

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner,

v.

DH INTERNATIONAL LTD.,
Patent Owner.

PTAB Case No. IPR2024-01322

Patent No. 9,022,294

**DECLARATION OF MR. SAFWAN ZAHEER
IN SUPPORT OF THE PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NO. 9,022,294**

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c.	[10.h] “wherein upon said control device being selectively triggered by the user to issue said invariable activation command: if an activation cue was received by said cue receiver, said electronic circuit will accomplish said first data conveyance operation to convey data from said electronic circuit to said first data transceiver for transmitting data through said first data transceiver; and”	44
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- a. [12.pre]: “A method for data conveyance with a cellular phone of the type comprising: an electronic circuit capable of storing data therein, capable of processing data, and capable of data input and output, a user-triggered control device operatively linked to said electronic circuit, said user-triggered control device configured to be operated by a user via one of a button, a keypad, a tactile screen, and a biometric parameter detector, and after being operated issue an invariable activation command, first and second data transceivers operatively linked to said electronic circuit, a cue receiver operatively linked to said electronic circuit, a data conveyance switching element operatively linked to said electronic circuit and capable of being in either one of a first and a second state, and power means for providing power to said cellular phone, said method comprising the steps of:” 47
- b. [12.a]: “awaiting for an activation cue to be received at said cue receiver;” 47
- c. [12.b]: “if an activation cue is received at said cue receiver, assigning said first state to said switching element, while if no activation cue is received at said cue receiver, assigning said second state to said switching element; and;” 48
- d. [12.c]: “a user selectively triggering said control device to issue an invariable activation command whereby: if said switching element is in said first state, forwarding first data to said first data transceiver for initiating a data exchange operation with a first external data exchange device over a first communication link; and” 48

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18. Claim 17 – “A method as defined in claim 12, wherein said second data transceiver is a communication network transceiver and the step of forwarding said second data to said second data transceiver is for initiating a wireless data conveyance operation through a communication network representing said second communication link, with one of a remote portable electronic device, a remote server, a remote terminal and a combination thereof.” 53

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b.	[19.a]: “awaiting for an activation cue to be received at said cue receiver;”	54
c.	[19.b]: “if an activation cue is received at said cue receiver, assigning said first state to said switching element, while if no activation cue is received at said cue receiver, assigning said second state to said switching element; and”	55
d.	[19.c] “ “selectively triggering said control device to issue an invariable activation command whereby: if said switching element is in said first state, forwarding first data to said first data transceiver for initiating a data exchange operation with a first external data exchange device over a first communication link; and”	55

e.	[19.e] “wherein said method further comprises the following steps before the step of forwarding first data to said first data transceiver for initiating a data exchange operation with a first external data exchange device:”	56
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g.	[19.i] “forwarding fourth data to and displaying said fourth data on said display screen, wherein said fourth data is representative of the content of said second data; and”	56
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b.	[10.h]: “wherein upon said control device being selectively triggered by the user to issue said invariable activation command: if an activation cue was received by said cue receiver, said electronic circuit will accomplish said first data conveyance operation to convey data from said electronic circuit to said first data transceiver for transmitting data through said first data transceiver; and”	63
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a.	[11.d, 11.h, and 11.i]: Claim elements relying on <i>Mooney</i> Only.	63
b.	[11.k]: “wherein upon said control device being selectively triggered by the user to issue said invariable activation command: if an activation cue was received by said cue receiver, said electronic circuit will accomplish said first data conveyance operation to convey data from said electronic circuit to said first data transceiver for transmitting data through said first data transceiver; and”	64
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b.	[12.c]: “a user selectively triggering said control device to issue an invariable activation command whereby: if said switching element is in said first state, forwarding first data to said first data transceiver for initiating a data exchange operation with a first external data exchange device over a first communication link; and”	64
6.	Independent claim 19	65
a.	[19.pre, 19.a, 19.b, 19.e, 19.f, and 19.i]: Claim elements relying on <i>Mooney</i> Only.....	65

b.	[19.c]: “a user selectively triggering said control device to issue an invariable activation command whereby: if said switching element is in said first state, forwarding first data to said first data transceiver for initiating a data exchange operation with a first external data exchange device over a first communication link; and”	65
7.	Dependent claims 2-9, 13-18, and 20	65

TABLE OF DECLARATION EXHIBITS AND APPENDIX

Exhibit	Title
1001	U.S. Patent No. 9,022,294 to Gaillard <i>et al.</i> (“294 Patent”)
1002	Prosecution History of U.S. Application No. 12/603,085
1003	Declaration of Stuart Lipoff (“ <i>Lipoff</i> ”)
1004	Curriculum Vitae of Stuart Lipoff
1005	U.S. Patent No. 6,941,156 to Mooney (“ <i>Mooney</i> ”)
1006	U.S. Patent No. 6,909,705 to Lee <i>et al.</i> (“ <i>Lee</i> ”)
1007	U.S. Patent No. 6,697,638 to Larsson <i>et al.</i> (“ <i>Larsson</i> ”)
1008	U.S. Patent No. 7,278,581 to Ong (“ <i>Ong</i> ”)
1009	U.S. Patent No. 8,862,393 to Zhou <i>et al.</i> (“ <i>Zhou</i> ”)
1010	U.S. Patent No. 6,931,266 to Miyoshi <i>et al.</i> (“ <i>Miyoshi</i> ”)
1011	U.S. Patent No. 6,526,287 to Lee (“ <i>Lee 287</i> ”)
1012	U.S. Patent No. 6,845,097 to Haller <i>et al.</i> (“ <i>Haller</i> ”)
2001	Declaration of Safwan Zaheer (“ <i>Zaheer</i> ”)
2002	Prosecution History of U.S. Application No. 7,628,333
2003	Bluetooth Specification Version 1.1, Part K:3 Cordless Telephone Profile.

Appendix Curriculum Vitae of Safwan Zaheer

I, Mr. Safwan Zaheer, declare as follows:

I. INTRODUCTION

1. I work at autoMHatic Financial, a private equity-backed specialty lender focused on manufactured home loans. I have over twelve years of experience with the digital transformation of financial companies, such as FinTech and product development. As Chief Operating Officer & Chief Product Officer, I lead Product, Operations, and Technology responsible to accelerate the lending business, build operating efficiency, and increase competitive advantage through products that expand market share and increase company valuation. I have previously served as EVP & GM at LendingPoint where I was tapped to scale POS Lending and Payments business across Dental, Elective Medical, and Home Improvement verticals, which I grew from \$90M to over \$350M in funded volume per year during my tenure. Previously, as Head of Products at BM Technologies (formerly BankMobile), I launched and scaled T-Mobile MONEY, growing the digital banking platform to 500K consumers. In my current role at autoMHatic Financial, I continue to drive business transformation in the specialty lending space, focusing on digital solutions and growth.

2. My career also included key leadership positions at KPMG, Accenture, and Barclays, where I spearheaded major digital banking and payments initiatives.

At KPMG, I provided strategic vision for KPMG's U.S. FinTech service line and performed effectively as an active member of the Global FinTech leadership team. I served many clients, including Global Banks, and was involved in a variety of different strategic initiatives ranging from Digital Transformation to launching innovative Payments, Lending and FinTech solutions. Throughout my career, I have excelled in building high-performance teams, forging strategic partnerships, and delivering transformative solutions across the financial services industry. I have also been named as an inventor in three patent applications. Two are in the field of mobile payments wallet systems, and one is in CDMA wireless systems.

3. I have been hired by DH International Ltd. ("DH International" or "Patent Owner") to investigate and opine on certain issues relating to U.S. Patent No. 9,022,294 to Joel Gaillard (Ex. 1001, the "'294 Patent").

4. I understand that the '294 Patent was assigned to DH International.

5. I am over 21 years of age. If I am called upon to do so, I would be competent to testify as the matters set forth in my Declaration.

6. In this Declaration, I discuss the technology related to the '294 Patent, including an overview of that technology as it was known at the time of the earliest priority date claimed by the '294 Patent, which is April 14, 2003. This overview of

the technology provides some of the bases for my opinions with respect to the '294 Patent.

7. This Declaration is based on the information currently available to me. To the extent that additional information becomes available, I reserve the right to continue my investigation and study.

8. In forming my opinions, I have relied on information and evidence identified in this Declaration, including without limitation the '294 Patent (Ex. 1001), the prosecution history of the '294 Patent (Exh. 1002), and prior art including:

9. U.S. Patent Application No. 6,941,156, "Automatic Handoff for Wireless Piconet Multimode Cell Phone" (Exh. 1005) ("*Mooney*").

10. U.S. Patent Application No. 6,909,705, "Integrating Wireless Local Loop Networks with Cellular Networks" (Exh. 1006) ("*Lee*").

II. SUMMARY OF OPINIONS

11. The challenged claims 1-20 ("Challenged Claims") of the '294 Patent generally describe an approach for "a portable electronic device capable of alternate data conveyance operations responsive to an invariable activation command." Exh. 1001, 1:16-18.

12. It is my opinion that each of the Challenged Claims of the '294 Patent can be distinguished from *Mooney* and *Mooney* in combination with *Lee* as asserted

in grounds 1 and 2 of the Petition and hence are not obvious under 35 U.S.C. § 103(a) as I understand obviousness because not all elements of the '294 Patent are found in the references.

III. QUALIFICATIONS AND EXPERIENCE

A. Education and Work Experience

13. I have a Master of Science in Engineering and Management from Massachusetts Institute of Technology (MIT), a Master of Science and a Bachelor of Science in Electrical Engineering from Texas A & M. Additional details regarding my education, work experience, and technical consulting experience are set forth in my CV, attached as Exhibit A.

14. I have extensive experience with financial services and payment systems. I developed and designed payments wallet for Barclays U.S. from 2012 to 2015 as the Director of Digital Payment Products. I have also worked for Accenture and then KPMG between 2015-2019. I was responsible for product development services for financial services, technology, and retail clients, in addition to KPMG's FinTech service line, as a member of KPMG's Global FinTech Leadership team. After KPMG, I was a Managing Director for hundredX, LLC from 2019-2023, where I was responsible for providing professional services to a number of clients, including Financial Services and Payments companies.

15. From 2024 to the present, I have worked at autoMHatic Financial as its Chief Operating Officer and Chief Product Officer on digital transformation of the business, along with implementing artificial intelligence across operations and products.

16. I am a co-inventor of U.S. patent application No. 13/647,997, “Mobile Wallet System,” filed on October 9, 2012; U.S. patent application No. 13/725,061, “Mobile Commerce Business System and Method for Sharing Merchant Content and Creating a Customer Index,” filed on December 21, 2012; and U.S. patent 7,200,115, “Method of Managing Non-acknowledgement Responses,” filed on May 17, 2002.

17. Because of my background, training, and experience, I am qualified as an expert to explain the background of the technology encompassed by the '294 Patent as well as the meaning that the claim terms of the 294 Patent discussed herein would have had to a person of ordinary skill in the art in 2003 reading the claims in light of the specification and file history.

18. I have reviewed '294 Patent and its file history. I have also reviewed the documents cited in the Petition.

B. Compensation

19. DH International is compensating me for services I am providing in connection with this Petition for *inter partes* review of the '294 Patent at a rate of

\$675.00 per hour. The compensation is not contingent upon my performance, the outcome of the *inter partes* review or any other proceeding, or any issues involved in or related to the *inter partes* review.

C. Documents and Other Materials Relied Upon

20. The documents on which I rely for the opinions expressed in this Declaration are documents and materials identified in this Declaration, including the '294 Patent, the prosecution history of the '294 Patent, the prior art references and information discussed in this Declaration, and any other references identified explicitly in this Declaration or the Petition (Paper 1), in their entirety, even if only portions of these documents are discussed here in an exemplary fashion.

IV. STATEMENT OF LEGAL PRINCIPLES

21. Patent Owner's counsel has advised me of the following legal principles:

A. Claim Construction

22. Patent Owner's counsel has advised me that the words of a claim are generally given their ordinary and customary meaning in view of the specification, as it would have been understood by a person of ordinary skill in the art at the time of the invention.

B. Obviousness

23. Patent Owner's counsel has also advised me that obviousness under pre-AIA 35 U.S.C. § 103, effective before March 16, 2013, is a basis for invalidity. I understand that where a prior art reference discloses less than all of the limitations of a given patent claim, that patent claim is invalid if the differences between the claimed subject matter and the prior art reference are such that the claimed subject matter as a whole would have been obvious at the time the invention was made to one of skill in the art. Obviousness can be based on a single prior art reference or a combination of references that disclose all limitations of the claimed invention.

24. I understand that obviousness is not driven by a rigid formula, but is a flexible inquiry that reflects the fact that one of skill in the art exercising ordinary creativity may find a variety of reasons to combine the teachings of different references. I understand that a non-exclusive list of possible factors that may give one of skill in the art a reason to combine references includes any of the following: combining elements according to known methods to yield predictable results; simple substitution of known elements to obtain predictable results; use of known techniques to improve similar devices in the same way; applying known techniques to known devices ready for improvement to yield predictable results; choosing from a finite number of identified, predictable solutions, with a reasonable expectation of

success; known work in one field of endeavor prompting variations of it for use in the same field; and teaching in the prior art that would have led one of ordinary skill to combine prior art reference teachings to arrive at the claimed invention.

C. Dependent Claims

25. Patent Owner's counsel has further advised me that dependent claims include all the elements from the claims on which they depend.

V. LEVEL OF ORDINARY SKILL IN THE ART

26. I understand from Patent Owner's counsel that the claims and specification of a patent must be read and construed through the eyes of one of skill in the art at the time of the priority date of the claims. I have also been advised that to determine the appropriate level of skill, and the following factors may be considered: (a) the types of problems encountered by those working in the field and prior art solutions to it; (b) the sophistication of the technology in question, and the rapidity with which innovations occur in the field; (c) the educational level of active workers in the field; and (d) the educational level of the inventor.

27. The Abstract of the '294 Patent acknowledges that the alleged invention is an approach for "data conveyance includes awaiting for an activation cue to be received at the cue receiver; if an activation cue is received at the cue receiver, assigning its first state to the switching element, while if no activation cue is received

at the cue receiver, assigning its second state to the switching element; and selectively triggering the control device to issue an invariable activation command.”

Ex. 1001, Abstract.

28. Therefore, in my opinion, a person of ordinary skill in the art would have some familiarity with underlying technologies involving devices that utilize a transmitter and receiver for transmitting and receiving data along with processing that data with a processor. For example, a person of ordinary skill in the art would need to know how to utilize electrical components of the system but would not necessarily need to be an expert on the design of processor-controlled devices. A person of ordinary skill in the art would need to know how configurations for transmitting and receiving information between a portable device and terminal are created and implemented and how to access data on the portable device.

29. Based on my education and experience, I am familiar with the level of knowledge that a person of ordinary skill would have possessed during the relevant time. In my opinion, one of skill in the art for the claimed technology would have a bachelor’s degree in electrical engineering or a similar discipline and at least three years of relevant industry or research experience in wireless communication between devices. This definition is approximate, and more education may substitute for industry experience or vice versa.

VI. BACKGROUND OF THE TECHNOLOGY AND OF THE '294 PATENT

A. Technology at the Time of the '294 Patent

30. I have been asked to provide some context to the technology related to the '294 Patent and the prior art. I understand that the relevant time frame is April 14, 2003, and below, I provide background on how the various technologies were developed and operating up to that time frame.

31. The use of devices such as electronic cards for security was known at the time of the '294 Patent. However, what was not known was that both the validation of a user and “an activation cue” were used to enable switching with a switching element between data on the electronic card.

32. During the prosecution of the parent patent application (U.S. Patent Application No. 10/552,912), Exh. 1001, 1:9-10, of which the '294 Patent is a continuation-in-part of the parent application, and the patent applicant stated:

Thus, the contact switch 24 of the card of document D1 has the effect of only activating the read mode portion of the card, and has a quite different function than the control device claimed in the present patent application, which must necessarily be triggered to initiate any data flow towards or out of the electronic circuit.

Exh. 2002, p.218-219. No data flow towards or out of the electronic circuit occurs without activation.

33. Once the portable electronic device is activated, a first set of data is accessible in an inactive state. See Exh. 1001, 9:49. Upon receiving the “activation cue” by the control device, the data accessible is switched to a second set of data by the switching element. See Id., 9:28-30.

34. The “activation cue” is a predetermined indication for switching what data will be accessed. It is an indicator, “for example, a predetermined bit sequence.” Id., 9:24-27.

B. Challenged Claims

35. Petitioner challenged claims 1-20 of the '294 Patent. See Paper 1, p.2. Claims 1, 10, 11, 12, and 19 are independent. Claims 2-9 and 12-13 depend from claims 1 and 11, respectively. Exh. 1001, 9:61-13:27.

C. Priority Date

36. The '294 Patent was granted as a continuation-in-part of U.S. Patent Application No. 10/552,912, filed on February 27, 2006, that claims priority to PCT application No. PCT/IB03/01523, filed on April 14, 2003. Exh. 1001, 1:9-12. Counsel has informed me that the prior art references cited in Grounds 1 and 2 in the Petition are prior art to the '294 Patent based on the April 14, 2003, priority date. If evidence in this proceeding of an earlier invention date is uncovered, I reserve the right to offer additional opinions and testimony to respond to such evidence.

D. Identification of the Prior Art and Summary of Opinions

37. As explained below, it is my opinion that the following prior art references, and in the combinations provided by Petitioner, fail to disclose all technical features of the Challenged Claims of the '294 Patent, and the Petition fails to describe all of the claim elements of the '294 Patent:

- Exh. 1005 *Mooney*
- Exh. 1006 *Lee*

1. Mooney

38. U.S. Patent No. 6,941,156 ("*Mooney*") (Exh. 1005) was filed on June 26, 2001, and issued on September 6, 2005.

39. *Mooney* describes a Public Telephone Switching Network (PSTN) circuit-based telephone call establishment. A second circuit is established through a PSTN and only after successfully setting up the second circuit is communication switched from the first path through the PSTN to the second path through the PSTN. *See* Exh. 1005, Fig. 1. Two concurrent paths, one originating in the cellular network and one originating through the cordless telephone base unit both transitioning through the PSTN have to be successfully established before transferring a call from the first path to the second path. The establishment of the second concurrent path through the PSTN requires call data (such as caller ID information) from the first

call to be sent from the other respective transceiver, and the call path must be set up before transferring from the first call path to the second call path.

40. Further, *Mooney* uses Bluetooth to have a cellular telephone act as a cordless phone via a piconet connecting with a cordless telephone base unit. A piconet is a small, wireless network of connected Bluetooth devices.

41. *Mooney* describes having a prior established piconet and the device of a cellular telephone 100 having a cordless telephone mode and a matching piconet cordless telephone base unit 110. Exh. 1005, 4:7-10. The *Mooney* patent is fundamentally about 'telephony' and '294 about 'transaction' utilizing wireless communication network in a secure manner, as evident due to the essential presence of the electronic credit card (ECC).

2. Lee

42. U.S. Patent No. 6,909,705 ("*Lee*") (Exh. 1006) was filed on November 2, 2000, and issued on June 21, 2005.

43. *Lee* describes using a Bluetooth piconet in a cellular network to augment the cellular network. Routing of calls in the Bluetooth piconet is done with a voice-over IP network. Just as in a cellular network, the cellular telephone in the piconet are registered, and the location of the cellular telephones is stored in a location register, such as an HLR. Handoffs may occur between the piconet base

stations and cellular BTS and between piconet base stations. The *Lee* patent is about telephony and handoff to reduce interference and not about making transactions utilizing wireless communication, as evident due to the presence of ECC in the '294 patent.

VII. CLAIM CONSTRUCTION

44. I understand from Patent Owner's counsel that patent claims generally are given their plain and ordinary meaning to one of skill in the art as of the priority date of the analyzed claim. I also understand from Patent Owner's counsel that the intrinsic record of the Patent itself may help define that ordinary meaning. However, the intrinsic record may also reflect the patentee's clear desire to be his own lexicographer and depart from the ordinary meaning of a claim term.

45. To the extent that a claim term of the '294 Patent is used in the same way as the same term in the relevant standards, technical specifications, and/or prior art, it is my position that such claim term should be given its plain and ordinary meaning to one of skill in the art, which is reflected in the relevant standards, technical specifications, and/or prior art.

A. "activation cue"

46. The claim term "activation cue" means a predetermined indicator, such as "a predetermined bit sequence" (Exh. 1001, 6:1-3), that is "recognized by the

electronic device as an activation cue” *Id.* A POSITA would understand that the activation cue must be intended as a predetermined indicator and not a message or signal recognized as a message or signal for other action.

B. “data conveyance switching element”

47. The term “data conveyance switching element” should be given its plain meaning, which is the switching of the data. It is the data that is being switched. States are not switched by the “data conveyance switching element; rather, states are assigned to what the switch is conveying. “[I]f an activation cue is received at the cue receiver, assigning its first state to the switching element, while if no activation cue is received at the cue receiver, assigning its second state to the switching element; and selectively triggering the control device to issue an invariable activation command.” Exh. 1001, Abstract. The actual switching element is described in the ’294 Patent as a “[s]witching element 44b [that] can be any type of device allowing data to be conveyed according to alternate data conveyance operations in response to an activation cue being received by transceiver 18 or not.” *Id.* 9:28-31. The switching element is for switching data, i.e., data conveyance operations.

C. “data exchange device” and “external data exchange device”

48. The data exchange device, by its plain meaning, which is consistent with the specification, is a device. It is shown in Figures 1, 3, and 4 of the ’294

patent. In Figure 1, item 9 is a “data exchange device,” *Id.*, Fig. 1, and “can be any sort of data exchange device comprising an electronic circuit (not shown) therein and a data transceiver 9a,” *id.*, 9:4-6. Similarly, item 9’ in Figure 3 is a “data exchange device,” *id.*, 12:62, and item 104 in Figure 4, *id.*, 13:28. An external data exchange device is not a transceiver but a device with a transceiver.

D. “Close Proximity”

49. Close proximity means within a several-meter range. *See* Exh. 1001, 15:55-57. The electronic device is described as communicating with a data exchange device, such as an automatic teller machine, computer, interface machine. *See* Exh. 1001, 9:8-11. The ’294 Patent also describes, “a proximity transaction wherein devices 102 and 104 are physically close to one another. Exh. 1001, 13:36-37. In all of these examples, a person is physically close to the machines to see the interface or operate the machine. Therefore, a POSITA would consider close proximity to be one meter or less.

50. I applied a plain and ordinary meaning in my analysis of these claim terms. I also reserve the right to offer additional opinions on claim construction in response to arguments that may be made by Petitioner.

VIII. UNPATENTABILITY OF THE ’294 PATENT’S CHALLENGED CLAIMS

51. In my Declaration, I analyze the following bases for invalidity:

Grounds	Basis	Challenged Claims
1.	35 U.S.C. § 103 <i>Mooney</i>	1-20
2.	35 U.S.C. § 103 <i>Mooney</i> and <i>Lee</i>	1-20

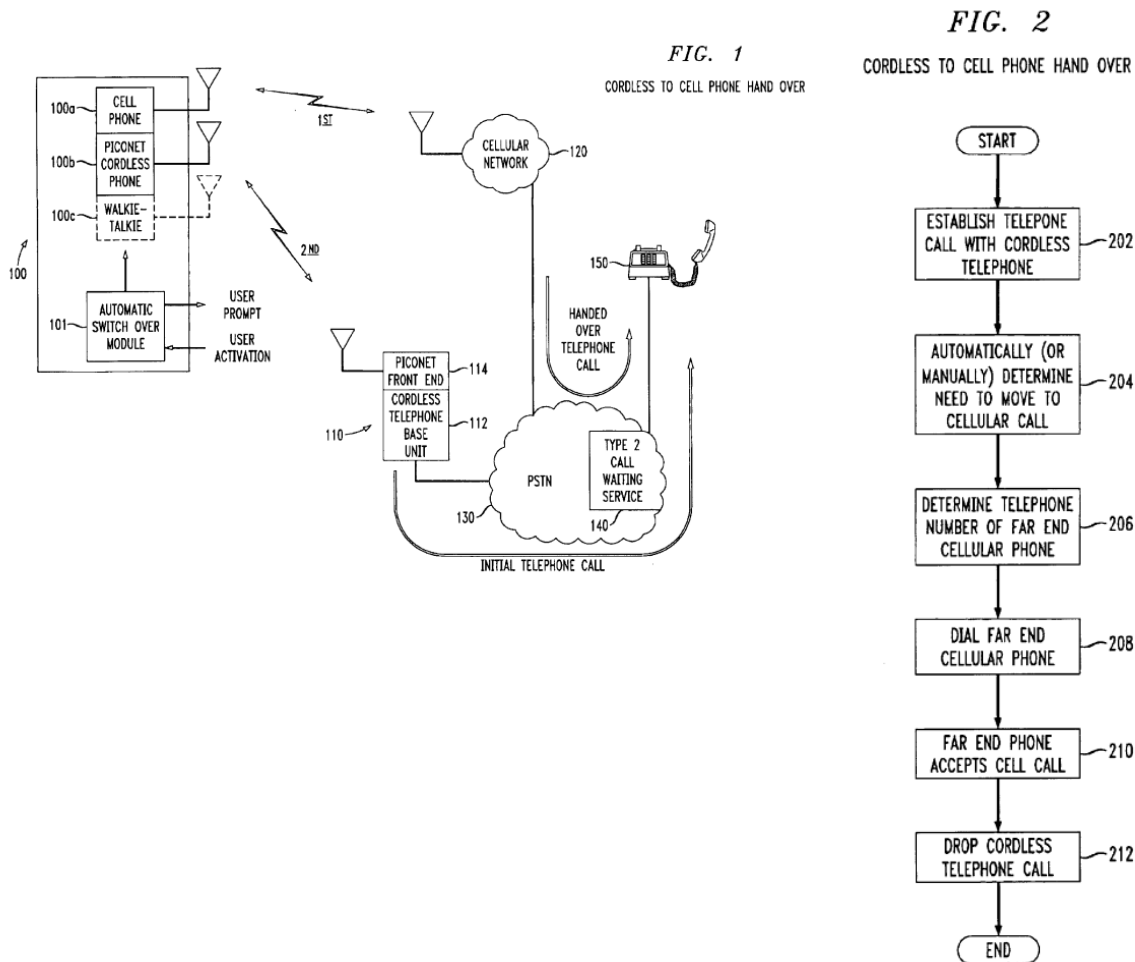
A. GROUND 1: Obviousness Based on *Mooney*.

52. In my opinion, claims 1-20 are not obvious based on *Mooney* (Exh. 1005) alone, given what I have been instructed obviousness is. *See supra* ¶¶24-25. As detailed subsequently, *Mooney* fails to teach or disclose at least one claim element of claims 1-20.

1. No Motivation to Combine with knowledge of a POSITA

53. *Mooney's* approach is a “technique and apparatus for transferring a communication link between two different modes of multimode cell phone.” *Id.*, Abstract. The switching taught by *Mooney* is actually transferring a communication path through the network. A POSITA would understand that voice is encoded in real-time as data in a cellular telephone, the same encoded voice data is being received at the terminating device. Further, the data transmitted is voice, not data stored in the device as described in the ‘294 Patent. As the communication path through the network switches, the new encoded voice data is encoded and transmitted over the newly established circuit path. Switch over module 101 is

shown in figure 1, and is not switching data. A POSITA would know and appreciate that “switch over” is activating to an established second path, not switching data. Nothing in the Petition identifies an actual switch in *Mooney*. In *Mooney*, it is more likely that stored data is supplied to both transceivers, which activates and deactivates the reception of data rather than switching the data because switching would result in more delay and more lost data than just activating an established path. For voice, it is essential to have no (*or minimal*) loss of data so the receiver can understand the voice message.



54. A call is established between a multimode cell phone 100 and a far-end telephone 150 in a cordless telephone mode, step 202. *See* Exh. 1005.

55. A call is not switched; rather, it is reestablished on another path through the PSTN. *Id.*, Fig. 2, 204. A first call is setup through the PSTN. A second call is setup to the same person, so two concurrent calls through the PSTN are active. A second communication has to be established before it is used. *Id.*, Fig. 2, 210. If the

far end refuses the call or the call setup fails, the second call is not established, the call cannot be activated or transferred by the automatic switch over module 101 of Fig. 1. *Id.*, Fig. 1.

56. No transmission of the data stored in the multimode cell phone 100, such as phone book data, calling history, or user preferences, is described as occurring in the *Mooney* patent. Figures 1 and 2 do not even mention data. Rather, real-time voice data and call setup data is being transmitted. As a matter of fact, the word “data” only appears once in *Mooney's* detailed description with reference to the far end phone receiving a call and checking callerID data [call setup data]. Exh. 1005, 6:33-35. The call ID data is generated by the PSTN network and not the cordless telephone device.

57. Thus, a POSITA would know that the establishment of a call/communication path through the PSTN is not assured (setup can fail, or call can be rejected) and the activation of a communication path is not assured in *Mooney* and that such switch over is different from the switching of data conveyance switching element where the path to stored data is actually switched. See Exh. 1001, 14:18-26.

58. A POSITA would have no motivation to look to the *Mooney* patent's description of attempting to establish an alternate communication path through a

circuit based Public Switch Telephone Network (PSTN) network for describing a 'transaction' utilizing wireless communication network in a secure manner, as evident due to the essential presence of the electronic credit card (ECC).

59. A POSITA would understand that switching data conveyance between devices communicating stored data directly or over a non-circuit based network (“Network 106 may be for example Internet or other suitable data exchange communication network,” Exh. 1001, 27-28), is different than setting up different paths between the same devices, i.e., multimode cell phone of 100 and far-end telephone 15 across a PSTN networks as described in *Mooney*.

60. A POSITA would not look to circuit-based PSTN networking of *Mooney* when considering “switching data conveyance.”

61. A POSITA would not look to the *Mooney* patent relying on a piconet that requires preconfigured network association like Bluetooth when attempting to solve problems of a device being capable of communicating with “data exchange devices [that] can be any sort of data exchange device comprising an electric circuit...therein and a data transceiver 9a therein able to cooperate with transceiver 18 of device 10, Exh. 1001, 9:3-8, such as 104 of Fig. 1 of the '294 patent. The problem being solved is communicating with “any sort of data exchange device” and

not preconfigured Piconet devices. *Mooney* is fundamentally about 'telephone calls' while '294 is about 'transactions.'

2. Independent Claim 1

62. It is my opinion that *Mooney* does not render claim 1 obvious because at least one claim elements is not found in the reference and what a POSITA's knowledge.

a. **[1.a] “an electronic circuit capable of storing data therein, capable of processing data, and capable of data input and output;”**

63. The Petition asserts that '[r]egarding the claimed “storing” and “processing,” *Mooney* explains that “the 3-in-1 cell phone,” as was known in the art, “include[s] the ability and convenience of storing all phone book data, calling history and user preferences.” *Mooney*, 1:32-45; Lipoff, ¶83.’ Pet. 16. First, this is not what *Mooney* says. What *Mooney* actually states is:

Convenience aside, a 3-in-1 cell phone conventionally provides establishment of a telephone call with a wireless cell phone network, or with a local cordless telephone, depending upon which mode the phone is in. To operate the 3-in-1 cell phone in a cordless telephone mode, the 3-in-1 cell phone is manually switched to a cordless telephone mode by the user, and then a telephone call is made from the base unit. Similarly, to operate a 3-in-1 cell phone in a cellular mode, the 3-in-1 phone is manually switched to a cellular mode, and then a cellular

telephone call is established from the handset. To switch between cordless and cellular modes, the user must first terminate any existing telephone call, and then manually switch the mode of the 3-1 telephone.

Exh. 1005, 1:32-45. What Lipoff says at ¶83 is:

Mooney discloses [1.a] because *Mooney's* “multimode cell phone” includes various electrically coupled electronic components, including conventional storage for storing data, “an appropriate processor” capable of processing data, and “multiple functional modes, e.g., a cell phone mode 100a, a piconet cordless telephone 100b, and a walkie-talkie mode 100c.” and “automatic switchover module” capable of data input and output (collectively, “an electronic circuit”). *Mooney*, 1:54-66, 3:52-63, 7:9-12.

Exh. 1003, ¶83.

64. Neither the cited section of *Mooney* or the cited section of Exh. 1003 supports storing phone book data, calling history, and user preferences.

65. The Petition goes on to assert that “A POSITA would have understood that the electronic circuit of *Mooney's* multimode cell phone is capable of storing instructions (data) (in addition to “phone book data, calling history and user preferences”) that the processor processes to achieve the aforementioned “initiate, establish and switch over” functions. *Mooney*, 7:9-12; *id.*, 17 3:60-63 (“The desired mode of the multimode cell phone 100 may be controlled through suitable

communications with each communication path functionality 100a–100c”); Lipoff, ¶84.” Pet. 16-17.

66. Once again, Lipoff in ¶84 erroneously asserts *Mooney* at 1:32-45 teaches storing all phone book data, calling history, and user preferences. But, the data in the claims of the '294 patent has to be able to be transferred. Further, Lipoff makes a blanket statement that cell phones are capable of storing instructions (data). Once again, simply saying data exist is not what is claimed in claim elements, such as element 1.h of the '294 claims. However, what Petitioner and Lipoff fail to explain is what data is explicitly being stored and what data is being input and output, and what is being switched. What is being described in *Mooney* is real-time voice data being transmitted between telephones over circuits in a PSTN. Therefore, these types of data fail to meet data used in latter elements of the claims.

67. The same data that is stored, is processed, and capable of being input and output in the '294 patent.

68. It is my opinion that the *Mooney* patent, as cited by Petitioner and their expert, fails to establish a circuit for storing data, processing data, and being capable of data input and output of that data.

b. [1.e] “a cue receiver operatively linked to said electronic circuit for receiving an activation cue from a source external to said cellular phone”

69. The '294 patent identifies an activation cue as being “in the form of a data communication of a specific type which will be recognized by the electronic device 10 as an activation cue, for example, a predetermined bit sequence.” Exh. 1001, 9:24-27. The “activation cue” must be recognized by the electronic device as an activation cue. Thus, simply calling something an “activation cue” is improper if the electronic device does not specifically recognize it as an “activation cue.” For example, if a receiver comes into range of a transmitter and processes data that is received at that receiver when a signal carrying that data from the transmitter is strong enough to be processed at the receiver. The receiver is not waiting for a specific “recognizable activation cue.” Rather the receiver simply was trying to receive a signal and process a signal. Further, “upon an activation cue being received by portable electronic device 10, switching element 44b switches to its activated state.” Exh. 1001, 10:14-16.

70. The Petition asserts that receiving “quality” Bluetooth signals is an activation cue from a “piconet front end.” Pet. 26. A “cordless telephone link (e.g., Bluetooth signal link of good quality is a link that has been established with the cordless base for a given length of time (e.g., for at least two minutes).” Pet. 26-27.

71. First, the *Mooney* patent does not describe a “Bluetooth signal link of good quality.” *Id.* What is actually described in *Mooney* is:

A person on their way home is talking to a co-worker on their multimode cell phone 100 (in cell phone mode). That person then arrives home and sits down near their cordless base station 110. Preferably, the multimode cell phone 100 maintains a configuration such that when a cordless telephone link (e.g., a piconet BLUETOOTH™ link of good quality) has been established with the cordless base for a given length of time (e.g. for at least two minutes), then the multimode cell phone handset 100 will allow switch over to the cordless telephone call and ultimately drop or terminate the original cell phone call.

Id., 14-24 (*emphasis added*). No mention of a quality signal is made in the paragraph. The paragraph refers to a “link,” that is, the call between the cordless base station and the end telephone user that has been set up and ready to be transferred to, and not the Bluetooth “signal” between the cellular telephone in the cordless telephone mode and the cordless telephone base unit.

72. No Bluetooth link exists without the cellular telephone in the cordless telephone mode, actively communicating with the cordless telephone base unit. Further when the cellular telephone comes into range of the cordless telephone base unit. It is the cellular telephone that transmits a Bluetooth ping to notify the cordless

telephone base unit it is in range, it is not an “activation cue” received by the cellular telephone when it detects a signal from the cordless telephone base. As a matter of fact, activation cue is NOT a measure of, or quality of a signal. Activation cue is different from ‘quality of signal. The Bluetooth specification cited in *Mooney* (*see id.* 2:65-3:3) explains the process:

A TL [terminal] that is out of range of a GW (gateway) searches for it by periodically trying to page it. A GW shall devote as much of its free capacity as possible (considering power limitations and ongoing signalling) to page scanning in order to allow roaming TLs that enter the range of the GW to find it as quickly as possible. This scheme minimizes ‘air pollution’ and gives reasonable access time when coming into range of the GW. When a TL has successfully paged a GW, a master-slave switch shall be performed since the GW shall be the master. A connection-oriented L2CAP channel and, possibly, a L2CAP connectionless channel are established to be used for all TCS signaling during that Cordless Telephone session.

Exh. 2003, 111. The Cellular telephone is not coming into range and detecting a Bluetooth signal, and once the signal from the cordless telephone base unit is strong enough (i.e., a Bluetooth signal link of good quality is a link that has been established (asserted activation cue)). The cellular telephone continually transmits pings and attempts to contact the GW (cordless telephone base unit), regardless of the Bluetooth strength. So, the received signal strength is not what the cellular

telephone uses to determine if it is in the range of a GW. It is the GW that determines if it has received the page from the cellular phone, and to receive the page, the GW must have an adequate signal FROM the cellular telephone.

73. The Bluetooth link between the cellular telephone and the cordless base unit is established when in active use. The Bluetooth specification states that:

A TL that is within range of a GW shall normally be in park mode when it is not engaged in calls. This mode is power-efficient, allows for reasonable call setup times and allows broadcasting to the attached TLs.

Id. Once the cellular telephone has transmitted a ping over Bluetooth and the GW has detected it and responded, the resulting connection is not a link. No permanent links have been established between the GW and cellular telephone. The cellular telephone is in “park mode.” “Upon arrival of an incoming call, or when a TL wants to make an outgoing call, the GW shall be put in active mode. The L2CAP channels...are used for all TCS control signalling.” *Id.* The only way a link can be established for a predetermined amount of time, such as two minutes, is if the GW is put into active mode because of an incoming or outgoing call.

74. The asserted link of good quality being discussed in *Mooney* (see Exh. 1005, 6:20-21) is a call that has been initiated and setup through the PSTN by the cellular phone with the cordless telephone base unit. The Bluetooth specification requires a call (incoming or outgoing) in order to establish a connection for a

predetermined length. The “cordless module is informed of the signal quality [link of good quality established for at least two minutes] (via its first transceiver/cue receiver) and a call may be established in cordless mode via BLUETOOTH™” (Pet. 27) is not true. An incoming or outgoing call is required to establish a link that is timed for at least two minutes; a condition for allowing the establishment of a link cannot be having already established the link for two minutes.

75. An activation cue cannot be a Bluetooth link that has been set for two minutes because call data has already been sent from the Bluetooth transceiver to the cordless telephone base unit in order to set up the link, i.e., caller ID data to establish the path through the PSTN. This demonstrates that communication of call data occurs before the predetermined time that is erroneously asserted as the activation cue has been received.

76. However, the claim element requires the activation cue to be received at the activation cue transceiver. A timer is used within the cellular telephone to time the link (i.e., call) set up through the PSTN. This timer is internal to the cellular telephone and is not received as required by the claim element of the ‘294 patent.

77. It is my opinion that the activation cue is not described in the *Mooney* patent because 1) call data is transmitted before the alleged activation cue is received in the active state assigned, and 2) the timer for the at least two-minute time period

is not received, rather it is internal to the cellular telephone timing the established link setup through the PSTN.

- c. **[1.f] “a data conveyance switching element operatively linked to said electronic circuit, said switching element being assigned a first state upon an activation cue assigned a second state when no activation cue was received by said cue receiver; and”**

78. The claim element requires the “data conveyance switching element operatively linked to said electronic circuit and being assigned a first state upon an activation cue having been received by said cue receiver. The state has to be assigned when the activation cue having been received. The *Mooney* patent fails to describe this claim element.

79. The '294 patent describes the switching element as “any type of device allowing data to be conveyed according to alternate data conveyance operation in response to an activation cue begin received by the transceiver 18 or not.” Exh. 1001, 9:28-31. The state must change when the activation cue is received.

80. “[U]pon an activation cue being received by portable electronic device 10, switching element 44b switches to its activation state. If control device 12 is selectively triggered by the portable electronic device holder while switching element 44b is in this activated state, data exchange will be initiated between the

portable electronic device 10 and the external data exchange device 9.” Id., 10:13-20.

81. The switching element is linked to said electronic circuit, and no other dependencies are claimed in the ‘294 Patent other than a transceiver receiving the action cue. The activation cue results in switching that allows a portable electronic device, when triggered by the control device, to exchange data between the portable electronic device 10 and the external data exchange device 9.

82. First, the use of a Bluetooth signal is not an activation cue, but ignoring that, the *Mooney* patent does not describe automatic switching based upon the Bluetooth signal as asserted in the Petition. What *Mooney* describes is:

In accordance with the principles of the present invention, an automated procedure may be initiated by the user of the multimode cell phone 100 at the press of a designated button. The user may be prompted about impending loss of signal or otherwise loss of the established telephone call, and may be prompted to permit establishment of and ultimately transfer to an alternative type communication path (e.g., a cellular phone call). In response, the user preferably activates a suitable button, e.g., a dedicated button called, e.g., “Switch to Cell Network”, or simply “Switch Communication Path”. Of course, the transfer may be entirely automated without requiring input from the user, within the scope of the invention.

Exh. 1005, 4:37-49. Transferring from a cordless telephone to cellular telephone is not necessarily automatic as asserted in the Petition, (*See* Pet. 28-30), a user must press a button to make the transfer occur.

83. Second, transferring of the calls does not occur upon the pressing of a designated button (or automatic, if even possible). Rather, a second call path is attempted to be established through the PSTN. *See* Exh. 1005, 4:50-5:62. A second call path is attempted to be setup, the transferring of the call occurs ONLY after the second path has been successfully established:

To accomplish this, the multimode cell phone 100 may send, e.g., a quick DTMF “7” followed by a DTMF “9” (i.e., representing the characters “SW”) notifying the near end user and the far end phone 150 (and user) that a switch is about to happen. The far end phone 150 would remain ready for a switch over for a given length of time, e.g., for 20 seconds. The multimode cell phone 100 makes the alternate phone call as described above. After the far end phone receives the new call, it checks the call related information (e.g., CallerID data) against entries in a suitable lookup table, and if it finds a match, then automatically flashes the telephone line on the original telephone call. The near end phone, as in the first example, is then notified that the second call has gone through, allowing the conversation to continue on a switched over communication path.

Exh. 1005, 6:26-39. The original communication path is still active until the call is transferred over. There can be no change of state or transfer of a communication path until after the second communication path is established. This is opposed to the claim language requiring the state to change upon reception of the activation cue.

84. The change of state or transferring of the communication path in *Mooney* may never occur. If the setup of the call path is not successful due to the far-end phone refusing to accept (Exh. 1005, 5:1-3) the call¹ or the actual transfer fails:

In the unlikely event that the switchover does not succeed, the switchover is preferably delayed (e.g., for 10 seconds or more) to allow the users to switch back to the initial telephone call or communication path.

¹ “The converse of the example of FIGS. 1 and 2 is also possible. For instance, the multimode cell phone 150 may move from a cell phone call to a cordless telephone call.”

Exh. 1005, 5:7-9.

Exh. 1005, 6:41-44. A state change in *Mooney* is not in response to a request to transfer, rather it is upon the successful completion of setting up the path through the PSTN and successful transfer to the new path through the PSTN.

85. The Petition erroneously asserts that states are assigned before a second call path through the PSTN is established and transfer to the second path (i.e. switching) has occurred:

[An] (electronic circuit) that is assigned (1) a “piconet cordless telephone mode” (first state) when a quality Bluetooth signal is received by the piconet module transceiver (upon an activation cue having been received by the cue receiver) or (2) a “cell phone mode” (second state) when no quality Bluetooth signal is received by the piconet module transceiver (when no activation cue was received by said cue receiver).

Pet. 29. The claim does not simply require a first state and a second state be assigned at some point as identified by the Petitioner; it requires “said switching element being assigned a first state upon an activation cue having been received by said cue receiver” (Exh. 1001, 23-28), which requires the first state to be assigned upon an activation cue having been received.

86. It is my opinion that *Mooney* does not have an activation cue as described in the '294 patent and even if the Petitioner's initiation of a transfer was in response to a cue, no change of state assignment as required by this claim element

occurs in response to any such initiation. Rather, a change of state only occurs in *Mooney* after 1) successfully setting up a second path and 2) successfully transferring over to the new path. The act of communicating with a cordless telephone base station does not result in a change in the state of the call or transfer of the call in *Mooney*.

- d. **[1.h]: “wherein upon said control device being selectively triggered by the user to issue said invariable activation command: if said switching element is in said first state, a first data conveyance operation will be initiated through the instrumentality of said first data transceiver for sending data from said electronic circuit to the first external data exchange device over said first communication link; and ”**

87. The claim element [1.e] establishes the only way to be assigned a first state is upon an activation cue being received.

88. The Petition asserts the activation cue is when the piconet receiver comes into range (receives a strong signal) from the cordless telephone base unit and a cellular call is occurring. As previously explained, that is not how Bluetooth works. *See supra* ¶¶69-75.

89. Petitioner now admits that the first state is not dependent upon an activation cue, but rather simply the connection to the cordless telephone base. If,

as asserted by the Petitioner (Pet. 36) for element 1.h, simply connecting the cellular telephone to the base unit and dialing numbers are triggering.

90. The purpose of the invariable activation command is security. The ‘294 patent describes the invariable activation command as:

It is noted that, according to the present invention, the activation command issued when control device 12 is triggered, is an invariable activation command. That is to say that the portable electronic device holder will not be able to select to issue different activation commands by means of control device 12 depending on whether the user considers that a data exchange operation should be accomplished with an external data exchange device 9, or whether the user wishes to display information on screen 16 on the basis of data stored in memory 42. The same invariable activation command will thus be issued upon control device 12 being triggered, and it is the state of switching element 44 b, resulting from the receipt or non-receipt of an activation cue by portable electronic device 10, that will be decisive as to the type of data conveyance that will occur.

Exh. 1001, 10:37-51.

91. Dialing a phone is not issuing an invariable activation command. As mentioned in the *Mooney* patent, a user can use call features of the PSTN to make another call while placing one on hold. Exh. 1005, 4:59-5:57. Multiple “invariable activation commands cannot be issued, as it would not be invariable. If entering a

phone number is an invariable activation command, then a second number cannot be entered. But the Bluetooth specification teaches exactly the opposite, where a second phone number can be entered. Entering a second phone number or other post-dialing (The ability to send dialing information after the outgoing call request set-up message is sent. Exh. 2003, 112) is allowed.

92. Dialing a phone number is not “invariable” and a second phone number can be dialed while the call to the first number is active. Further both calls can be connected demonstrating a second activation can be selected when a first activation has occurred.

93. It is my opinion because dialing a telephone number is not an invariable activation command, this element is not described in the *Mooney* patent.

94. It is my opinion that the *Mooney* reference does not provide the claim elements associated with an activation cue and invariable activation command, as claimed in the '294 Patent. Further, *Mooney* is about establishing telephone calls and '294 is about transactions due to ECC.

3. Claim 2 – “A cellular phone as defined in claim 1, further comprising a display screen operatively linked to said electronic circuit.”

95. Claim 2 is a dependent claim and incorporates all the elements of claim 1.

96. All the elements of claim 1 are not disclosed in the *Mooney* patent or provided by what a POSITA would know. *See supra* ¶¶62-94.

97. It is my opinion that all of the claim elements of claim 2 are not found in the *Mooney* patent.

4. Claim 3 – “A cellular phone as defined in claim 1, wherein said first data transceiver includes said cue receiver.”

98. Claim 3 is a dependent claim and incorporates all the elements of claim 1.

99. All the elements of claim 1 are not disclosed in the *Mooney* patent or provided by what a POSITA would know. *See supra* ¶¶ 62-94.

100. It is my opinion that all of the claim elements of claim 3 are not found in the *Mooney* patent.

5. Claim 4 – “A cellular phone as defined in claim 1, wherein said control device is one of a manually activated button, a keypad for receiving a PIN code, a biometric parameter detector and a combination thereof.”

101. Claim 4 is a dependent claim and incorporates all the elements of claim 1.

102. All the elements of claim 1 are not disclosed in the *Mooney* patent or provided by what a POSITA would know. *See supra* ¶¶ 62-94.

103. It is my opinion that all of the claim elements of claim 4 are not found in the *Mooney* patent.

6. Claim 5 – “A cellular phone as defined in claim 1, wherein said electronic circuit includes said switching element.”

104. Claim 5 is a dependent claim and incorporates all the elements of claim 1.

105. All the elements of claim 1 are not disclosed in the *Mooney* patent or provided by what a POSITA would know. *See supra* ¶¶62-94.

106. Petitioner fails to identify where the switching element is, as defined in claim 1 element of “a data conveyance switching element operatively linked to said electronic circuit, said switching element being assigned a first state upon an activation cue having been received by said cue receiver, and being assigned a second state when no activation cue was received by said cue receiver.” *See supra* ¶¶ 78-86.

107. It is my opinion that all of the claim elements of claim 5 are not found in the *Mooney* patent.

7. Claim 6 – “A cellular phone as defined in claim 5, wherein said electronic circuit comprises a microchip, and wherein said switching element is a series of instructions programmed onto said microchip.”

108. Claim 7 is a dependent claim and incorporates all the elements of claim 1.

109. All the elements of claim 1 are not disclosed in the *Mooney* patent or provided by what a POSITA would know. *See supra* ¶¶ 62-94.

110. Petitioner fails to identify where the switching element is, as defined in claim 1 element of “a data conveyance switching element operatively linked to said electronic circuit, said switching element being assigned a first state upon an activation cue having been received by said cue receiver, and being assigned a second state when no activation cue was received by said cue receiver.” *See supra* ¶¶ 78-86. Simply stating that a POSITA can implement switching in software does not establish that a POSITA would understand how to implement a data conveyance switch as required when all the elements related to the data conveyance are considered.

111. It is my opinion that all of the claim elements of claim 6 are not found in the *Mooney* patent.

8. Claim 7 – “A cellular phone as defined in claim 1, wherein said switching element comprises a logical circuit.”

112. Claim 7 is a dependent claim and incorporates all the elements of claim 1.

113. All the elements of claim 1 are not disclosed in the *Mooney* patent or provided by what a POSITA would know. *See supra* ¶¶62-94.

114. Petitioner fails to identify where the switching element is, as defined in claim 1 element of “a data conveyance switching element operatively linked to said electronic circuit, said switching element being assigned a first state upon an activation cue having been received by said cue receiver, and being assigned a second state when no activation cue was received by said cue receiver.” *See supra* ¶¶ 78-86.

115. It is my opinion that all of the claim elements of claim 7 are not found in the *Mooney* patent.

9. **Claim 8 – “A cellular phone as defined in claim 1, wherein said first data transceiver comprises a proximity transceiver for accomplishing a wireless data exchange with a first external data exchange device through a direct link representing said first communication link where the cellular phone is conveyed toward a close proximity of the first external data exchange device and within a range to receive the activation cue to initiate the wireless data exchange.”**

116. Claim 8 is a dependent claim and incorporates all the elements of claim 1.

117. All the elements of claim 1 are not disclosed in the *Mooney* Patent or provided by what a POSITA would know. *See supra* ¶¶62-94.

118. The claim language does not simply state proximity; rather, it has to be in close proximity of the first external data exchange device. *See* Exh. 1001, 19:67. Close proximity is described in the '294 patent as “a proximity transceiver that allows data transmission within a limited range, such as within several meters for example.” Exh. 1001, 15:55-57. Close proximity is one meter or less. *See supra* ¶49. The piconet/Bluetooth receiver has a range of up to 100 feet [30 meters], according to the *Mooney* patent. *See* Exh. 1005, 43-45.

119. The cellular telephone device is described by the Petitioner as receiving the activation cue as soon as the piconet signal is detectable. That position would place the cellular telephone towards the 30-meter range and not the several-meter

range that the '294 patent defines as “close proximity.” See Exh. 1001, 15:55-57. Close proximity is also within a limited range through a corresponding direct link. See Exh. 1001, 15:61-63. The cellular telephone of the *Mooney* patent only has to be in the range of the cordless base station and not in close proximity to the cordless base station.

120. It is my opinion that all of the claim elements of claim 8 are not found in the *Mooney* patent.

10. Claim 9 – “A cellular phone as defined in claim 8, wherein said second data transceiver comprises a communication network transceiver for wireless communication through a communication network that represents said second communication link, with one of a remote portable electronic device, a remote server, a remote terminal and a combination thereof.”

121. Claim 9 is a dependent claim and incorporates all the elements of claims 1 and 8.

122. All the elements of claim 1 and 8 are not disclosed in the *Mooney* patent or provided by what a POSITA would know. See supra ¶¶62-94.

123. It is my opinion that all of the claim elements of claim 9 are not found in the *Mooney* patent.

11. Independent claim 10

- a. **[10.a]: “an electronic circuit capable of storing data therein, capable of processing data, and capable of data input and output;”**

124. As previously discussed, *Mooney* does not describe this element. *See supra* ¶¶ 63-68.

- b. **[10.f] “a cue receiver operatively linked to said electronic circuit for receiving an activation cue from a source external to said cellular phone; and”**

125. An activation cue is not described in the *Mooney* patent. *See supra* ¶¶ 69-77.

126. It is my opinion that an activation cue is not described in *Mooney*.

- c. **[10.h] “wherein upon said control device being selectively triggered by the user to issue said invariable activation command: if an activation cue was received by said cue receiver, said electronic circuit will accomplish said first data conveyance operation to convey data from said electronic circuit to said first data transceiver for transmitting data through said first data transceiver; and”**

127. An activation cue and invariable activation command are not described in the *Mooney* patent. *See supra* ¶¶ 87-94.

128. It is my opinion that an activation cue and invariable activation command are not described in *Mooney*.

129. It is also my opinion that not all of the elements of independent claim 10 are disclosed in *Mooney* nor made available through the knowledge of a POSITA.

12. Independent claim 11

- a. **[11.d]: “an electronic circuit capable of storing data therein, capable of processing data, and capable of data input and output;”**

130. As previously discussed, *Mooney* does not describe this element. *See supra* ¶¶ 63-68.

- b. **[11.h]: “a cue receiver operatively linked to said electronic circuit for receiving an activation cue from said first data exchange device;”**

131. An activation cue is not described in the *Mooney* patent. *See supra* ¶¶ 69-77.

132. It is my opinion that an activation cue is not described in *Mooney*.

- c. **[11.i]: “ a data conveyance switching element operatively linked to said electronic circuit, said switching element being assigned a first state upon an activation cue having been received by said cue receiver, and being assigned a second state when no activation cue was received by said cue receiver; and”**

133. A data conveyance switching element and activation cue are not described in the *Mooney* patent. *See supra* ¶¶ 78-86.

134. It is my opinion that an activation cue is not described in *Mooney*.

- d. **[11.k]: “wherein upon said control device being selectively triggered by the user to issue said invariable activation command: if said switching element is in said first state, a first data conveyance operation will be initiated through the instrumentality of said first data transceiver for exchanging data between said electronic circuit and the first external data exchange device; and”**

135. An activation cue and invariable activation command are not described in the *Mooney* patent. *See supra* ¶¶ 87-94.

136. It is my opinion that an activation cue and invariable activation command are not described in *Mooney*.

137. It is also my opinion that all elements of independent claim 11 are not disclosed in *Mooney* nor made available through the knowledge of a POSITA.

13. Independent claim 12

- a. **[12.pre]: “A method for data conveyance with a cellular phone of the type comprising: an electronic circuit capable of storing data therein, capable of processing data, and capable of data input and output, a user-triggered control device operatively linked to said electronic circuit, said user-triggered control device configured to be operated by a user via one of a button, a keypad, a tactile screen, and a biometric parameter detector, and after being operated issue an invariable activation command, first and second data transceivers operatively linked to said electronic circuit, a cue receiver operatively linked to said electronic circuit, a data conveyance switching element operatively linked to said electronic circuit and capable of being in either one of a first and a second state, and power means for providing power to said cellular phone, said method comprising the steps of:”**

138. The “an electronic circuit capable of storing data therein, capable of processing data, and capable of data input and output” claim element is addressed previously and not described in the *Mooney* patent. *See supra* ¶¶ 63-68.

- b. **[12.a]: “awaiting for an activation cue to be received at said cue receiver;”**

139. An activation cue is not described in the *Mooney* patent. *See supra* ¶¶ 69-77.

140. It is my opinion that an activation cue is not described in *Mooney*.

- c. **[12.b]: “if an activation cue is received at said cue receiver, assigning said first state to said switching element, while if no activation cue is received at said cue receiver, assigning said second state to said switching element; and;”**

141. An activation cue and assignment of states as described in the '294 patent are not described in the *Mooney* Patent. *See supra* ¶¶ 78-86.

142. It is my opinion that an activation cue and assignment of a state as described in the '294 Patent is not described in *Mooney*.

- d. **[12.c]: “a user selectively triggering said control device to issue an invariable activation command whereby: if said switching element is in said first state, forwarding first data to said first data transceiver for initiating a data exchange operation with a first external data exchange device over a first communication link; and”**

143. An invariable activation command as claimed in the '294 Patent is not described in the *Mooney* patent. *See supra* ¶¶ 87-94.

144. It is my opinion that an invariable activation command, as described in the '294 Patent, is not described in *Mooney*.

145. It is my opinion that *Mooney* fails to teach or describe all of the claim elements of claim 12.

14. Claim 13 – “A method as defined in claim 12, further comprising the following step before the step of forwarding first data to said first data transceiver for initiating a data exchange operation with a first external data exchange device:

forwarding third data to and displaying said third data on a display screen provided on said cellular phone, wherein said third data is representative of the content of said first data.”

146. Claim 13 is a dependent claim and incorporates all the elements of independent claim 12.

147. All the elements of claim 12 are not disclosed in the *Mooney* patent or provided by what a POSITA would know. *See supra* ¶¶ 138-145.

148. The Petition asserts that the DTMF ‘7’ and DTMF ‘9’ audio tones represent that the call (first data) will occur over a particular communication pathway. The audio tones are simply tones to notify of switching between two established paths in a communication network. It is independent of a particular communication pathway:

To accomplish this, the multimode cell phone 100 may send, e.g., a quick DTMF “7” followed by a DTMF “9” (i.e., representing the characters “SW”) notifying the near end user and the far end phone 150 (and user) that a switch is about to happen. The far end phone 150 would remain ready for a switch over for a given length of time, e.g.,

for 20 seconds. The multimode cell phone 100 makes the alternate phone call as described above.

Exh. 1005, 6:25-30. It is noted that setting up the path through the network with the cordless base station requires the cellular telephone to be within range AND receive information about who the cellular telephone is currently talking to over the cellular network. So, CALL ID information must be sent to the cordless base station to set up the PSTN network path that the DTMF “7” and DTMF “9” signals are sent identifying the second call path has been setup and a transfer between the call paths are going to occur. *See* Exh. 1005, 5:37-57. Therefore, the first data forwarded to the first data transceiver is Caller ID information associated with the already established call. The Caller ID information is forwarded before the DTMF “7” and DTMF “9” signals to set up a call path through the PSTN network and the claim element is not met.

149. It is my opinion that all of the claim elements of claim 13 are not found in the *Mooney* patent.

15. Claim 14 – “A method as defined in claim 13, wherein after the step of forwarding said third data to the display screen, the method comprises the following step:

awaiting for an authorization command to be inputted through a user confirmation input device provided on said cellular phone before forwarding said first data to said first data transceiver.”

150. Claim 14 is a dependent claim and incorporates all the elements of claims 12 and 13.

151. All the elements of claims 12 and 13 are not disclosed in the *Mooney* patent or provided by what a POSITA would know. *See supra* ¶¶ 138-149.

152. It is my opinion that all of the claim elements of claim 14 are not found in the *Mooney* patent.

16. Claim 15 – “A method as defined in claim 12, wherein said first and second data are identical.”

153. Claim 15 is a dependent claim and incorporates all the elements of independent claim 12.

154. All the elements of claim 12 are not disclosed in the *Mooney* patent or provided by what a POSITA would know. *See supra* ¶¶ 138-145.

155. It is my opinion that all of the claim elements of claim 15 are not found in the *Mooney* patent.

17. Claim 16 – “A method as defined in claim 12, wherein said first data transceiver is a proximity transceiver and the step of forwarding said first data to said first transceiver is for initiating a wireless data exchange operation with a proximate first external data exchange device through a direct link representing said first communication link where the cellular phone is conveyed toward a close proximity of the first external data exchange device and within a range to receive the activation cue to initiate the wireless data exchange.”

156. Claim 16 is a dependent claim and incorporates all the elements of independent claim 12.

157. All the elements of claim 12 are not disclosed in the *Mooney* patent or provided by what a POSITA would know. *See supra* ¶¶ 138-145.

158. The cellular phone is not in close proximity with the first external data exchange device. *See supra* ¶¶ 114-115.

159. It is my opinion that all of the claim elements of claim 16 are not found in the *Mooney* patent.

18. Claim 17 – “A method as defined in claim 12, wherein said second data transceiver is a communication network transceiver and the step of forwarding said second data to said second data transceiver is for initiating a wireless data conveyance operation through a communication network representing said second communication link, with one of a remote portable electronic device, a remote server, a remote terminal and a combination thereof.”

160. Claim 17 is a dependent claim and incorporates all the elements of independent claim 12.

161. All the elements of claim 12 are not disclosed in the *Mooney* patent or provided by what a POSITA would know. *See supra* ¶¶ 138-145.

162. It is my opinion that all of the claim elements of claim 17 are not found in the *Mooney* patent.

19. Claim 18 – “A method as defined in claim 12, wherein the step of selectively triggering said control device to issue the invariable activation command comprises selectively triggering one of the manually activated button, the keypad for receiving a PIN code, the biometric parameter detector and a combination thereof.”

163. Claim 17 is a dependent claim and incorporates all the elements of independent claim 12.

164. All the elements of claim 12 are not disclosed in the *Mooney* patent or provided by what a POSITA would know. *See supra* ¶¶ 138-145.

165. An invariable activation command is not described in the *Mooney* patent. *See supra* ¶¶ 88-94.

166. It is my opinion that all of the claim elements of claim 18 are not found in the *Mooney* patent.

20. Independent Claim 19

- a. [19.pre]: “A method for data conveyance with a cellular phone of the type comprising: an electronic circuit capable of storing data therein, capable of processing data, and capable of data input and output, a control device operatively linked to said electronic circuit, first and second data transceivers operatively linked to said electronic circuit, a cue receiver operatively linked to said electronic circuit, a data conveyance switching element operatively linked to said electronic circuit and capable of being in either one of a first and a second state, and power means for providing power to said cellular phone, said method comprising the steps of:”

167. The “an electronic circuit capable of storing data therein, capable of processing data, and capable of data input and output” claim element is addressed previously and not described in the *Mooney* Patent. *See supra* ¶¶ 63-72.

- b. [19.a]: “awaiting for an activation cue to be received at said cue receiver;”

168. An activation cue is not described in the *Mooney* patent. *See supra* ¶¶ 73-77.

169. It is my opinion that an activation cue is not described in *Mooney*.

- c. **[19.b]: “if an activation cue is received at said cue receiver, assigning said first state to said switching element, while if no activation cue is received at said cue receiver, assigning said second state to said switching element; and”**

170. An activation cue and assignment of states as described in the '294 patent are not described in the *Mooney* patent. *See supra* ¶¶ 78-86.

171. It is my opinion that an activation cue and assignment of a state as described in the '294 Patent is not described in *Mooney*.

- d. **[19.c] “selectively triggering said control device to issue an invariable activation command whereby: if said switching element is in said first state, forwarding first data to said first data transceiver for initiating a data exchange operation with a first external data exchange device over a first communication link; and”**

172. An invariable activation command as claimed in the '294 Patent is not described in the *Mooney* patent. *See supra* ¶¶ 87-94.

173. It is my opinion that an invariable activation command, as described in the '294 Patent, is not described in *Mooney*.

- e. **[19.e] “wherein said method further comprises the following steps before the step of forwarding first data to said first data transceiver for initiating a data exchange operation with a first external data exchange device:”**
- f. **[19.f] “forwarding third data to and displaying said third data on a display screen provided on said cellular phone, wherein said third data is representative of the content of said first data; and”**

174. The element of forwarding third data before the step of forwarding first data to said first data transceiver is not found in the *Mooney* patent. *See supra* ¶¶ 147-148.

- g. **[19.i] “forwarding fourth data to and displaying said fourth data on said display screen, wherein said fourth data is representative of the content of said second data; and”**

175. The Petition asserts that the “audio tones are the third data representative of the content of the first data” in the previous elements [19.e & 19.f]. *See* Pet. 66, 72. Now, the same audio tones are reused as the fourth data.

176. Audio tones do not represent data. *See supra* ¶¶ 147-148.

177. It is my opinion that *Mooney* fails to teach or describe all of the claim elements of claim 19.

21. Claim 20 – “wherein said control device includes said user confirmation input device.”

178. Claim 20 is a dependent claim and incorporates all the elements of claim 19.

179. All the elements of claim 19 are not disclosed in the *Mooney* patent or provided by what a POSITA would know. *See supra* ¶¶ 167-177.

180. It is my opinion that all of the claim elements of claim 20 are not found in the *Mooney* patent.

B. GROUND 2: Obviousness Based on *Mooney* and *Lee*.

181. The combination of *Mooney* and *Lee* fails to describe all elements of claims 1-20.

1. No Motivation to Combine *Mooney* and *Lee*.

182. There is no motivation to combine *Mooney* and *Lee*.

183. A POSITA would not look to *Mooney* patent. *See supra* ¶¶ 53-61.

184. The *Mooney* patent is directed toward routing calls through a connection-oriented circuit-based PSTN network. *See* Exh. 1005, 130 Fig. 1.

185. The *Lee* patent is directed toward a voice-over internet protocol (VOIP) network that is connectionless and simply routes VOIP packets. *See* Exh. 1006, 206 Fig. 1.

186. A POSITA would know that the *Mooney* approach based on making calls through a PSTN network could not be combined with an approach with piconet base stations that are part of a cellular telephone network. *Mooney* is using the cellular telephone as a cordless handset that is dedicated to a cordless base unit, while providing an approach to transfer calls over a PSTN between the cordless base unit and a cellular network. If the teachings of *Lee* are used, there is no reason for using the teachings of *Mooney*. The cellular telephone operates as a cellular telephone and the piconet is part of the cellular network enabling calls to simply be handed over from one base station to another or piconet base station.

187. Additionally, the purpose of *Lee* is to integrate a wireless local loop network with a cellular network. No suggestion is found in *Lee* that it would work in a non-wireless network, such as a PSTN network. Rather, it teaches explicitly away from being implemented in a non-wireless in its title, abstract, and specification. *See* Exh. 1005, Title, Abstract.

188. *Lee* even states circuit switched voice data is received and translated to IP packets by the BT Hub 118. Exh. 1006, 5:15-16.

189. A POSITA would understand that *Mooney* uses a Bluetooth connection to make a cellular telephone operate in a mode where it is a handset to the cordless base station using the Bluetooth specification's profile for a cordless telephone. *See*

Exh. 1005, 2:65-66. The cellular telephone is simply a Bluetooth handset extension of the cordless telephone base station. But *Lee* teaches using the cellular telephone as a complete telephone and not simply a Bluetooth handset. The cellular telephone in a *Lee* network would never use a cordless telephone Bluetooth profile.

190. A POSITA would understand, that even with some common elements between the two approaches. The approaches use a cellular telephone and Bluetooth piconets in fundamentally different ways that are incompatible.

191. The Petition asserts that a motivation would be to reduce congestion and interference over *Mooney's* cellular and Bluetooth networks by enabling the multimode phone to determine whether to use cellular or Bluetooth mode before sending data over the corresponding communication links. Pet. 46. This makes no sense because, the point of *Mooney* is your location dictates what mode your cellular phone is in. There is no congestion in the Bluetooth mode in *Mooney* as it is directly connected to a cordless telephone base station connected to a PSTN. Furthermore, if a person moves out of range of the cordless telephone base station, only two options exist for a call. Either it drops, or a connection is made through the cellular network. No consideration is given to congestion as only a predetermined fixed number of handsets are supported by the cordless telephone base station.

192. Congestion is not even an issue in *Mooney*. Even if moving cellular telephones off a cellular would reduce user, a POSITA would recognize that the cellular resources still have to be reserved for calls transferring from the cordless telephone mode of *Mooney*. If the resources in a cellular network are not reserved and are unavailable, calls would be dropped. It is only an issue in *Lee* because the Piconet base stations act as base stations in the cellular network where multiple cellular telephones are not simply handsets but fully functioning cellular phones initiating and receiving calls and registering with location registers.

193. No increase in capacity can occur with the “discovery process” logic of *Lee*. The location of the cordless telephone base station is fixed and the cellular telephone that connects to it uses a predefined Bluetooth profile. The cellular phone in cordless handset mode in *Mooney* will only connect with Bluetooth its associated cordless telephone base station.

194. It is my opinion that there is no motivation to combine the *Mooney* and *Lee* references because one is dependent upon a PSTN network and network features, with a cellular telephone used as a cordless handset, and, *Lee* is dependent upon a VOIP network with a cellular telephone used as a cellular telephone that hands off between piconet base stations and cellular base stations (No need for *Mooney's* teachings). Further, there is no advantage to using the approach of *Lee* to increase

capacity or reduce congestion in *Mooney*, as network resources still have to be reserved.

2. Independent claim 1

a. [1.a, 1.e, 1.f]: Claim elements relying on Mooney Only

195. Claim elements 1.a, 1.e, and 1.f only reference *Mooney* as in Ground 1 and do not rely on the combination of *Mooney* and *Lee*. These elements are not described in *Mooney*. *See supra* ¶¶ 63-86.

b. [1.h]: “wherein upon said control device being selectively triggered by the user to issue said invariable activation command: if said switching element is in said first state, a first data conveyance operation will be initiated through the instrumentality of said first data transceiver for sending data from said electronic circuit to the first external data exchange device over said first communication link; and”

196. Element 1.h is not described by *Mooney*. *See supra* ¶¶ 87-92.

197. The Partition asserts that “Lee discloses “a discovery and/or registration process” through which its device’s internal logic determines whether to use a cellular or Bluetooth network *prior* to transmitting data. *Lee*, 4:56-5:6.” Pet. 43. This statement is incorrect. A cellular telephone is in constant communication with a cellular network and is updating its location registers, such as HLR 124 of *Lee*. The cellular network **MUST** know where to find a cellular telephone in order

to set up a call. Similarly, a cellular telephone has to be registered in a network prior to calls being made or received. When the cellular telephone powers up it attempts to register in a network. If *Lee* is properly read, “a “dual-enabled BTED 120A performing a discovery and/or registration process” (*Lee*, 4:59-60), discovery and/or registration is the process of updating the location of the cellular telephone in the network if already registered or registering a cellular telephone that is accessing the network for the first time.

198. Petitioner attempts to distinguish between voice data generated in an established call and command and control data. But no such distinction exists in the ‘294 patent.

199. The approach of *Lee* requires the operation and communication with both Bluetooth Hubs and cellular BTSs and be registered in the network. This is further shown by the “cellular network 100 [which] provides the administrative infrastructure and intelligence for the Bluetooth network 116 e.g. for authorization, authentication, registration, billing, profiling, roaming, etc.” *Lee*, 3:51-54. Registration and roaming all require communication (transmission of data) with a network BEFORE determining what base station/Bluetooth Hub to use.

200. It is my opinion that *Mooney* and *Lee* both fail to teach or describe this element.

3. Independent claim 10

c. [10.a, 10.f]: Claim elements relying on *Mooney* Only.

201. Claim elements 10.a and 10.f only reference *Mooney* and not *Lee*.

These elements are not described in *Mooney*. *See supra* ¶¶ 63-77.

d. [10.h]: “wherein upon said control device being selectively triggered by the user to issue said invariable activation command: if an activation cue was received by said cue receiver, said electronic circuit will accomplish said first data conveyance operation to convey data from said electronic circuit to said first data transceiver for transmitting data through said first data transceiver; and”

202. Element 10.h is not described by *Mooney*, *see supra* ¶¶ 127-129 and *Lee*, *see supra* ¶¶ 196-199.

203. It is my opinion that the combination of the *Mooney* patent and the *Lee* patent fail to teach or describe this element 10h.

4. Independent claim 11

a. [11.d, 11.h, and 11.i]: Claim elements relying on *Mooney* Only.

204. Claim elements 11.d, 11.h, and 11.i only reference *Mooney* and not *Lee*.

These elements are not described in *Mooney*. *See supra* ¶¶ 130-134.

- b. **[11.k]: “wherein upon said control device being selectively triggered by the user to issue said invariable activation command: if an activation cue was received by said cue receiver, said electronic circuit will accomplish said first data conveyance operation to convey data from said electronic circuit to said first data transceiver for transmitting data through said first data transceiver; and”**

205. Element 11.k is not described by *Mooney*, *see supra* ¶¶ 135-136 and *Lee see supra* ¶¶ 196-199.

206. It is my opinion that *Mooney* and *Lee* fail to describe element 11.k.

5. Independent claim 12

- a. **[12.pre, 12.a, and 12.b]: Claim elements relying on *Mooney* Only.**

207. Claim elements 12.pre, 12.a, and 12.b only reference *Mooney* and not *Lee*. These elements are not described in *Mooney*. *See supra* ¶¶ 138-142.

- b. **[12.c]: “a user selectively triggering said control device to issue an invariable activation command whereby: if said switching element is in said first state, forwarding first data to said first data transceiver for initiating a data exchange operation with a first external data exchange device over a first communication link; and”**

208. Element 12.c is not described by *Mooney*, *see supra* ¶¶ 143-144 and *Lee see supra* ¶¶ 196-199.

209. It is my opinion that *Mooney* and *Lee* fail to describe element 12.c.

6. Independent claim 19

a. [19.pre, 19.a, 19.b, 19.e, 19.f, and 19.i]: Claim elements relying on *Mooney* Only.

210. Claim elements 19.pre, 19.a, 19.b, 19.e, 19f, and 19i only reference *Mooney* and not *Lee*. These elements are not described in *Mooney*. See *supra* ¶¶ 167-171; 174-177.

b. [19.c]: “a user selectively triggering said control device to issue an invariable activation command whereby: if said switching element is in said first state, forwarding first data to said first data transceiver for initiating a data exchange operation with a first external data exchange device over a first communication link; and”

211. Element 19.c is not described by *Mooney*, see *supra* ¶ 172 and *Lee*, see *supra* ¶¶ 196-199.

212. It is my opinion that *Mooney* and *Lee* fail to describe element 19.c.

7. Dependent claims 2-9, 13-18, and 20

213. *Mooney* was only cited in the Petition for the dependent claims 2-9, 13-18, and 20. *Mooney* of Ground 1 and fails to describe all of the elements of the independent claims 1, 10, 11, 12, and 19.

214. It is my opinion that the combination of *Mooney* and *Lee* fails to describe all the elements of the '294 Patent in Ground 2, as *Lee* is not relied on.

This is the END of my Declaration.

215. In signing this Declaration, I recognize that the Declaration may be filed as evidence in a contested case before the PTAB. I also recognize that I may be subject to cross-examination in the case and that cross-examination will take place within the United States. If cross-examination is required of me, I will cooperate to the best of my ability to appear for cross-examination during the time allotted.

216. I reserve the right to supplement my opinions in the future to respond to any arguments that the Petitioner raises and to take into account new information as it becomes available to me.

217. I declare that all the statements made in this Declaration are of my own knowledge and true; that all statements made on information and belief are believed to be true; and further that these statements herein 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.

218. I declare to the best of my ability under the penalty of perjury that all statements made in this Declaration are true and correct.

Executed: December 26, 2024, in Glen Mills, Pennsylvania.

DECLARATION OF SAFWAN ZAHEER IN OPPOSITION
TO THE PETITION FOR INTER PARTES REVIEW
OF U.S. PATENT NO. 9,022,294

/Safwan Zaheer/

A handwritten signature in black ink, appearing to read 'Safwan Zaheer', written over a horizontal line.

Safwan Zaheer

APPENDIX A

FINTECH, LENDING, & PAYMENTS EXECUTIVE

DIGITAL TRANSFORMATION AND GROWTH | E2E PRODUCT, STRATEGY, & OPS LEADERSHIP

- ✓ **BRINGING BUSINESS, PRODUCT, DIGITAL, AND PEOPLE TOGETHER** to create pathways to growth and success at global, multi-\$M level. A leader in Global Payments, Lending, Buy Now Pay Later, Cards, and BaaS who practices "inside out" transformation and innovation- resulting in new revenue and market reach alongside powerful customer & team loyalty.
- ✓ **KEY FOCUS POINTS ON DIGITAL TRANSFORMATION, STRATEGIC GROWTH ENABLEMENT, AND INTELLIGENT EXECUTION.** Developed teams, Led global programs, and consistently navigated past mission critical obstacles across Financial Services, Retail, and Technology sectors. Demonstrated ability to influence and build consensus at C-Level.
- ✓ **A WARM, HIGH ACCOUNTABILITY LEADER** who believes in creating enterprises where our talents are given full rein to realize their potential. Known to walk into conflict-ridden situations and quickly move to common agreement and results.

Cross-Functional Team Leadership • Growth Enablement • Digital Transformation • FinTech • Product Development • GTM Program Management • Business Case/ROI • Core Banking • SDLC • Commercialization • Business Development Data Analytics • Talent Development • Strategic Partnerships • Executive Presence • SaaS • Customer Experience

PROFESSIONAL EXPERIENCE

autoMHatic Financial: *PE backed FinTech Lender focused on Manufactured Homes.*
Philadelphia, PA

2024-Present

CHIEF OPERATING OFFICER & CHIEF PRODUCT OFFICER

- Drove 25% growth in loan origination to \$80M annually, enhanced operational efficiency with targeted SLAs across Data Entry, Underwriting, Processing, and Closing/Fundings. Enhanced underwriting raising approval rates from 35% to 45% while managing risks. Partnering with CEO and investors for a high-value exit.
- Driving Product and Technology transforming through Digital Transformation, Data, and Artificial Intelligence (AI) solutions to accelerate Loan originations and expand market share.
- Launched an industry-first "Instant Decision" product, delivering full loan decisions within a minute and setting a new competitive benchmark; deployed modern LOS and POS systems to drive operational efficiency in loan origination.
- Partnering with AI firm to develop Blockchain based E2E Loan Performance product, eliminating investor data verification issues, and a Pricing platform to convert Loan Tape to Term Sheet in 30 minutes, boosting Capital Markets efficiency.

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Philadelphia, PA

2019-2023

MANAGING DIRECTOR

- Launched T-Mobile MONEY, T-Mobile's revolutionary Neobank, as part of work with BaaS Fintech firm, BM Technologies (f.k.a BankMobile). Led product development from initial concept to launch across 500K consumers in US.
- Forged growth strategy for disruptive POS Lending and BNPL firm, honed in on 3 top market verticals, and introduced the pricing, positioning and GTM necessary for a successful B2B2C and BaaS offering, beyond-target launch.
- Designed BNPL product roadmap, architecture, features and established a game-changing partnership for Challenger Bank yielding marked increase in growth and profitability. Brought innovative customer service focused value adds into play.

LENDINGPOINT

Kennesaw, GA/New York, NY

2021-2022

EXECUTIVE VICE PRESIDENT AND GENERAL MANAGER, POS LENDING

- Tapped to scale POS Lending and Payments business across Dental, Elective Medical, and Home Improvement verticals, growing from \$90M to over \$350M in funded volume per year during tenure, alongside record-high net margins. Built, managed and mentored 85-person cross-functional team. Increased share-of-wallet from 1.5% to 8% across verticals.
- Launched embedded finance B2B and B2B2C products, including financing capability of Invisalign's mobile app (+120M consumers), installment loans and BNPL products offered through merchant checkout solutions. Innovated on pricing and user experience, UI/UX, used data analyses, A/B testing, and hypotheses driven approach to increase take rates.
- Transformed product and merchant servicing into core driver of business growth, forged partnerships with Elective Medical and Home Improvement partners to position products as first and second-look lending programs.

BM TECHNOLOGIES, formerly BankMobile (via HUNDREDX)
Philadelphia, PA

2019-2021

HEAD OF PRODUCTS

- Strengthened business position through strategic design, build, and launch of E2E Payments and Lending product, as part of T-Mobile neobank (T-Mobile MONEY), from launch to over 500K active consumers in US.
- Designed and executed Payments and Lending program. Built E2E product, UI/UX, Core Banking/FIS, ACH, real-time payments, reporting, fraud, KYC/AML, BSA, LockBox to deliver seamless user experience to T-Mobile banking customers.
- Served as a crucial bridge between T-Mobile leadership, Core Banking vendor, product, and engineering teams in successfully bringing an industry-first neobank product for T-Mobile (T-Mobile MONEY) to market.

KPMG US
New York, NY

2016-2019

HEAD OF FINTECH

- Provided strategic, creative vision for KPMG's US FinTech service line, performed effectively as an active member of Global FinTech leadership team, and bridged gap between client opportunities and management's expectations
- Spearheaded launch of new digital banking platform on behalf of Top 20 Bank. Implemented Core Banking, money movement, KYC/AML platform, Sanctions screening, reporting, workflow tools for automation, 24x7 processing capabilities, achieving \$2B in deposit volume and over 15M consumers following launch.
- Increased client customer retention for credit card firm by over 35% and transaction volume by over 45% through launching and marketing a new suite of FinTech-like Credit and Debit card products.

ACCENTURE
Philadelphia, PA

2015-2016

DIRECTOR, DIGITAL PAYMENTS

- Led practice growth by controlling and delivering digital payments, transformation, strategy and product development services to Financial Services, Technology, and Retail clients, increasing company brand reputation and repeat business.
- Introduced innovative "Payments Wallet" and "Merchant Commerce Portal" solution for a Fortune 6 Retailer in US. Drove growth and scale-up to the tune of an additional \$1B+ in payment volume inside of 5 years.

BARCLAYS US
Wilmington, DE

2012-2015

DIRECTOR, DIGITAL PAYMENTS PRODUCTS

- Set a course of aggressive development and innovation. Mobile Payments Wallet Launch (Consumer and SMBs) netting \$500K transaction volume, 11K+ users and 25+ merchants. Championed decisive moves into the P2P payments space.
- Established critical partnerships with Google Wallet and Mastercard to achieve "top of wallet" exposure for credit cards.

Addition Experience as Strategy Consultant in **Peppers & Rogers Group**; Sr. Manager/ Product Manager (Mobile Products) and Wireless Engineer (International Standards Development) in **Nokia/ Alcatel-Lucent. (2001-2011)**

BOARD & ADVISORY ROLES: NewChip Accelerator (2022-Present), Blockchain Founders Fund (2020-Present), Arf Blockchain Payments firm (2019-2022), CORL Financial Technologies (2018-2020), LOYYAL Inc. (2016-2018).

EDUCATION

Massachusetts Institute of Technology (MIT), Cambridge MA

- Master of Science in Engineering and Management

Texas A&M University, College Station TX

- Master of Science in Electrical Engineering
- Bachelor of Science in Electrical Engineering (Cum Laude)

PATENTS

1. USA/UK Patent #13/647997 (US), # 1209590.7 (UK): **"Mobile Wallet System"**
2. USA Patent #13725061: **"Mobile Commerce Business System and Method for Sharing Merchant Content and creating Customer Index"**
3. USA Patent #7200115: **"A Method of Managing Non-acknowledgement responses in CDMA Wireless System"**

PATENT LITIGATION HISTORY

1. Declaration of Safwan Zaheer In Support of Petition For Post-Grant Review of U.S. Patent No. xx,xxx,x72 **"METHOD PAYMENTS ACCEPTING ..."** – (July, 2023)
2. Declaration of Safwan Zaheer In Support of Petition For Post-Grant Review of U.S. Patent No. xx,xxx,x96 **"... REPRESENTATIONS OF PAYMENTS ... EVENTS"** – (July, 2023)
3. Declaration of Safwan Zaheer In Support of Petition For Post-Grant Review of U.S. Patent No. xx,xxx,x74 **"... SYSTEM .. MOBILE DEVICE-TO-.... PAYMENTS"** – (August, 2023)