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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/637,747	06/29/2017	Simon Phillips	P03672-US-UTIL (M01.475)	8558

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EXAMINER	
BRINDLEY, BENJAMIN S	

ART UNIT	PAPER NUMBER
3697	

NOTIFICATION DATE	DELIVERY MODE
05/10/2024	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 22 December 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 12/01/2023.

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 December 22, 2023. The Information Disclosure Statement with a filing date of December 1, 2023, has been acknowledged. Applicant's arguments have been considered.

Priority: 07/29/2016

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

Status of Office Action: FINAL

Claim Rejections - 35 USC § 112

3. The following is a quotation of 35 U.S.C. 112(b):

> (b) CONCLUSION.—The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the inventor or a joint inventor regards as the invention.

> The following is a quotation of 35 U.S.C. 112 (pre-AIA), second paragraph:
> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 10 and 16 are rejected under 35 U.S.C. 112 (b) as being indefinite. Claims 1, 10 and 16 recite in-part: ... <u>wherein the transaction authentication server utilizes the transaction data detail to conduct risk management processing of the transaction using reliable and</u>

sophisticated risk management algorithms (i.e.., see Claim 1. The Examiner notes that Claims 10 and 16 identify similar language.) Relative to the Specification, the Examiner notes that terminology particular to: algorithm/algorithms, appears only as follows:

> Specification, Page 11: Lines 7 – 9.
> … The wallet app 311 may, for purposes of generating the transaction detail data, convert the actual price paid for each item into a price range for the item according to an **algorithm** included in the wallet app 311. {emphasis added}

> Specification, Page 11: Lines 25 – 30.
> At 508, the authentication server 206 may perform risk management processing relative to the current transaction. The authentication server 206 may use some or all of the information provided by the wallet app 311 in connection with step 506, as just described. With this information, including product and price range detail, the authentication server 206 may be able to run more reliable and sophisticated risk management **algorithms** than are typically performed by an account issuer with respect to a transaction. … {emphasis added}

Based on the preceding, the Examiner notes that identification of a risk management processing algorithm appears in the specification only once, and is presented in a relative fashion (i.e., as simply being described "relative to" algorithms "typically performed by an account issuer.") While the Examiner recognizes that terms are given their ordinary meaning, and that overly broad is not indefinite: and notwithstanding the lack of definition in the specification, it remains unclear as to the metes and bounds of both "more reliable" and "sophisticated". The Examiner simply considers terminology of "more reliable" and "sophisticated" to be relative terms. There is no further clarification in the specification as to any exacting definition of what is being used. Accordingly, there appears to be a missing nexus of any sample space and definition as to what is being used in the affirmatively claimed language of "risk management processing of the transaction using reliable and sophisticated risk management algorithms.", which remains unclear and indefinite. Claims 4 – 9, 13,14 and 18 are also rejected on the basis of dependency.

Claim Rejections - 35 USC § 101

5. 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.

6. Claims 1, 4 – 10, 13, 14, 16 and 18 are 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.

7. 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 receiving a receipt including data identifying purchased items, generating transaction data, transmitting transaction detail data via the internet to a server, conduct risk management processing of the transaction, 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 receiving a receipt including data identifying purchased items, generating data, transmitting data, conducting risk management, 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 processor, a point of sale terminal, a server and a payment 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 receiving a receipt including data identifying purchased items, generating data, transmitting data, conducting risk management, 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 receiving a receipt including data identifying purchased items, generating data, transmitting data, conducting risk management, 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.

Response to Arguments

8. Applicant's arguments filed December 22, 2023, have been fully considered and found not persuasive, in-part.

9. The Amendments to the claims have been entered.

10. 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, transaction detail data sharing, risk management, 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 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.

Applicant's contention that the claims are not directed to an abstract idea in that there is an improvement in technical operations, is unpersuasive. The claims to not provide a technological solution to a technological problem as the claims provide generically computer implemented operations to a business field, again, with 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.

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

11. Applicant's arguments regarding the amended claims and 35 U.S.C. 103 are found persuasive and the 35 U.S.C. 103 rejection has been withdrawn.

Non-Obvious Subject Matter over prior art of Record (USC 103)

12. Based on the closest prior art of record claim 1 is non-obvious under USC 103 over prior art of record (see paper number 20230913 & PTO 892), particularly, the limitation(s) – regarding a method of operating a smartphone running a merchant wallet application, the wallet application issued by a merchant, the method comprising: receiving, by a processor of the smartphone running the merchant wallet application via a near-field communication (NFC) component from a merchant point of sale (POS) terminal, an electronic receipt including data identifying purchased items and a price per item; generating, by the merchant wallet application running in the smartphone based on the data of the electronic receipt, transaction detail data comprising identification data of each product item being purchased and respective price range data for each identified product item; transmitting, by the smartphone, the transaction detail data via the internet from the merchant wallet application in the smartphone to a transaction authentication server without revealing the exact price of any product item, wherein the transaction authentication server utilizes the transaction detail data to conduct risk management processing of the transaction using reliable and sophisticated risk management algorithms; 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 transmitting, by the merchant wallet application running on the smartphone in response to the response message, payment credential information stored in a storage device

of the smartphone to at least one of (a) the merchant POS terminal operated by the merchant; and (b) a payment processor acting for the merchant.

Conclusion

13. Art cited but not relied upon pertinent to the application disclosure includes Mitra et al., U.S. 2016/0267486 generally identifying 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; Shrivastava, U.S. 2014/0019352 generally identifying a mobile wallet and a consumer application provider to include a merchant; Lloyd et al., U.S. 2017/0091764 generally identifying a wallet applications running in a smartphone with transaction detail data subject to transaction parameters and transaction amount ranges; 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; Sanchez et al., U.S. 2014/0081854 generally identifying transaction authorization subject to spending level limits; and Ghosh et al., U.S. 8,046,261 generally identifying transactions, mobile terminals and risk management operations.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

15. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. 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).

/BENJAMIN S BRINDLEY/
Primary Examiner, Art Unit 3697
May 6, 2024