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EXAMINER	
BRINDLEY, BENJAMIN S	

ART UNIT	PAPER NUMBER
3697	

NOTIFICATION DATE	DELIVERY MODE
09/22/2023	ELECTRONIC

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

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

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

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Office Action Summary	Application No. 15/637,747	Applicant(s) Phillips et al.	
	Examiner BENJAMIN S BRINDLEY	Art Unit 3697	AIA (FITF) Status Yes

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

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

Status

1)☑ Responsive to communication(s) filed on 10 Juky 2023.

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

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

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

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

Disposition of Claims*

5) ☑ Claim(s) 1,4-10,13-14,16 and 18 is/are pending in the application.

5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6) ☐ Claim(s) _____ is/are allowed.

7) ☑ Claim(s) 1,4-10,13-14,16 and 18 is/are rejected.

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

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

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

Application Papers

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

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

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

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

Priority under 35 U.S.C. § 119

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

Certified copies:

a)☐ All b)☐ Some** c)☐ None of the:

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

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

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

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

Attachment(s)

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

2) ☑ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date 05/12/2023.

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

4) ☐ Other: _____.

DETAILED ACTION

Notice of Pre-AIA or AIA Status

1. The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

Status of the Application

2. This office action is in response to Applicant's communication of July 10, 2023. The Information Disclosure Statement with a filing date of May 12, 2023, has been acknowledged. Applicant's arguments have been considered.

Continued Examination under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's claims and remarks, filed on July 10, 2023, have been noted.

Priority: 07/29/2016

Status of Claims: Claims 1, 4 – 10, 13, 14, 16 and 18 are pending. Claims 1, 10 and 16 have been AMENDED. Claims 2, 3, 11, 12 and 17 have been CANCELLED, with Claims 15, 19 and 20 having been previously CANCELLED.

Status of Office Action: Non-Final (RCE)

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more. Claim 1 is directed to an abstract idea, Certain Methods of Organizing Human Activity. The claims do not include additional elements that are sufficient to amount to significantly more than the judicial exception because the additional computer elements, which are recited at a high level of generality, provide conventional computer functions that do not add meaningful limits to practicing the abstract idea.

Claim 1 recites, in part, a transaction detail data sharing process by engaging in a transaction at a point of sale, generating transaction data, transmitting transaction detail data via the internet to a server, receiving a response from the server, and transmitting payment credential information to a merchant terminal or payment processor. The limitations of a transaction detail data sharing process by engaging in a transaction at a point of sale, generating data, transmitting data, receiving and transmitting information to a merchant terminal or payment processor, are directed to concepts of organizing human activity via the use of generic computer components. Hence, it falls within the "Certain Methods of Organizing Human Activity" grouping of abstract ideas. Accordingly, the claim recites an abstract idea.

The judicial exception is not integrated into a practical application. In particular, the claim only recites additional elements of a smartphone, a point of sale terminal, a server and a processor to perform operations. The generic computer components are recited at a high-level of generality (performing generic computer functions) such that it amounts to no more than mere instruction to apply the exception using generic computer components. Specification page 4 lines 9 – 23, page 5 lines 23 – 31, and page 8 line 1 through page 9 line 20 additionally reference general purpose computing systems and environments, with the recitation of the computer limitations amounting to mere instructions to implement the abstract idea on a

computer. Accordingly, the additional elements do not integrate the abstract idea into a practical application because it does not impose any meaningful limits on practicing the abstract idea. The claim is directed to an abstract idea.

Next the claim as a whole is analyzed to determine whether any element, or combination of elements, is sufficient to ensure the claim amounts to significantly more than an abstract idea. Claim 1 does not include additional elements that are sufficient to amount to significantly more than the judicial exception because the additional elements to perform operations amount to no more than mere instructions to apply the exception using generic computer components. Mere instruction to apply an exception using generic computer components cannot provide an inventive concept. The claim is not patent eligible.

Claims 4 – 9 are dependent from Claim 1, and do not include additional elements that are sufficient to amount to significantly more than the judicial exception. Claims 4 – 9 also do not identify improvement to computer technology or computer functionality MPEP 2106.05(a), a particular machine MPEP 2106.05(b), or a particular transformation MPEP 2106.05(c). Given the above reasons, generic computing components associated with a transaction detail data sharing process by engaging in a transaction at a point of sale, generating data, transmitting data, receiving and transmitting information to a merchant terminal or payment processor is not an inventive concept.

Independent process Claim 10 and independent process Claim 16 are directed to an abstract idea as the Federal Circuit has held that an extended claim by claim analysis is not necessary where multiple claims are “substantially similar and linked to the same abstract idea.” In this case, Claims 10 and 16 are substantially similar to process Claim 1.

Claims 13, 14 and 18, dependent from Claims 10 and 16, do not include additional elements that are sufficient to amount to significantly more than the judicial exception. Claims 13, 14 and 18 also do not identify improvement to computer technology or computer functionality MPEP 2106.05(a), a particular machine MPEP 2106.05(b), or a particular

transformation MPEP 2106.05(c). Given the above reasons, generic computing components associated with a transaction detail data sharing process by engaging in a transaction at a point of sale, generating data, transmitting data, receiving and transmitting information to a merchant terminal or payment processor is not an inventive concept.

Therefore, Claims 1, 4 – 10, 13, 14, 16 and 18 are rejected under 35 U.S.C. 101. Claims 1, 4 – 10, 13, 14, 16 and 18 are not drawn to eligible subject matter as they are directed to an abstract idea without significantly more.

Claim Rejections - 35 USC § 103

5. In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

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

> A patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is not identically disclosed as set forth in section 102 of this title, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 4 – 10, 13, 14, 16 and 18 are rejected under 35 U.S.C. 103 as being unpatentable over Mitra et al., U.S. 2016/0267486 in view of Shrivastava, U.S. 2014/0019352 in view of Lloyd et al., U.S. 2017/0091764.

8. As per Claim 1, (Currently Amended)

Mitra teaches *a method of operating a smartphone running a* … [ ] … *wallet application,* … [ ] …, (Mitra ¶¶ [0051], [0118], [0159], [0159] and Figs 2,22 read on a payment enabled mobile device as a smartphone running a wallet application.) *the method comprising:*

engaging in a transaction with the smartphone running the … [ ] … *wallet application at a merchant point of sale (POS) terminal;* (Mitra ¶¶ [0116] – [0121] and Figs 22,23 read on transaction communications between a mobile device and a point-of-sale ("POS") terminal.)

transmitting, by the smartphone, the transaction detail data via the internet from the … [ ] … *smartphone to a transaction authentication server, ~~wherein the transaction detail data includes details of the transaction~~,* (Mitra ¶¶ [0116] – [0121], [0124] and Figs 22,23 read on transaction communications through a network by a mobile device to an authentication server.)

receiving, by the smartphone, a response message from the transaction authentication server indicating the transaction has been authenticated in response to the transmitted transaction detail data; and (Mitra ¶¶ [0116] – [0121], [0124] – [0129] and Figs 22,23 read on the mobile device receiving a response from an authentication server relative to transaction detail data.)

transmitting ~~making~~, by the … [ ] … *smartphone in response to the response message, payment credential information stored in a storage device of the smartphone ~~available~~ to at least one of (a) the merchant POS terminal operated by the merchant; and (b) a payment processor acting for the merchant.* (Mitra ¶¶ [0116] – [0121], [0124] – [0129] and Figs 22,23 read on the mobile device supplying transaction credentials to a POS terminal.)

Mitra does not teach:

merchant wallet application, the wallet application issued by a merchant,

Shrivastava, however, teaches:

merchant wallet application, the wallet application issued by a merch (Shrivastava ¶¶ [0111], [0279], [0280] and Figs 2A,24C,24E read on a mobile wallet and a consumer application provider to include a merchant. The Examiner notes that Shrivastava ¶¶ [0118], [0148], [0149],

[0172], [0273], [0373] and Figs 3A,50B additionally identify performance of a risk assessment relative to approving a transaction.)

It would have been obvious to one of ordinary skill in the art to include in the transaction card and payment system of Mitra, the application provider, merchant, price range and risk assessment aspects of Shrivastava, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable. Both relate to payment networks and communications, with the motivation being to enhance a user shopping experience and data security. (see Shrivastava ¶¶ [0279], [0378], [0411], [0459].)

Mitra in view of Shrivastava does not teach:

generating, by the merchant wallet application running in the smartphone, transaction detail data comprising identification data of each product item being purchased and respective price range data for each identified product item;

merchant wallet application in the smartphone

merchant wallet application running on the smartphone

Lloyd, however, teaches:

generating, by the merchant wallet application running in the smartphone, (Lloyd ¶¶ [0049], [0060], [0081], [0103] and Fig 1 read on digital wallet applications running in a smartphone, merchant communications, and association to multiple payment applications running in a smartphone.) *transaction detail data comprising identification data of each product item being purchased and respective price range data for each identified product item;* (Lloyd ¶¶ [0049], [0060], [0081], [0103], [0131] and Fig 1 read on digital wallet applications running in a smartphone with transaction detail data subject to transaction parameters and transaction amount ranges.)

merchant wallet application in the smartphone (id Lloyd, directly above.)

merchant wallet application running on the smartphone (id Lloyd, directly above.)

It would have been obvious to one of ordinary skill in the art to include in the transaction card, payment and communications operations of Mitra in view of Shrivastava, the communications, merchant wallet operations and transaction amount ranges aspects of Lloyd, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable. Both relate to payment networks and communications, with the motivation being to enhance authentication of transactions. (see (Lloyd ¶¶ [0001], [0003])

9. As per Claim 4, (Previously Presented)

Mitra in view of Shrivastava in view of Lloyd teaches *the method of claim 1, wherein the smartphone running the wallet application transmits to the transaction authentication server, prior to the receiving step, location data that indicates a current location of the smartphone.* Mitra ¶¶ [0078] – [0081], [0108], [0116], [0118], [0138] and Figs 21,22 read on the mobile device with wallet transmitting a communication through a network to a server, inclusive of location data of the mobile device.)

10. As per Claim 5, (Previously Presented)

Mitra in view of Shrivastava in view of Lloyd teaches *the method of claim 1, wherein the smartphone running the wallet application transmits to the transaction authentication server, prior to the receiving step, device identification data that uniquely identifies the smartphone.* (Mitra ¶¶ [0049], [0052], [0066], [0067], [0089], [0116], [0118] and Figs 2,5B,22 read on mobile device communications through a network server, inclusive of data uniquely identifying the mobile device.)

11. As per Claim 6, (Previously Presented)

Mitra in view of Shrivastava in view of Lloyd teaches *the method of claim 1, wherein the smartphone running the wallet application transmits to the transaction authentication server, prior to the receiving step, an indication that the smartphone has performed a user authentication procedure in connection with the transaction.* (Mitra ¶¶ [0118], [0121] – [0130] and Figs 23,24 read on mobile device communications inclusive of a user authentication procedure relative to a transaction.)

12. As per Claim 7, (Previously Presented)

Mitra in view of Shrivastava in view of Lloyd teaches *the method of claim 6, wherein the indication specifies a type of user authentication procedure.* (Mitra ¶¶ [0107], [0118], [0121] – [0130], [0178] and Figs 16,23,24,27 read on mobile device communications inclusive of a user authentication procedure relative to a transaction, inclusive of authentication through biometric inputs.)

13. As per Claim 8, (Previously Presented)

Mitra in view of Shrivastava in view of Lloyd teaches *the method of claim 1, further comprising: prior to the transmitting step, receiving a digital receipt for the transaction, by the smartphone, from a merchant device at the point of sale.* (Mitra ¶¶ [0116] – [0121], [0126] – [0129] and Figs 22,23 read on transaction communications between a mobile device and a point-of-sale ("POS") terminal, inclusive of transaction data being provided to the mobile device from a POS.)

14. As per Claim 9, (Previously Presented)

Mitra in view of Shrivastava in view of Lloyd teaches *the method of claim 8, wherein the smartphone extracts at least some of the transaction detail data from the digital receipt.* (see Mitra ¶¶ [0116] – [0121], [0126] – [0129] and Figs 22,23 referenced above in Claim 8.)

15. As per Claim 10, (Currently Amended)

The Examiner notes that Claim 10 reads as follows:

A method comprising:

receiving, in a computer from a smartphone running a merchant wallet application issued by a merchant, an indication that the smartphone performed a user authentication procedure in connection with a transaction between the smartphone and the merchant, wherein the indication specifies a type of use authentication procedure;

receiving, in the computer from the smartphone, transaction detail data generated by the merchant wallet application running in the smartphone, wherein the transaction detail data comprises identification data of each product item being purchased and respective price range data for each identified product item ~~details of the transaction engaged in by the smartphone, the details identifying product items purchased in the transaction from the merchant~~; and

performing, by the computer, risk management processing based at least in part on the indication that the smartphone performed a user authentication procedure in connection with the transaction and based on the transaction detail data; ~~details identifying product items purchased in the transaction~~,

authenticating, by the computer based on the risk management processing, ~~for determining whether to approve~~ the transaction; and

transmitting, by the computer to the smartphone running the merchant wallet application, a response message indicating the transaction has been authenticated.

Claim 10 is directed to the method which is implied by the method of Claims 1, 6 and 7, and is therefore rejected on the same rational as Claims 1, 6 and 7.

16. As per Claim 13, (Original)

The Examiner notes that Claim 13 reads as follows:

The method of claim 10, further comprising:

in response to a result of the risk management processing, generating a cryptogram by the computer; and

transmitting the cryptogram by the computer to (a) a merchant device associated with the transaction; or (b) a transaction processor associated with a merchant involved in the transaction.

Claim 13 is directed to the method of Claim 10, with an additional limitation as presented below, which limitation is taught by Miitra:

generating a cryptogram by the computer; and

transmitting the cryptogram by the computer to (a) a merchant device associated with the transaction; or (b) a transaction processor associated with a merchant involved in the transaction. (Mitra ¶¶ [0064], [0089], [0107], [0116], [0147], [0166] and Figs 5B,22 read on transaction communications in a communications network between a mobile device and a point-of-sale ("POS") terminal subject to encryption.)

Claim 13 is directed to the method of Claim 10 with an additional limitation as taught by Mitra, and is therefore rejected on the same rational as Claim 10 and the subject additional limitation as taught by Mitra.

17. As per Claim 14, (Previously Presented)

Claim 14 is directed to the method which is implied by the method of Claims 10, 13, and 5, and is therefore rejected on the same rational as Claims 10, 13 and 5.

18. As per Claim 16, (Currently Amended)

Claim 16 is directed to the method which is implied by the method of Claims 10 and 6, and is therefore rejected on the same rational as Claims 10 and 6.

19. As per Claim 18, (Previously Presented)

Claim 18 is directed to the method which is implied by the methods of Claims 16 and 5, and is therefore rejected on the same rational as Claims 16 and 5.

Response to Arguments

20. Applicant's arguments with respect to the introduced claims have been considered but found not persuasive.

21. The amendments to the claims have been entered.

22. Applicant has amended independent Claims 1, 10 and 16 to overcome the 35 U.S.C. 101 rejection previously made. Applicant's arguments and contention that the claims are not directed to an abstract idea, however, is unpersuasive. Neither the claims nor the specification identifies elements beyond generic computer components performing generic computer functions. Additionally, engaging in a payment transaction and making payment credential information available, remains business related, and the 2019 Patent Eligibility Guidance includes identification of commercial or legal interactions and business relations within identification of Certain Methods of Organizing Human Activity, as an abstract idea.

Applicant's contention that the claims are not directed to an abstract idea in that there is an improvement in the efficiency and functioning of the system, is unpersuasive. Neither the claims nor the specification identifies elements beyond generic computer components performing generic computer functions, and there is no mention of performance metrics enhancement. Additionally, while association to a claimed technology may limit an abstract idea to a particular field, a general linking of an abstract idea to a claimed technology also does not demonstrate patent eligibility. Further, the focus of the instant claims not on such an

improvement in computers as tools, but on certain independently abstract ideas that use computers as tools.

Applicant's reference to preemption is unpersuasive because the absence of preemption alone is not determinative of patent eligibility

Applicant's citation of Berkheimer is unpersuasive because the 101 rejection is not founded upon the grounds of being well-understood, routine, and conventional.

Claims 1, 10 and 16 do not include additional elements that are sufficient to amount to significantly more than the judicial exception. Claims 1, 10 and 16, along with Claims dependent from Claims 1, 10 and 16, remain directed to an abstract idea (i.e., certain methods of organizing human activity), and do not identify an improvement to computer technology or computer functionality MPEP 2106.05(a), a particular machine MPEP 2106.05(b), or a particular transformation MPEP 2106.05(c). Given the above reasons, the claims are not patent eligible, as they do not provide an inventive concept and a 35 U.S.C. 101 rejection has been made on Claims 1, 4 – 10, 13, 14, 16 and 18

23. Regarding U.S.C. 103 rejections, and independent Claims 1, 10 and 16, Applicant has argued that Mitra, Shrivastava and Spector do not disclose generating identification data of products being purchased along with price range data for the products. Applicant has amended independent Claims 1, 10 and 16 to focus upon generating identification data of products being purchased along with price range data for the products. In consideration of Applicant's focus arguments, the Lloyd reference has been added to Mitra and Shrivastava, as Lloyd identifies wallet applications running in a smartphone with transaction detail data subject to transaction parameters and transaction amount ranges. The Spector reference has been rendered moot. Additionally, Mitra identifies a payment enabled mobile device as a smartphone running a wallet application, transaction communications between a mobile device and a point-of-sale ("POS") terminal, transaction communications through a network by a mobile device to an authentication server, transaction detail data, and supplying transaction credentials to a POS terminal; and

Shrivastava identifies a mobile wallet and a consumer application provider to include a merchant.

The Examiner considers that independent Claims 1, 10 and 16 have been addressed by the teachings of Mitra, Shrivastava and Lloyd as previously recited, and a U.S.C. 103 rejection has presently been made.

24. Applicant has additionally commented that dependent claims are believed to be allowable for the same reasons (as independent Claims 1, 10 and 16.)

The Examiner considers that dependent Claims 4 – 9, 13, 14 and 18 have been addressed by the teachings of Mitra, Shrivastava and Lloyd as previously recited, and a U.S.C. 103 rejection has presently been made.

Conclusion

25. Art cited but not relied upon pertinent to the application disclosure includes Hammad et al., U.S. 2013/0218765 generally identifying wallet transaction operations subject to associated risk; Spector et al., U.S. 10,204,337 generally identifying transmission from a merchant application installed on a customer smartphone; and Sanchez et al., U.S. 2014/0081854 generally identifying transaction authorization subject to spending level limits.

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin Brindley, whose telephone number is (571) 272-7335. The examiner can normally be reached on Monday and Tuesday between 6:00 AM and 3:00 PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Christine Behncke, can be reached at (571) 272-8103. The fax telephone numbers for this group are either (571) 273-8300 or (703) 872-9326 (for official communications including After Final communications labeled "Box AF").

Another resource that is available to applicants is the Patent Application Information Retrieval (PAIR). Information regarding the status of an application can be obtained from the (PAIR)

system. Status information for published applications may be obtained from either Private PAIR or Public PAX. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, please feel free to contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Applicants are invited to contact the Office to schedule an in-person interview to discuss and resolve the issues set forth in this Office Action. Although an interview is not required, the Office believes that an interview can be of use to resolve any issues related to a patent application in an efficient and prompt manner.

/BENJAMIN S BRINDLEY/
Primary Examiner, Art Unit 3697
September 19, 2023