non-Final Action that "Hammad discloses that the apparatus (see [mobile communication device] unit 30 from Figure 1) engages in wireless commercial transactions, said apparatus equipped with an actuator for initiating (from column 6, see initiate the transaction) a commercial transaction." Non-Final Act. 6; *see also* Hammad, col. 6, ll. 50–60. The Examiner further finds "it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Swartz and Medamana wherein the apparatus engages in wireless commercial transactions, said apparatus equipped with an actuator for initiating a commercial transaction as taught by Hammad . . . [to improve] system's flexibility by enabling any suitable form of communication such as a text message, a multimedia message, a phone call, a voice message, a voicemail message, an instant messaging message, an email message, etc. as suggested by Hammad (see column 4)."

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Non-Final Act. 6–7; *see also* Hammad col. 4, ll. 44–59. For the reasons stated by the Examiner, and based on our review of the cited portions of Hammad, we agree with these findings and find the combined teachings of Swartz, Medamana, and Hammad teach or suggest the limitation "a mobile phone equipped with a dedicated actuator for initiating a commercial transaction."

In the Decision regarding what Appellant refers to as "the second remark by the Board" (*see* Supp. 3), we agreed with, and adopted as our own, the Examiner's findings that Swartz teaches or suggests the disputed limitations of claim 1—"an optical input for receiving information concerning prices of goods" and "a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment." Dec. 4–5. In the Appeal Brief and Reply Brief, Appellant's argued the telephone 706 in the portable terminal 70 shown in Figures 2 and 3 of Swartz "is only used for audio/conversation purposes and does not handle any hub data computing/exchange concerning prices of goods with the commercial establishment." *See* App. Br. 7–10; Reply Br. 6 (emphasis added). As discussed in the Decision, claim 1 does not recite a phone that handles "any hub data computing/exchange concerning prices of goods with the commercial establishment." Dec. 4. In the Supplement, Appellant argues the bar code scanner 704 is connected with the CPU 701, rather than the telephone 706, in the portable terminal of Swartz, and again argues the telephone 706 only provides telephony support—"talk/listen ability." Supp. 3–4.

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To the extent Appellant's arguments in the Briefs and the Supplement raise an issue regarding the features or functionality of the mobile phone in connection with the properly construed "network hub" limitation, we are not persuaded of Examiner error because, as discussed *supra*, the Examiner relies on Hammad as teaching a wireless communication device, such as a wireless phone, equipped with an actuator for initiating a commercial transaction, that has the capability to communicate information to other entities in any suitable form. *See* Non-Final Act. 6; *see also* Hammad, col. 4, ll. 44–59, col. 6, ll. 50–60. Thus, we agree with these findings and find the combination of Hammad and Swartz teaches or suggests the telephone functionality that Appellant argues is missing from Swartz for the network hub of Swartz to wirelessly exchange information between a commercial establishment and the mobile phone within the boundaries of the establishment. Appellant has not provided persuasive evidence or argument to show that modifying Swartz to use the wireless mobile phone features and functionality of Hammad was "uniquely challenging or difficult for one of ordinary skill in the art." *See Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citing *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 419 (2007)). Absent such evidence or argument, we "take account of the inferences and creative steps that a person of ordinary skill in the art would employ," and find combining the wireless phone capabilities of Hammad with the portable terminal of Swartz would have been within the level of ordinary skill in the art. *See KSR*, 550 U.S. at 418; *see also id.* at 421 ("A person of ordinary skill is also a person of ordinary creativity, not an automaton."). Thus, Appellant's arguments regarding the "second remark of the Board" do not persuade us the Examiner erred in finding the

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combined teachings of Swartz and Hammad teach or suggest "a network hub for wireless exchange of information between a commercial establishment and said mobile phone within the boundaries of the establishment."

DECISION

Accordingly, we deny Appellant's Request; and, upon granting the Request to the extent we have reconsidered the Decision in view of the arguments presented in the Supplement, as well as related arguments in the Briefs, we deny the Request and make no changes to the Decision.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

REHEARING DENIED

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APPLE EX1009 Page 523

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Courtesy Reminder for
Application Serial No: 13/559,194

Attorney Docket No: 30071-002002
Customer Number: 92425
Date of Electronic Notification: 10/31/2016

This is a courtesy reminder that new correspondence is available for this application. If you have not done so already, please review the correspondence. The official date of notification of the outgoing correspondence will be indicated on the form PTOL-90 accompanying the correspondence.

An email notification regarding the correspondence was sent to the following email address(es) associated with your customer number:
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant	:	Paul Poniatowski	)
			) Group Art Unit: 2655
Appln. No.	:	13559194	)
			) Examiner: Anwah Olisa
Filed	:	07/26/2012	)
For	:	Mobile Payment System	)
Appeal	:	2014- 007989	)

Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sirs,

In response to the Boards Rehearing Decision, Appellant submits the following statement :

Appellant is to pursue with suitable legal option and provide proper notice to the Office within the 2 months time period as permitted by law.

In regards to the statement that appellant argued for the first time the fact that Swart's does not disclose a "phone equipped with actuator initiating

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commercial transaction" , Appellant would like to draw attention of the Board to the correspondence filed with the Office on May 18 2014 viewable on PAIR portal, addressing the very issue. In fact aside from emphasizing a dedicated actuator aspect, appellant indicated many other factors why Swartz's cited paper is irrelevant :

" In addition, Swartz's system also does not disclose :

- a phone equipped with dedicated actuator that initiates commercial transaction (unit 246 Fig. 9 belongs to bar code reader 240 and NOT the phone)

- an optical input for receiving information concerning prices of goods is not attached to the phone (scanner is attached to CPU 701 and NOT the phone as per Fig.2.

- a phone that solicits selection of a subset items from said listing thereof for purchase to the authorization institution.

- a financial/authorization institution for associating a PIN number with said mobile phone. "

For reasons unknown to Appellant the Office never addressed those findings.

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On Hammad invention : The characteristics was not fully argued in detail , because in view of Swart's lacking specifications/disclosure it was deemed to be unnecessary to do so. Non the less the following is submitted.

The invention discloses a wireless communication device 30 as a access device 42 equipped with a display 44 for receiving a transaction information from merchant 40 of system 10 as a first step. Col. 1 li.45, Col. 4 li. 3-7

The device 30 performs within limitation of a relay (retransmitting) data obtained from computer of merchant 40. Col. 2 li. 50-60

Performing as a relay as in described architecture/disclosure does not support a computing hub capacity of the said device 30 but rather as act of passing something from one device to another (mouse -computer).

A detailed description of transaction information is found here: Col.4 li. 24-33.

The transaction information is prepared/processed by system 10 and relayed for display 44 of access device 42.Col. 6 li. 45-50.

Initiation of transaction information is vastly different and incompatible in function or genus to the one of commercial transaction that is initiated/ primed by a customer and its phone as per appellants application disclosure and Claim 1.

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A transaction information is essentially an act of gathering information about the items - basically a survey of goods (cost, ingredients, weight, calories, producer info, ect.) and is commonly known as browsing.

Such survey of goods and /or browsing activity and does not constitute as commercial transaction.

And so then, the actuator cited by examiner, initiates only browsing activity and does not initiates a commercial transaction.

In regards to obviousness claim by combining Swartz and Hammad, Appellant would like to state that Section 2143.03 of the MPEP requires the "consideration" of every claim feature in an obviousness determination. To render claim 1 unpatentable, however, the Office must do more than merely "consider" each and every feature for this claim. Instead, the asserted combination of the patents to Smith and Jones must also teach or suggest each and every claim feature. See In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) (emphasis added) (to establish prima facie obviousness of a claimed invention, all the claim features must be taught or suggested by the prior art). Indeed, as the Board of Patent Appeal and Interferences has recently confirmed, a proper obviousness determination requires that an Examiner make "a searching comparison of

the claimed invention – including all its limitations – with the teaching of the prior art." See In re Wada and Murphy, Appeal 2007-3733, citing In re Ochiai, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis in original). Further, the necessary presence of all claim features is axiomatic, since the Supreme Court has long held that obviousness is a question of law based on underlying factual inquiries, including … ascertaining the differences between the claimed invention and the prior art. Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966) (emphasis added). Indeed, Appellant submits that this is why Section 904 of the MPEP instructs Examiners to conduct an art search that covers "the invention as described and claimed." (emphasis added). Appellant respectfully directs attention to MPEP § 2143, the instructions of which buttress the conclusion that obviousness requires at least a suggestion of all of the features of a claim, since the Supreme Court in KSR Int'l v. Teleflex Inc. stated that "there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." KSR Int'l v. Teleflex Inc., 127 S. Ct. 1727, 1741 (2007) (quoting In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006). The Office/Board did not provide such articulated reasoning and rational underpinning in their decisions.

In sum, it remains well-settled law that obviousness requires at least a suggestion of all of the features in a claim. See In re Wada and Murphy, citing CFMT, Inc. v. Yieldup Intern. Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003) and In re Royka, 490 F.2d 981, 985 (CCPA 1974)).

And further, M.P.E.P. § 2143.01 explains the long-standing principle that a § 103 rejection cannot be maintained when an asserted modification undermines either the operation or the purpose of the main reference, with the rationale being that the prior art teaches away from such a modification. See KSR Int'l Co. v. Teleflex, Inc., 127 S. Ct. 1727, 1742 (2007) ("[W]hen the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be non-obvious."). See also In re Gordon 733 F.2d 900 (Fed. Cir. 1984) (Where an asserted combination would render the invention inoperable, under M.P.E.P. § 2143.01, the rejections cannot be maintained).

Combining Swartz with Hammad indeed teaches away from the Appellants invention scope/function and would make the invention inoperable.

Paul Poniatowski November 12, 2016 Toronto
/ Paul Poniatowski /

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Electronic Acknowledgement Receipt

EFS ID:	27508873
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Customer Number:	92425
Filer:	Paul Poniatowski
Filer Authorized By:	
Attorney Docket Number:	30071-002002
Receipt Date:	14-NOV-2016
Filing Date:	26-JUL-2012
Time Stamp:	21:01:12
Application Type:	Utility under 35 USC 111(a)

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If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

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UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Paul Poniatowski , Appellant ,

v. **NOTICE OF APPEAL**

General Counsel USPTO , Appellee .

Paul Poniatowski hereby appeal the court for review of the Request for Rehearing , that was denied by the USPTO Board of Appeals.
Appeal no. 2014-007989, application no. 13/559,194.
Entered on October 31, 2016.
The decision was received on October 31, 2016.

December 4, 2016 / Paul Poniatowski /
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EFS ID:	27686169
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Confirmation Number:	1019
Title of Invention:	Mobile Payment System
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Customer Number:	92425
Filer:	Paul Poniatowski
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Attorney Docket Number:	30071-002002
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IPR2024-00731
APPLE EX1009 Page 536

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Paul Poniatowski , Appellant ,

v. **NOTICE OF APPEAL**

General Counsel USPTO , Appellee .

Paul Poniatowski hereby appeal the court for review of the Request for Rehearing , that was denied by the USPTO Board of Appeals.
Appeal no. 2014-007989, application no. 13/559,194.
Entered on October 31, 2016.
The decision was received on October 31, 2016.

December 4, 2016 Paul Poniatowski

Paul Poniatowski
PO Box 57054 The Queensway
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Electronic Acknowledgement Receipt

EFS ID:	27973369
Application Number:	13559194
International Application Number:	
Confirmation Number:	1019
Title of Invention:	Mobile Payment System
First Named Inventor/Applicant Name:	Paul Poniatowski
Customer Number:	92425
Filer:	Paul Poniatowski
Filer Authorized By:	
Attorney Docket Number:	30071-002002
Receipt Date:	04-JAN-2017
Filing Date:	26-JUL-2012
Time Stamp:	21:14:30
Application Type:	Utility under 35 USC 111(a)

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New International Application Filed with the USPTO as a Receiving Office

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UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

NOTICE OF ENTRY OF JUDGMENT ACCOMPANIED BY OPINION

OPINION FILED AND JUDGMENT ENTERED: 05/09/2017

The attached opinion announcing the judgment of the court in your case was filed and judgment was entered on the date indicated above. The mandate will be issued in due course.

Information is also provided about petitions for rehearing and suggestions for rehearing en banc. The questions and answers are those frequently asked and answered by the Clerk's Office.

No costs were taxed in this appeal.

Regarding exhibits and visual aids: Your attention is directed Fed. R. App. P. 34(g) which states that the clerk may destroy or dispose of the exhibits if counsel does not reclaim them within a reasonable time after the clerk gives notice to remove them. (The clerk deems a reasonable time to be 15 days from the date the final mandate is issued.)

FOR THE COURT

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court

17-1346 - In re: Poniatowski
United States Patent and Trademark Office, Case No. 13/559,194

NOTE: This disposition is nonprecedential.

United States Court of Appeals for the Federal Circuit

IN RE: PAUL PONIATOWSKI,
Appellant

2017-1346

Appeal from the United States Patent and Trademark Office, Patent Trial and Appeal Board in No. 13/559,194.

Decided: May 9, 2017

PAUL PONIATOWSKI, Ontario, Canada, pro se.

NATHAN K. KELLEY, Office of the Solicitor, United States Patent and Trademark Office, Alexandria, VA, for appellee Michelle K. Lee. Also represented by THOMAS W. KRAUSE, JOSEPH GERARD PICCOLO, KAKOLI CAPRIHAN.

Before REYNA, LINN, and TARANTO, *Circuit Judges.*

PER CURIAM.

Paul Poniatowski filed U.S. Patent Application No. 13/559,194 in 2012. As relevant here, the examiner rejected claims 1–9 and 11–13 as unpatentable for obviousness, and the Patent Trial and Appeal Board of the

Patent and Trademark Office affirmed. Mr. Poniatowski has shown no reversible error, and we therefore affirm.

I

Mr. Poniatowski's application, which claims priority through various continuation applications back to April 7, 2003, concerns an apparatus for engaging in wireless commercial transactions. The examiner rejected claims 1–3, 6, 8, 9, 11, and 12, determining that those claims would have been obvious over a combination of U.S. Patent No. 7,040,541 issued to Swartz, U.S. Patent No. 5,181,238 issued to Medamana, U.S. Patent No. 8,219,490 issued to Hammad, and U.S. Patent Publication No. 2010/0023449 to Skowronek. The examiner also rejected claims 4, 5, 7, and 13 for obviousness based on these and other references. The Board affirmed those rejections. *In re Poniatowski*, No. 2014-007989, 2016 WL 3442692, at *2–3 (PTAB June 21, 2016) (*Decision on Appeal*); *see also In re Poniatowski*, No. 2014-007989, 2016 WL 6524749 (PTAB Oct. 27, 2016) (*Rehearing Decision*).[1]

The Board treated claim 1 as representative of the disputed claims because Mr. Poniatowski did not argue for the patentability of any of those claims separately in his appeal brief to the Board. *See* Appellee's App. 5 (Board decision); *id.* at 145–54 (appeal brief). Claim 1 reads as follows:

> 1. An apparatus for engaging in wireless commercial transactions, said apparatus comprising a mobile phone equipped with a dedicated actuator for initiating a commercial transaction, and an optical input for receiving information concerning prices of goods, a network hub for wireless ex-

[1] The examiner did not reject claim 10 or claim 14. The examiner rejected claim 15, but the Board reversed. Those claims are not before us.

> change of information between a commercial establishment and said mobile phone within the boundaries of the establishment, and a financial/authorization institution for associating a PIN number with said mobile phone and for authorizing transactions initiated by said mobile phone.

Appellee's App. 111.

Mr. Poniatowski appeals the Board's decision under 35 U.S.C. § 141(a). He argues that the Board failed to consider the following arguments raised in a letter submitted to the Board on May 18, 2014: (1) Swartz does not disclose "a phone equipped with [a] dedicated actuator that initiates commercial transaction[s]"; (2) Swartz does not disclose "an optical input for receiving information concerning prices of goods [that] is . . . attached to the phone"; (3) Swartz does not disclose "a phone that solicits [a] selection of a subset [of] items from [a] listing"; and (4) Swartz does not disclose "a financial/authorization institution for associating a PIN number with said mobile phone." Appellant's Br. 2. According to Mr. Poniatowski, the Board could not have affirmed the examiner's rejections had it considered those arguments. We have jurisdiction to review the Board's decision under 28 U.S.C. § 1295(a)(4)(A).

II

Under the version of 35 U.S.C. § 103(a) applicable to this application, a claimed invention is unpatentable "if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the claimed invention pertains." 35

U.S.C. § 103(a).[2] "Whether a claimed invention would have been obvious is a question of law, based on factual determinations regarding the scope and content of the prior art, differences between the prior art and the claims at issue, the level of ordinary skill in the pertinent art, and any objective indicia of non-obviousness." *Randall Mfg. v. Rea*, 733 F.3d 1355, 1362 (Fed. Cir. 2013); *see KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007); *Graham v. John Deere Co. of Kan. City*, 383 U.S. 1, 17–18 (1966). "On appeal, we review the Board's compliance with governing legal standards de novo and its underlying factual determinations for substantial evidence." *Randall*, 733 F.3d at 1362.

Mr. Poniatowski faults the Board for disregarding four contentions about what Swartz teaches. This challenge lacks merit. Mr. Poniatowski has not shown that the Board relied on Swartz for any claim element that he separately and timely argued to the Board.

As an initial matter, the "phone that solicits" limitation—the third item enumerated above—is reflected in claim 5 but does not appear in claim 1. But Mr. Poniatowski did not argue for the patentability of claim 5 separately to the Board. Under 37 C.F.R. § 41.37(c)(iv), the Board acted properly in limiting itself to the arguments raised in the applicant's appeal brief. *See, e.g., In re Baxter Int'l, Inc.*, 678 F.3d 1357, 1362 (Fed. Cir. 2012); *In re McDaniel*, 293 F.3d 1379, 1383 (Fed. Cir. 2002).

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[2] The Leahy–Smith America Invents Act changed the language of § 103(a), *see* Pub. L. No. 112–29, § 3(c), 125 Stat. 284, 287 (2011), but those changes do not apply to this 2012 application. *See id.* § 3(n)(1), 125 Stat. at 293.

As to the "dedicated actuator" and "PIN number" limitations—the first and fourth items in Mr. Poniatowski's enumeration above—Mr. Poniatowski's challenge to the Board's decision also fails because the arguments were not timely presented to the Board. Those limitations do appear in claim 1. But the examiner found those limitations present in the prior art, *see* Appellee's App. 131–33, and Mr. Poniatowski did not challenge those findings in his appeal brief to the Board, *see id.* at 146–50. The Board therefore could properly consider these points forfeited. *See Rehearing Decision*, 2016 WL 6524749 at *2.

Moreover, the examiner found these limitations present, not in Swartz, but in Skowronek and Hammad (actuator) and in Medamana (PIN number). *See* Appellee's App. 131–33; *Rehearing Decision*, 2016 WL 652749 at *3 (discussing Hammad). Those findings make Mr. Poniatowski's current argument about Swartz immaterial to the outcome. And Mr. Poniatowski makes no meaningful or persuasive argument that substantial-evidence support is lacking for the examiner's findings that the non-Swartz references teach these elements. For example, Hammad discloses that a consumer may initiate a transaction with a merchant by interacting with his mobile communication device. Hammad, col. 6, lines 51, 54–56. That disclosure is reasonably read as teaching that the mobile communication contains a means by which the consumer initiates the transaction, *i.e.*, an actuator.

What remains is the "optical input for receiving information" limitation—the second item in Mr. Poniatowski's enumeration. As to that limitation, the Board first affirmed the examiner's finding that Swartz disclosed that limitation. *Final Written Decision*, 2016 WL 3442692, at *2–3. Swartz discloses an order-fulfillment system, Swartz, abstract, that includes a machine used "to retrieve data files including items such as prices,"

Swartz, col. 3, lines 9–10. It teaches, moreover, that the "[c]ollection of data is preferably performed by a bar code scanner." Swartz, col. 5, lines 19–20. Mr. Poniatowski fails to provide any persuasive reason that the Board could not consider this bar code scanner to be an optical input for receiving information concerning the price of goods.

In seeking rehearing, Mr. Poniatowski argued that, although the system in Swartz includes a mobile phone, the optical input in Swartz is not attached to the mobile phone. *See* Swartz, fig.3 (depicting mobile phone and scanner as separate subcomponents of system). Considering this argument, the Board observed that the examiner relied on the Hammad reference to teach a wireless phone that is equipped with an actuator for initiating a commercial transaction. *Rehearing Decision*, 2016 WL 652749 at *3. And the Board reasoned that a person of ordinary skill in the art would modify the device in Swartz to include the mobile phone features disclosed in Hammad. *Id.* Mr. Poniatowski challenges this finding with a teaching away argument in one sentence of his opening brief: "Combining Swartz with Hammad indeed teaches away from the [a]ppellant['s] invention scope/function and would make the invention inoperable." Appellant's Br. 6. But this argument, made for the first time on appeal to this court, has been waived by Mr. Poniatowski. *See In re Watts*, 354 F.3d 1362, 1367 (Fed. Cir. 2004). And in any event, he has not shown inoperability or offered any other persuasive support for the teaching-away contention. Accordingly, he has failed to show that the Board's decision was unsupported by substantial evidence.

III

For the foregoing reasons, we affirm the Board's decision.

No costs.

AFFIRMED

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

17-1346

In re: PAUL PONIATOWSKI,
Appellant

Appeal from the United States Patent and Trademark Office in case no. 13/559,194 Administrative Patent Judge Kristen L. Droesch, Administrative Patent Judge Monica S. Ullagaddi, Administrative Patent Judge John P. Pinkerton

MANDATE

In accordance with the judgment of this Court, entered May 09, 2017, and pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure, the formal mandate is hereby issued.

FOR THE COURT

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

92425 7590 04/15/2020

Paul Poniatowski
11 Keniga , m 12
Warsaw, 02-495
POLAND

EXAMINER
ANWAH, OLISA

ART UNIT	PAPER NUMBER
2655	

DATE MAILED: 04/15/2020

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

TITLE OF INVENTION: Mobile Payment System

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	MICRO	$250	$0.00	$0.00	$250	07/15/2020

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the ENTITY STATUS shown above. If the ENTITY STATUS is shown as SMALL or MICRO, verify whether entitlement to that entity status still applies.

If the ENTITY STATUS is the same as shown above, pay the TOTAL FEE(S) DUE shown above.

If the ENTITY STATUS is changed from that shown above, on PART B - FEE(S) TRANSMITTAL, complete section number 5 titled "Change in Entity Status (from status indicated above)".

For purposes of this notice, small entity fees are 1/2 the amount of undiscounted fees, and micro entity fees are 1/2 the amount of small entity fees.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Maintenance fees are due in utility patents issuing on applications filed on or after Dec. 12, 1980. It is patentee's responsibility to ensure timely payment of maintenance fees when due. More information is available at www.uspto.gov/PatentMaintenanceFees.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), by mail or fax, or via EFS-Web.

By mail, send to: Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

By fax, send to: (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

92425 7590 04/15/2020

Paul Poniatowski
11 Keniga , m 12
Warsaw, 02-495
POLAND

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being transmitted to the USPTO via EFS-Web or by facsimile to (571) 273-2885, on the date below.

(Typed or printed name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

TITLE OF INVENTION: Mobile Payment System

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	MICRO	$250	$0.00	$0.00	$250	07/15/2020

EXAMINER	ART UNIT	CLASS-SUBCLASS
ANWAH, OLISA	2655	379-093120

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

❑ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

❑ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-09 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
(1) The names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) The name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document must have been previously recorded, or filed for recordation, as set forth in 37 CFR 3.11 and 37 CFR 3.81(a). Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ❑ Individual ❑ Corporation or other private group entity ❑ Government

4a. Fees submitted: ❑ Issue Fee ❑ Publication Fee (if required) ❑ Advance Order - # of Copies _____

4b. Method of Payment: *(Please first reapply any previously paid fee shown above)*

❑ Electronic Payment via EFS-Web ❑ Enclosed check ❑ Non-electronic payment by credit card (Attach form PTO-2038)

❑ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment to Deposit Account No. _____

5. **Change in Entity Status** (from status indicated above)

❑ Applicant certifying micro entity status. See 37 CFR 1.29

❑ Applicant asserting small entity status. See 37 CFR 1.27

❑ Applicant changing to regular undiscounted fee status.

NOTE: Absent a valid certification of Micro Entity Status (see forms PTO/SB/15A and 15B), issue fee payment in the micro entity amount will not be accepted at the risk of application abandonment.
NOTE: If the application was previously under micro entity status, checking this box will be taken to be a notification of loss of entitlement to micro entity status.
NOTE: Checking this box will be taken to be a notification of loss of entitlement to small or micro entity status, as applicable.

NOTE: This form must be signed in accordance with 37 CFR 1.31 and 1.33. See 37 CFR 1.4 for signature requirements and certifications.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

IPR2024-00731
APPLE EX1009 Page 550

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

92425 7590 04/15/2020

Paul Poniatowski
11 Keniga , m 12
Warsaw, 02-495
POLAND

EXAMINER	
ANWAH, OLISA	
ART UNIT	**PAPER NUMBER**
2655	

DATE MAILED: 04/15/2020

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(Applications filed on or after May 29, 2000)

The Office has discontinued providing a Patent Term Adjustment (PTA) calculation with the Notice of Allowance.

Section 1(h)(2) of the AIA Technical Corrections Act amended 35 U.S.C. 154(b)(3)(B)(i) to eliminate the requirement that the Office provide a patent term adjustment determination with the notice of allowance. See Revisions to Patent Term Adjustment, 78 Fed. Reg. 19416, 19417 (Apr. 1, 2013). Therefore, the Office is no longer providing an initial patent term adjustment determination with the notice of allowance. The Office will continue to provide a patent term adjustment determination with the Issue Notification Letter that is mailed to applicant approximately three weeks prior to the issue date of the patent, and will include the patent term adjustment on the patent. Any request for reconsideration of the patent term adjustment determination (or reinstatement of patent term adjustment) should follow the process outlined in 37 CFR 1.705.

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

OMB Clearance and PRA Burden Statement for PTOL-85 Part B

The Paperwork Reduction Act (PRA) of 1995 requires Federal agencies to obtain Office of Management and Budget approval before requesting most types of information from the public. When OMB approves an agency request to collect information from the public, OMB (i) provides a valid OMB Control Number and expiration date for the agency to display on the instrument that will be used to collect the information and (ii) requires the agency to inform the public about the OMB Control Number's legal significance in accordance with 5 CFR 1320.5(b).

The information collected by PTOL-85 Part B is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

IPR2024-00731
APPLE EX1009 Page 552

Notice of Allowability	Application No. 13/559,194	Applicant(s) Poniatowski, Paul	
	Examiner OLISA ANWAH	Art Unit 2655	AIA (FITF) Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☑ This communication is responsive to the decision rendered on 5/9/2017.
   ☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2. ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

3. ☑ The allowed claim(s) is/are 15 . As a result of the allowed claim(s), you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see **http://www.uspto.gov/patents/init_events/pph/index.jsp** or send an inquiry to **PPHfeedback@uspto.gov.**

4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   Certified copies:

   a) ☐ All b) ☐ Some *c) ☐ None of the:

   1. ☐ Certified copies of the priority documents have been received.
   2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
   3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____ .

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____ .

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____.
3. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material _____.
4. ☐ Interview Summary (PTO-413), Paper No./Mail Date. _____.
5. ☑ Examiner's Amendment/Comment
6. ☐ Examiner's Statement of Reasons for Allowance
7. ☐ Other _____.

/OLISA ANWAH/
Primary Examiner, Art Unit 2655

EXAMINER'S AMENDMENT

Allowable Subject Matter

1. Claim 15 is allowed.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

AMMENDMENT to APPLICATION

3. The application has been amended as follows:

a) Claims 1-14 have been cancelled.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLISA ANWAH whose telephone number is 571-272-7533. The examiner can normally be reached on Monday to Friday 8.30 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Davetta Goins can be reached on 571-272-2957. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 571-273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

Olisa Anwah
Patent Examiner
April 9, 2020

/OLISA ANWAH/
Primary Examiner, Art Unit 2655

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	13/559,194	Poniatowski, Paul
	Examiner	**Art Unit**
	OLISA ANWAH	2655

CPC						
Symbol					**Type**	**Version**
G06Q	/	30	/	06	F	2013-01-01
G06Q	/	20	/	20	I	2013-01-01

CPC Combination Sets								
Symbol					**Type**	**Set**	**Ranking**	**Version**
	/		/					

NONE		Total Claims Allowed:	
(Assistant Examiner)	(Date)	1	
/OLISA ANWAH/ Primary Examiner, Art Unit 2655	09 April 2020	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	15	5

U.S. Patent and Trademark Office

Part of Paper No.: 20200409

IPR2024-00731
APPLE EX1009 Page 556

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	13/559,194	Poniatowski, Paul
	Examiner	**Art Unit**
	OLISA ANWAH	2655

INTERNATIONAL CLASSIFICATION					
CLAIMED					
H04M	/	11	/	00	

NON-CLAIMED				
	/		/	

US ORIGINAL CLASSIFICATION	
CLASS	**SUBCLASS**

CROSS REFERENCES(S)						
CLASS	**SUBCLASS (ONE SUBCLASS PER BLOCK)**					

NONE		**Total Claims Allowed:**	
(Assistant Examiner)	(Date)	1	
/OLISA ANWAH/ Primary Examiner, Art Unit 2655	09 April 2020	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	15	5

U.S. Patent and Trademark Office — Part of Paper No.: 20200409

IPR2024-00731
APPLE EX1009 Page 557

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	13/559,194	Poniatowski, Paul
	Examiner	**Art Unit**
	OLISA ANWAH	2655

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☑ T.D. ☐ R.1.47

CLAIMS

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1		10												
	2		11												
	3		12												
	4		13												
	5		14												
	6	1	15												
	7														
	8														
	9														

NONE		**Total Claims Allowed:**	
(Assistant Examiner)	(Date)	1	
/OLISA ANWAH/ Primary Examiner, Art Unit 2655	09 April 2020	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	15	5

U.S. Patent and Trademark Office

Part of Paper No.: 20200409

IPR2024-00731
APPLE EX1009 Page 558

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	13/559,194	Poniatowski, Paul
	Examiner	Art Unit
	OLISA ANWAH	2655

CPC - Searched*		
Symbol	Date	Examiner
H04M11/00	04/09/2020	OA

CPC Combination Sets - Searched*		
Symbol	Date	Examiner

US Classification - Searched*			
Class	Subclass	Date	Examiner

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

Search Notes		
Search Notes	Date	Examiner
East search	04/09/2020	OA

Interference Search			
US Class/CPC Symbol	US Subclass/CPC Group	Date	Examiner
H04M11/00		04/09/2020	OA

/OLISA ANWAH/ Primary Examiner, Art Unit 2655	

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APPLE EX1009 Page 559

EAST Search History

EAST Search History (Interference)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	1	(wireless same (phone or telephone) same terminal same payment same commercial).clm.	US-PGPUB	OR	OFF	2020/04/09 13:46

4/9/2020 1:47:11 PM

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	1061342	(mobile or wireless or cellular) adj (telephone or phone)	US-PGPUB; USPAT	OR	OFF	2020/04/09 14:15
L3	115145	(mobile or wireless or cellular) adj (telephone or phone) and (@ad<="20030407" or @rlad<="20030407")	US-PGPUB; USPAT	OR	OFF	2020/04/09 14:16
L4	1357	(mobile or wireless or cellular) adj (telephone or phone) with payment and (@ad<="20030407" or @rlad<="20030407")	US-PGPUB; USPAT	OR	OFF	2020/04/09 14:16
L5	325	(mobile or wireless or cellular) adj (telephone or phone) with payment and (@ad<="20030407" or @rlad<="20030407") and POS	US-PGPUB; USPAT	OR	OFF	2020/04/09 14:17

4/9/2020 2:18:10 PM

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Courtesy Reminder for
Application Serial No: 13/559,194

Attorney Docket No: 30071-002002
Customer Number: 92425
Date of Electronic Notification: 04/15/2020

This is a courtesy reminder that new correspondence is available for this application. If you have not done so already, please review the correspondence. The official date of notification of the outgoing correspondence will be indicated on the form PTOL-90 accompanying the correspondence.

An email notification regarding the correspondence was sent to the following email address(es) associated with your customer number:
paulponiatowski@hotmail.com

To view your correspondence online or update your email addresses, please visit us anytime at **https://ppair-my.uspto.gov/pair/PrivatePair.**
If you have any questions, please email the Electronic Business Center (EBC) at EBC@uspto.gov or call 1-866-217-9197.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

92425 7590 06/05/2020

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EXAMINER
ANWAH, OLISA

ART UNIT	PAPER NUMBER
2655	

NOTIFICATION DATE	DELIVERY MODE
06/05/2020	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Application No. : 13559194
Applicant : Poniatowski
Filing Date : 07/26/2012
Date Mailed : 06/05/2020

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Notice of Allowance Mailed

This application has been accorded an Allowance Date and is being prepared for issuance. The application, however, is incomplete for the reasons below.

Applicant is given two (2) months from the mail date of this Notice within which to respond. This time period for reply is extendable under 37 CFR 1.136(a) for only TWO additional MONTHS.

The informalities requiring correction are indicated in the attachment(s). If the informality pertains to the abstract, specification (including claims) or drawings, the informality must be corrected with an amendment in compliance with 37 CFR 1.121 (or, if the application is a reissue application, 37 CFR 1.173). Such an amendment may be filed after payment of the issue fee if limited to correction of informalities noted herein. See Waiver of 37 CFR 1.312 for Documents Required by the Office of Patent Publication, 1280 Off. Gaz. Patent Office 918 (March 23, 2004). In addition, if the informality is not corrected until after payment of the issue fee, for purposes of 35 U.S.C. 154(b)(1)(iv), "all outstanding requirements" will be considered to have been satisfied when the informality has been corrected. A failure to respond within the above-identified time period will result in the application being ABANDONED.

See attachment(s).

A copy of this notice MUST be returned with the reply. Please address response to "Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450".

/Kevin Danemark/
Publication Branch
Office of Data Management
(571) 272-4200

Application No. 13559194 **Drawings filed: 07/26/2012**

DRAWINGS AND BRIEF DESCRIPTION OF DRAWINGS IN NON-COMPLIANCE WITH 37 CFR 1.84(u)(1)

37 CFR 1.84(u)(1) states, "The different views must be numbered in consecutive Arabic numerals, starting with 1 … Partial views intended to form one complete view, on one or several sheets, must be identified by the same number followed by a capital letter. View numbers must be preceded by the abbreviation 'FIG.' "

Other methods of identification are improper, including Roman numerals (FIG. I, FIG, II, etc.) and alphabetic characters (FIG. A, FIG. B, etc.). Abbreviations and words other than "FIG." ("Illustration, 1" "Diagram 2," "Photo 3," etc.) are improper.

☐ Applicant must submit drawings that number the views using consecutive Arabic numerals.

☐ Applicant must amend the brief description of the drawings on Page(s) of the specification to show consecutive Arabic numerals.

NOTE: Applicant is advised that the detailed description may voluntarily be amended to identify the drawings by Arabic numerals.

☒ The drawing is continued onto a second page (or more) without proper labeling under 37 CFR 1.84(u)(1). FIG(s) 1

☐ Applicant must submit drawings on which the view numbers are preceded by the abbreviation "FIG."

☐ Applicant must amend the brief description of the drawings on Page(s) of the specification to show view numbers preceded by the abbreviation "FIG."

NOTE: Applicant is advised that the detailed description may voluntarily be amended to show view numbers preceded by the abbreviation "FIG."

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/559,194	07/26/2012	Paul Poniatowski	30071-002002	1019

7590 10/14/2020

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EXAMINER	
ANWAH, OLISA	
ART UNIT	PAPER NUMBER
2655	
NOTIFICATION DATE	DELIVERY MODE
10/14/2020	ELECTRONIC

Notice of Abandonment

This application is abandoned in view of:

1. ☑ The applicant's failure to timely file a proper reply to the Office letter mailed on 06/05/20.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the period for reply (including a total extension of ____ month(s)) which expired on _____.
   (b) ☑ No reply has been received.
2. ☑ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____.
   The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☑ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawing have been received.
4. ☐ Applicant's failure to timely file the inventor's oath or declaration no later than the date on which the issue fee was paid as required by the Notice Requiring Inventor's Oath or Declaration (PTO-2306).
   (a) ☐ An inventor's oath or declaration was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the date on which the issue fee was paid.
   (b) ☐ While an oath or declaration (or substitute statement) for one or more inventors was received, an oath or declaration (or substitute statement) for at least one other inventor has not been received.
   (c) ☐ No inventor's oath or declaration has been received.
5. ☐ Drawings received on _____ were disapproved by examiner. See examiner's response dated _____.
6. ☐ Corrected drawings were received on _____ , which is after the expiration of the one-month period for reply set in examiner's response dated _____.
7. ☐ No corrected drawings have been received in reply to one-month period set in examiner's response dated _____.
8. ☐ The reason(s) below:

Petitions to revive under 37 CFR 1.137(a) or request to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

A Gezahegn

(571)-272-4200 or 1(888)-786-0101
Patent Publication Branch
Office of Data Management