

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

iVenture Card Travel Ltd
Petitioner

v.

Smart Destinations, Inc.
Patent Owner

Patent No. 7,765,128

**PETITION FOR COVERED BUSINESS METHOD REVIEW
OF U.S. PATENT NO. 7,765,128**

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I. INTRODUCTION

In accordance with 35 U.S.C. § 321, Section 18 of the Leahy-Smith America Invents Act (“AIA”), and 37 C.F.R. §§ 42.300 *et seq.*, iVenture Card Travel Ltd (“iVenture”) respectfully requests covered business method (“CBM”) review of claims 1-24 of United States Patent No. 7,765,128 (“the ’128 Patent”) (Ex. 1001). The ’128 Patent is owned by Smart Destinations, Inc. (“Patent Owner”). This petition sets forth a *prima facie* case that at least one of the patent claims challenged is, and in fact all claims are, unpatentable. 35 U.S.C. § 324(a). Therefore, CBM review should be instituted and all claims of the ’128 Patent should be canceled.

II. MANDATORY NOTICES

A. Real Party-in-Interest (37 C.F.R. § 42.8(b)(1))

The real party-in-interest is iVenture Card Travel Ltd (“iVenture”). iVenture, a successor in interest to iVenture Card Asia Ltd, is a wholly owned subsidiary of iVenture Card Ltd, a Hong Kong Entity. iVenture Card International Pty Ltd, an Australian Entity and owner of the Smartvisit System intellectual property used by iVenture in undertaking its business, is also a wholly owned subsidiary of iVenture Card Ltd.

B. Related Matters (37 C.F.R. § 42.8(b)(2))

iVenture is aware of the following judicial and administrative matters related to the ’128 Patent. *Smart Destinations, Inc. v. Travel Fun Card, LLC and iVenture Card Asia, LTD*, 1:14-cv-06586-JPO (SD NY 2014) (Ex. 1033).

In addition, iVenture is concurrently filing a CBM petition challenging related U.S. Patent No. 8,346,618 (“the ’618 Patent”). The ’618 Patent issued from a continuation of the application that became the ’128 Patent. (Ex. 1034)

C. Designation of Lead and Back-Up Counsel (37 C.F.R. § 42.8(b)(3))

Lead Counsel: Steven S. Carlson (scarlson@kasowitz.com), Reg. No. 48,632.

Back-up Counsel: Kevin M. Pasquinelli (kpasquinelli@kasowitz.com), Reg. No. 63,913.

The address for lead and back-up counsel is: Kasowitz, Benson, Torres, and Friedman, LLP 333 Twin Dolphin Drive, Suite 200, Redwood Shores, California, 94065 Telephone: (650) 453-5170; fax: (650) 453-5171.

D. Service Information (37 C.F.R. § 42.8(b)(4))

Service of any documents via hand-delivery may be made at the address of the lead and back-up counsel designated above with courtesy copies to the following email addresses: kpasquinelli@kasowitz.com and scarlson@kasowitz.com. Petitioners consent to electronic service.

The petition, and all related documents, is being served on the attorney of record for the ’128 Patent and litigation counsel of record. The certificate of service is attached at the end of this petition.

E. Power of Attorney

Filed concurrently in accordance with 37 C.F.R. § 42.203.

III. PETITIONER HAS STANDING TO SEEK COVERED BUSINESS METHOD REVIEW

Pursuant to 37 C.F.R. § 42.302(a), iVenture certifies it has been accused of infringing the '128 Patent and therefore satisfies the standing requirement to seek CBM review. The Patent Owner filed suit against iVenture's predecessor in interest, iVenture Card Asia Ltd (now iVenture Card Travel Ltd) in *Smart Destinations, Inc. v. Travel Fun Card, LLC and iVenture Card Asia, LTD. 1:14-cv-06586-JPO* (SD NY). Complaint ¶¶3 and ¶¶7 (Ex. 1033). iVenture Card Asia Ltd was never served with the complaint. The case was dismissed after the Patent Owner settled with Travel Fun Card, LLC.

iVenture certifies that the '128 Patent is available for CBM review and that iVenture is not barred or otherwise estopped from requesting such review on the ground identified in this petition.

IV. SUMMARY OF THE '128 BUSINESS METHOD PATENT

A. Effective Filing and Priority Date of the '128 Patent

The '128 Patent issued from U.S. Application No. 10/896,287. During prosecution of Application No. 10/896,287 the applicant filed declarations in accordance with 37 CFR § 1.131 asserting that invention of the claimed subject matter occurred prior to June 14, 2004 (the date of the prior art of record). The declaration of Tyler Brooks states that the claimed subject matter was conceived prior to July 13, 2003, with the first test of the system occurring in Boston on July

13, 2003, and first commercial use no later than July 23, 2003. Therefore, for the purpose of this petition it is assumed that the effective filing date of the claims of the '128 Patent is no earlier than July 21, 2004, and that the conception date is no later than July 13, 2003. Mr. Tyler did not disclose how much sooner than July 13, 2003 he conceived of the invention. Accordingly, for the purposes of this petition, iVenture assumes that the priority date for the '128 Patent is July 13, 2003. iVenture reserves the right to amend these arguments in response to arguments that the Patent Owner asserts in response to the petition, or any other time in the CBM review, that the priority date is sooner or later than July 13, 2003. iVenture reserves the right to challenge this priority date as discovery has not yet been conducted on the Patent Owner, Mr. Tyler, or other relevant parties. For details of this assessment see section IV.C, below, reviewing the prosecution history.

B. Summary of the Alleged Invention

1. The '128 Patent is Directed to Compensation Models

The '128 Patent describes itself as a business model. The general field of the patent is “promoting tourism to generate interest in visiting attractions, such as museums, guided tours, rides, parks, etc.” '128 Patent at 1:13-15 (Ex. 1001). It provides “a system and *business model* for allowing tourists access to a variety of attractions using a passcard.” *Id.* at 4:42-45 (Ex. 1001) (emphasis added). “In one embodiment of the *business model*” the '128 Patent states that a card user may pay

noticeably lower fare than “what it would cost the card-visitor to pay for each attraction separately.” *Id.* at 8:40-41 (Ex. 1001).

The '128 Patent admits to prior art addressing this business problem: “[O]thers have provided systems where tourists may purchase a pass that can be used at a variety of attractions.” *Id.* at 1:16-17 (Ex. 1001). Specific examples include a single ski pass that may be used at multiple ski areas, and a day (or multiple day) pass that can allow access to various attractions. *Id.* at 1:18-20 (Ex. 1001).¹

The '128 Patent specifically lists New York City as a potential destination, and lists museums, restaurants, historic buildings, galleries, shops and markets as potential attractions. *Id.* at 4:31-35 (Ex. 1001). The business model essentially involves three entities, a tourist, a plurality of attractions, and the system manager of the passcard system:

- The Tourist: The passcard is purchased by a tourist, selecting the number of active days (duration) and a variety of attractions. The tourist, or card bearer, carries the passcard to each attraction, and is granted or denied access, consistent with the pre-paid selections and active duration. *Id.* at 16:5-15 (Ex. 1001)

¹ New York as a potential destination is explicitly mentioned in the '128 Patent. In addition, disclosures relating to the New York Pass were considered as prior art during prosecution. As part of this petition additional disclosures relating to the New York Pass are submitted. This introduction discusses the general business model used in the '128 Patent. Specific prior art disclosures regarding the New York Pass will be considered in detail below.

(describing the activation and calculation of time periods and duration).

- The Attractions: Each attraction establishes an agreement with the System Manager regarding compensation. Compensation can be based on various factors including actual use such as frequency or use and duration of use. *Id.* at 2:20-30 (Ex. 1001).

- The System Manager: The passcard system is managed by a system manager (“the System Manager”). The System Manager establishes agreements with each attraction, and manages a card reader within physical proximity of the attraction. The System Manager sells passcards directly, or indirectly, through others. The System Manager is also responsible for marketing and promoting the passcards to tourists. *See generally* ’128 Patent cols. 5-6. The System Manager may release compensation to the Attraction at the time of actual use, or at a later time, the System Manager calculating compensation over an established period of time. The System Manager, whether by hand or computer calculation, uses standard database technology to store and retrieve the usage data.

- Rewards, Products & Promotions: The system can limit users by via frequency or quantity of use. “Promotions may be frequency or quantity limited which may determine how many rewards that promotion may give to any card.” *Id.* at 15:57-59 (Ex. 1001). “A card may expire when all its rewards have been used up.” *Id.* at 15:57-59 (Ex. 1001). In other words, the tourist purchases a card with a known

set of rewards (*e.g.* access to attractions for a certain price). The card may expire after the purchased rewards are used up, for example after a duration or time or a number of uses. In addition, “product definitions may be maintained as lists of promotion codes . . . These lists may be changed at the database 126 without changing the product codes on the cards.” ’128 Patent at 14:65-67 (Ex. 1001). In other words, the limitations imposed at initial purchase of the card can be changed by the system without transferring data to the card.

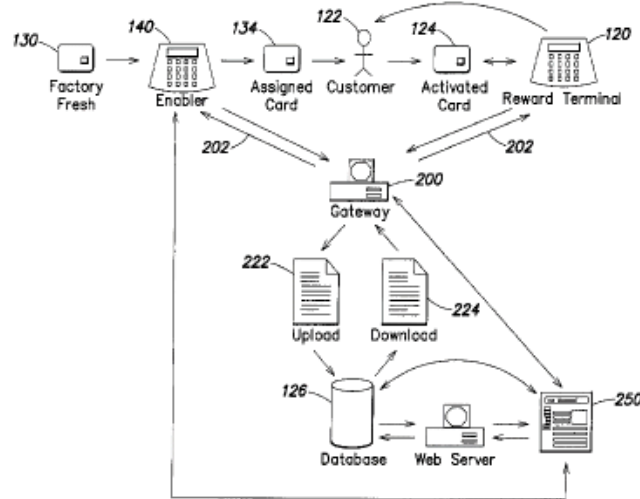
In summary, money flows from the tourist, to the System Manager, and then to the Attraction. Attractions may be paid at the time of use, or more likely, at a later time. The patent is directed to the business method of using already-known card technology to facilitate entry of tourists into attractions, and accordingly compensate the attraction owners. As discussed more fully below, during prosecution, the applicant distinguished the prior art by limiting the claims to: “calculate an aggregated compensation for each attraction” and “not compensat[ing] the attraction based on the actual use of the reward terminals at a time of the actual use of the rewards terminals via a card.” At most, this payment approach is the only conceivable novelty.

2. Each and Every ’128 Patent Claim is Directed to Calculating Compensation Based on Standard Technology

Each independent claim of the ’128 Patent is based on calculating compensation for attractions. The ’128 Patent has three independent claims 1, 8, and

18. All three claims calculate an “aggregated compensation” for each attraction based on use of terminals to access the attraction “wherein the controller does not compensate the attractions based on the actual use of the reward terminals at a time of the actual use of the reward terminals via a card.”

Since all other claims depend on these base claims, all claims of the '128 Patent are directed to slightly



different ways to calculate aggregated compensation for tourist attractions. In particular, the patent describes a system for accessing and compensating attractions using a smart card. *See* '128 Patent Figure 2, above. The system uses standard, well-known components such as card readers, cards, smart cards, terminals, computers, and storage to construct the system.

a) Independent Claims 1, 8, and 18 are Directed to Calculating Aggregate Compensation for Attractions

Independent claims 1, 8, and 18 of the '128 Patent, like all claims of the '128 Patent, are directed to the financial process of calculating aggregate compensation based on standard computer technologies. For easy comparison of claims see tables 1 and 2, and Appendix A, of the Bodamer Declaration (Ex. 1032) showing the claims side by side.

At their core each of the three independent claims has five fundamental elements.² Claim 1, in its entirety, is included here for context.

1. A manager system that permits access to a plurality of attractions, the system comprising:

a network interface configured to:

receive data corresponding to actual use of reward terminals to access respective attractions of the plurality of attractions for a time period, the reward terminals being located in proximity to the plurality of attractions, being configured to access the respective attractions using at least one product code, the data identifying at least one attraction; and

provide at least one product definition to the reward terminals, the at least one product definition including associations between the at least one product code and the respective attractions, whereby a change in the associations between the at least one product code and the respective attractions changes the access to the respective attractions via the

² The claim elements are slightly rearranged for ease of comparison.

reward terminals using the at least one
product code;

a database to store the at least one product definition;

a database to store the data corresponding to the
actual use of the reward terminals to access the
attractions; and

a controller to calculate an aggregated
compensation for each attraction based on the
actual use of the reward terminals to access the
respective attraction by a plurality of users,
wherein the controller does not compensate the
attractions based on the actual use of the reward
terminals at a time of the actual use of the
reward terminals via a card.

(1) Receiving Data Relating to Actual Use

In claims 1 and 8 a network interface and a controller, respectively, receive data of actual use from reward terminals over a period of time. Similarly, claim 18 receives a user code representing actual use at the reward terminal. Receipt of information relating to actual use is necessary to compute aggregated compensation.

(2) Storing the Data in a Standard Database

Claims 1 and 8 use a database to store actual use data received from the terminals. Claim 18, a method claim, records actual use data (a user code) from a

user, and later transmits it the controller for calculation of aggregated compensation. As such, claim 18's actual use data must also be stored on the server, whether in a standard database or standard storage system. There is no technological improvement to database or storage techniques.

(3) Calculating an Aggregated Compensation

Each of the independent claims were granted based on the addition of “aggregated compensation”. . . “wherein the controller does not compensate the attractions based on the actual use of the reward terminals at a time of the actual use of the reward terminals via a card.” *See* section below on prosecution history detailing the addition of these two elements to overcome the prior art, thereby making them the only conceivable point of novelty.

(4) Characteristics of Reward Terminals

Reward terminals are further described in claims 1, 8, and 18. In claims 8 and 18 reward terminals limit attraction access to a reward associated with the attraction by using a user code. Similarly, in claim 1 reward terminals limit attraction access by using a product code. In other words, these claim limitations link access to an attraction with the products or rewards initially purchased by the user.

In addition, claims 1 and 8 limit the location of the rewards terminals within the proximity of the attraction.

(5) Miscellaneous Information Modeling

In order to calculate compensation the independent claims also include

modeling and relationships of certain elements covering product codes, product lists, and attraction lists. For example, claim 1 “provide[s] at least one product definition to the reward terminals,” where the product definition includes “associations between the . . . product code and the . . . attractions.” Claim 8 includes the relationships between the attraction list, product list, and user codes. Similarly, claim 18 associates a user code with a product, the product with an attraction, and a change in product with a change in the available rewards.

b) Claims Dependent on Base Claims 1, 8, and 18 Further Delineate the Compensation Calculation

In general, the dependent claims further delineate how compensation is calculated. For example, claims 5, 15, and 22 require that each attraction be “constrained in time.” Claims 6 and 23 a frequency of use constraint, and claim 14 adds a number of uses constraint. Claims 2 through 7 are dependent on base claim 1. Claims 9 through 17 are dependent on base claim 8, and claims 19 through 24 are dependent on base claim 18. The analogous dependent claims differ in that the claims dependent on claims 1 and 8 are drafted as system claims and those dependent on claim 18 are drafted as method claims. Each of the analogous dependent claims uses slightly different language to convey similar scope.

For example, claims 5 and 22 further restrict base claims 1 and 18, respectively, by requiring that each of the attractions be “constrained in time.” Similarly, claims 15 and 16 narrow claim 8 by restricting access to an attraction to

“a predetermined time period” (Claim 15) wherein the “predetermined time period begins on a first actual use by a user.” (Claim 16).

<p>5. The product manager system as claimed in claim 1, wherein at least one attraction of the plurality of attractions is constrained in time. (emphasis added)</p>	<p>15. The access system as claimed in claim 13, wherein the at least one access restriction includes a predetermined time period during which access to the attraction is valid. (emphasis added)</p> <p>16. The access system as claimed in claim 15, wherein the predetermined time period begins on a first actual use by a user. (emphasis added)</p>	<p>22. The method as claimed in claim 18, wherein associating the user code with the product includes associating a user code with a product that comprises at least one tourist attraction that is constrained in time. (emphasis added)</p>
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The specification discusses how these “constraints in time” are used to compensate the attractions. For example, the calculations may be restrained to actual uses during predetermined time period or a time period indicated on the card. The partner attractions may then be paid according to any negotiated time period.

[E]mbodiments include a method of computing compensation for an attraction based on actual use of smart cards at the attraction, the method comprising acts of recording a number of smart cards used at the attraction during a *predetermined*

time period, recording a type of each smart card used at the attraction during the *predetermined time period*, recording data associated with each smart card; and *determining the compensation based on the number, the type and the data*.

'128 Patent at 2:20-27 (emphasis added).

In another example, the method may further include a step of checking whether the card has expired by, for example, comparing a current time with the time stamp and indicating that the card has expired if the current *time exceeds the time stamp plus a predetermined time interval*.

'128 Patent at 2:43-47 (emphasis added).

In one example, the system manager may pay each partner attraction monthly for all the card uses at that attraction. Of course, it is to be appreciated that the system is not limited to monthly payments. *The system manager may negotiate and contract with each partner attraction to pay that partner attraction over any predetermined time period, for example, daily, weekly, bi-weekly, or any other mutually acceptable time period*. In this example, the system offers the benefit to partner attractions of simplified payment, namely, that they may be paid once in a time period, for example, once a

month, for all card-visitors to the attraction, rather than accepting multiple individual payments for each visitor at the time of each visit.

'128 Patent at 10:33-51 (emphasis added).

For side by side comparison of dependent claims see Appendix A of the Bodamer Decl. (Ex. 1032).

The dependent claims further detail how the claimed invention calculates compensation including:

- Frequency of use (claim 6 and 23): These claims relate to how many times a user may access an attraction. The disclosure states that “frequency of use constraints may be set up by the system manager in agreement with the partner attraction . . . and may be changed at any time. In addition, promotions may be constrained in a combination of time, quantity and frequency of use.” '128 Patent at 12:29-33 (Ex. 1001).
- Number of uses (claim 14): This claim relates to compensation restrictions based on total number of uses of a card or number of uses of a card within a single day or at a single attraction. For example: “a card-visitor may be limited to a fixed number of uses of a promotion during the lifetime of a card . . . This means that a promotion may be

constrained to a certain number of uses in a single day or number of days.” *Id.* at 12:20-23 (Ex. 1001). The frequency and number of uses may also be combined: “a frequency constraint may be depend on more than one variable, such as allowing a larger number of uses (or unlimited use) on weekdays, and lower frequency on weekends.” *Id.* at 18:60-63 (Ex. 1001).

- Periodic data exchange between terminal clients and servers (claims 3, 9, and 20): These claims related to the exchange of information between client terminal and the server in support of calculating compensation. As discussed in greater detail below this communication can happen in real time or at (ir)regularly scheduled intervals. For example: “the terminals may be coupled to the central controller once per night for batch-processing of the exchange of data. ’128 Patent at 5:1-3 (Ex. 1001). Alternatively, the exchange can occur on a predetermined time period: “a controller . . . configured to provide information to the reward terminal and receive data from the reward terminal *once every predetermined time period.*” *Id.* at 2:48-51 (Ex. 1001) (emphasis added)
- Attraction control of the terminal clients (claims 7, 17, and 24): The claims generally cover a central controller coupling with proximity based terminals. However, there are occasions when the local attraction

desires control over the local terminal. These claims allow for that capability.

- Smart card interfacing (claims 5, 11, and 21): Claims 5, 11, and 21 add smart card readers to terminals, storing codes on smart cards, and receipt of user codes using a smart card, respectively.
- General information modeling (claims 2 and 19): These claims define the product offered to the tourist. For example, claim 2 associates the defined product with the attractions. Similarly. Claim 19 associates a user code with the product.

C. The Prosecution History of the '128 Patent Demonstrates that the Applicant Distinguished Prior Art Exclusively on Compensation

The '128 Patent issued from U.S. Application No. 10/896,287 (“the '287 File Wrapper”) (Exs. 1003 and 1004) filed on July 21, 2004.

After allowance of the '287 Application, but before grant, the applicant filed a continuation application 12/825,183. Those claims later issued as U.S. 8,346,618, which are being challenged in a concurrent CBM petition. Similar to the '128 Patent, the '618 Patent claims were distinguished over prior art specifically based on the method of compensation. For details on the '183 prosecution history, see the concurrently filed CBM petition.

The '287 Application

United States Patent Application No. 10/896,287 (“the ’287 File Wrapper”) was deposited on July 21, 2004. ’287 File Wrapper at 1 (Ex. 1003).

After numerous examiner rejections and applicant amendments, on July 21, 2009 the examiner issued a final office action, again rejecting all claims as anticipated by *Hale* and obvious over *Hale* in view of *Smart Cards Take Flight* (Reference USPTO-892). *Id.* at 523-535 (Ex. 1004). An examiner interview was conducted on November 18, 2009. On November 23, 2009 the applicant filed amendments consistent with the “aggregated compensation” limitation. *Id.* at 556-567 (Ex. 1004).

In response, the examiner withdrew the finality of the prior office action, but again rejected all claims as obvious over *Hale* (US 2005/0060173) in view of *Smart Cards*. *Id.* at 569-579 (Ex. 1004). The applicant filed an amendment further limiting the claims with a negative limitation: “wherein the controller does not compensate the attractions based on the actual use of the reward terminals at a time of the actual use of the reward terminals via a card.” *Id.* at 582-594 (Ex. 1004).

The ’287 Application issued on July 27, 2010 as U.S. Patent No. 7,765,128.

Therefore, the claims were distinguished over the prior art solely upon “not compensate[ing] the attractions based on the actual use of the reward terminals at a time of the actual use of the reward terminals via a card.” These uses solve no technical problem and implement no technical solution. These claim elements are

solely financial.

D. Person of Ordinary Skill in the Art Has Knowledge of Cards, Card Readers, Networked Communications, and System Software

A “person of ordinary skill in the art” (“PHOSITA”) with regard to a patent “is a hypothetical person who is presumed to be aware of all the pertinent prior art.” The actual inventor’s skill is not determinative. *Custom Accessories, Inc. v. Jeffrey-Allan Indus., Inc.*, 807 F.2d 955, 962-63 (Fed. Cir. 1986).

A PHOSITA with regard to the ’128 Patent would have been familiar with the design, development, and deployment of software used for controlling and tracking access to multiple terminals. This would require some level of knowledge in database software, card interfacing, and system software related to communications between computer servers and the card readers. These problems and solutions were well known in the art. To assist developers in designing and developing smart card client/server systems, standards bodies, and associated documents, were developed. Therefore, no original research would have been necessary. A PHOSITA would have taken the known solutions and applied known software methods to construct the required solution. Bodamer Decl. Section V (Ex. 1032).

That familiarity would have come through having at least an undergraduate degree (or equivalent) in computer science or a comparable subject and at least two years of client/server design and development work experience, or an advanced degree in computer science or a comparable subject and at least one year of

client/server design and development work experience. Bodamer Decl. Section V ¶ 41 (Ex. 1032).

V. THE CHALLENGED CLAIMS REQUIRE NO CONSTRUCTION UNDER SECTION 101

Under a 35 U.S.C. § 101 analysis no claim construction is required. Here, no claim construction is necessary because no construction, whether under the broadest reasonable interpretation or the *Phillips* standard, would bring the claims within the scope of patentable subject matter. The Federal Circuit has affirmed district court holdings of ineligible subject matter without claim construction: “No formal claim construction was required because the asserted claims disclosed no more than ‘an abstract idea garnished with accessories’ and there was no ‘reasonable construction that would bring [them] within patentable subject matter.’” *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 719 (Fed. Cir. 2014).

This petition does not address invalidity of the ’128 Patent under 35 U.S.C. § 102 or 35 U.S.C. § 103, and iVenture reserves its right to make any such arguments in future PTAB or Federal District Court actions as appropriate. However, for clarity, iVenture proffers the following constructions for terms that may have been already construed by the applicant or examiner, or functional terms which would have ambiguous meanings without construction, for example, “controller,” “terminal,” “product definition,” and “aggregated compensation.”

At the PTAB claims are generally given their broadest reasonable

interpretation (“BRI”) in light of the patent specification in covered business method proceedings (*see Versata Development Group, Inc. v. SAP Am., Inc.*, 2015 WL4113722, *19 (Fed. Cir. July 9, 2015)).³

A. “controller”

“Controller” is used in independent claims 1, 8, and 18. “Controller” is undefined in the specification, however, the specification uses it eight times. It describes the controller as “a central controller that manages the system and collects data from the terminals.” ’128 Patent at 4:63-64 (Ex. 1001). It further states: “the central controller may be used to calculate compensation for each attraction.” *Id.* at 5:10-12. It further discloses that one preferred embodiment includes in part “an access system for use with user codes comprising a controller configured to be coupled to at least one reward terminal and configured to provide information to the reward terminal and receive data from the reward terminal once every predetermined

³ In Federal District Court claims are construed under the principles articulated in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (claim terms are generally given their ordinary and customary meaning as understood by a person of ordinary skill in the relevant art at the time of the purported invention). The United States Supreme Court has granted review in *Cuozzo Speed Technologies LLC v. Lee*, *Appeal No. 15-446*. *Cuozzo* will consider whether the BRI standard or the *Phillips* standard should apply to patentability trials conducted by the Patent Trials and Appeals Board (“PTAB”) of the U.S. Patent Office. Therefore, this petition applies the BRI standard. However, applying the *Phillips* standard would result in no material difference to the construction, Bodamer Decl. Section VI ¶43 (Ex. 1032), or legal analysis. Petitioners reserve all rights to provide constructions for additional claim terms as may be necessary and appropriate in any future district court litigations or any other proceedings.

time period, and a database, coupled to the controller, that stores the information to be provided to the reward terminal and the data received from the reward terminal.”

Id. at 2: 49-54.

A PHOSITA would understand these references to mean “software that manages the system, collects data from terminals, or calculates compensation.”

Bodamer Decl. Section VI.A ¶¶ 44-45 (Ex. 1032).

B. “terminal”

During prosecution of parent Application No. 10/896,287, in a July 9, 2008 office action the examiner stated: “[G]iven its broadest reasonable meaning, reward terminals are interpreted to mean a device capable of receiving input regarding the identity of a person eligible for a reward.” ’287 File Wrapper at 471 (Ex. 1004). In view of this interpretation, a PHOSITA would understand references to “terminal” to mean “a device capable of receiving input regarding the identity of a person.” Bodamer Decl. Section VI.B ¶ 46 (Ex. 1032).

C. “product definition”

The ’128 Patent uses “product definition” in claims 1, 2, and 19. The specification states that “product definitions may be maintained as lists of promotion codes, for example, as lists of 32 bit numbers. These lists may be changed at the database 126 without changing the product codes on the cards.” ’128 Patent at 14:64-67 (Ex. 1001). “Products include collection of promotions. There may be no limit

to the number of promotions that can be included in a product. According to one embodiment, each product may have a unique product code and cards may be enabled with this code.” *Id.* at 12:54-56. (Ex. 1001).

A PHOSITA would understand these references to mean “a list, or lists, of promotion codes.” *See* Bodamer Decl. at Section VI.C ¶ 47-48 (Ex. 1032).

D. “aggregated compensation”

The ’128 Patent does not define “aggregated compensation.” The specification refers to “aggregate” only in a single paragraph. In the context of aggregate value store on a card, it states: “a card may expire after a certain amount of use (e.g., aggregated and stored on the card). One such embodiment would be to set the card to expire after \$50 of aggregated use at attractions, where the value of aggregated use is stored on the card.” ’128 Patent at 16:23-25 (Ex. 1001).⁴ Webster’s American Dictionary, © 1997 defines “aggregate” as “formed by the conjunction or collection of particulars into a whole mass or sum; total; combined.” (Ex. 1031) In the context of the ’128 Patent a PHOSITA would understand this to mean “compensation calculated by collection of multiple attraction accesses.” *See* Bodamer Decl. Section VI.D ¶¶ 49-50 (Ex. 1032).

⁴ iVenture reserves all rights to assert invalidity against the ’128 Patent based on 35 U.S.C. § 112.

VI. THE '128 PATENT IS A COVERED BUSINESS METHOD PATENT

Under Section 18 of the AIA, the Board may institute a CBM review proceeding for any patent that qualifies as a CBM patent. AIA § 18(a)(1)(E). The AIA defines CBM patents as follows:

[A] patent that claims a method or corresponding apparatus for performing data processing or other operations used in the practice, administration, or management of a *financial product or service*, except that the term *does not include patents for technological inventions*.

AIA § 18(d)(1) (emphasis added). Thus, the AIA provides a two part test to determine whether a patent is a CBM patent. The claimed invention (i) must be directed to a “financial product or service” and (ii) must not be a “technological invention.” *Id.* The '128 Patent satisfies both.

A. The Claims Relate to a “Financial Product or Service”

Every claim of the '128 Patent is expressly directed to a controller calculating aggregated compensation for payment to attractions. Thus, the '128 Patent claims a “financial product or service” as that phrase is used in the AIA. The phrase is to be “broadly interpreted and encompasses patents claiming activities that are financial in nature, incidental to a financial activity or complementary to a financial activity.” *SAP Am., Inc. v. Versata Development Group, Inc.*, CBM2012-00001, Paper 36 at 21-22 (PTAB Jan. 9, 2013) (citing 77 Fed. Reg. 48734-35) (upheld by *Versata*

Development Group, Inc. v. SAP Am., Inc., 2015 WL4113722 (Fed. Cir. July 9, 2015)). “The term financial is an adjective that simply means relating to monetary matters.” *SAP Am.*, CBM2012-00001, Paper 36 at 23; *see also Informatica Corp. v. Protegrity Corp.*, CBM2015-00010, Paper 26 at 6-7 (PTAB June 11, 2015) (patent is a CBM patent where figure depicts a user interface where a “Financial manager” or “Controller” is authorized to access data in a database regarding a “Social allowance” or “Housing allowance”). In *Apple Inc. v. Sightsound Techs., LLC*, CBM2013-0019, SLIP OP. AT *12 (PTAB Oct. 8, 2013) (Paper 17) the PTAB held that “an agreement between two parties stipulating movements of money or other consideration now or in the future” qualified as a financial product or service.

All independent claims cover methods or systems for calculating compensation:

- Claim 1: “a controller to calculate an aggregated compensation for each attraction . . . wherein the controller does not compensate the attractions based on the actual use of the reward terminals at a time of the actual use of the reward terminals via a card.”
- Claim 8: “a controller [to] calculate an aggregated compensation . . . wherein the controller does not compensate the attractions based on the actual use of the reward terminals at a time of the actual use of the reward terminals via a card.”

- Claim 18: “transmitting the use of the user code to a controller for calculation of an aggregated compensation . . . wherein the controller does not compensate the attractions based on the actual use of the reward terminals at a time of the actual use of the reward terminals via a card.”

In a case factually similar the Board held that “payment validation is a financial activity, and conditioning data access based on payment validation amounts to a financial service.” *Apple Inc. v. Smartflash LLC*, CBM2014-00194, Paper 9 at 8 (Decision to Institute) (PTAB March 30, 2015). In *Apple* the patent in suit (U.S. 8,118,221 or “the ’221 Patent”) “describes providing portable data storage together with a means for conditioning access to that data upon validated payment. This combination allows data owners to make their data available over the Internet with less fear of data piracy.” *Id.* at 4 (citations omitted). “[T]he portable data storage device is connected to a terminal for Internet access. The terminal reads payment information, validates that information, and downloads data into the portable storage device from the data supplier.” *Id.* Further, “the data carrier may be a generic, known, hardware device such as a ‘standard smart card.’” *Id.* at 15.

Similar to the claims in *Apple*, the ’128 Patent claims are directed to methods and systems for accessing and compensating an attraction. Each of these independent claims are directed to receiving data of actual use from terminals. In other words, information associated with the card is read, access is allowed or denied, data is

transferred to the controller, and then compensation is calculated. This process is highly similar to the '221 Patent claims, which allow or deny access to data. For the same reasons as in *Apple*, the Board should find the '128 Patent is directed to a “financial product.”

Thus, the purported invention is a “financial product” because it explicitly claims systems and methods relating to “financial activity” and “monetary matters.” *See* AIA § 18(d)(1); 77 Fed. Reg. at 48753.⁵

B. The Claims Are Not Directed to a “Technological Invention”

The AIA excludes “patents for technological inventions” from the definition of CBM patents. AIA § 18(d)(1); 37 C.F.R. § 42.301.⁶

⁵ The specification is also is directed to a financial product or service. The '128 Patent is directed to methods and systems for “computing compensation for an attraction based on actual use of smart cards,” The '128 Patent 2:20-22 (Ex. 1001), and “determining the compensation based on the number, the type and the data,” *Id.* at 2:26-28. The specification further describes the alleged invention as “calculate[ing] compensation,” based on uses or time of access to the attraction. *Id.* It describes smart cards as capable as storing data “such as a current financial balance for the card.” 1:23-24 (emphasis added). The patent claims need not explicitly recite particular financial terms to qualify as a CBM patent. *See, e.g., Google v. ContentGuard Holdings*, CBM2015-00040, Paper 9 at 8 (PTAB June 24, 2015). *Salesforce.com, Inc. v. VirtualAgility, Inc.*, CBM2013-00024, Paper 16 at 10-11 (PTAB Nov. 19, 2013).

⁶ The Board “need only assess whether one of the factors set forth [in] 37 C.F.R. § 42.301(b) is deficient to determine whether the [patent] is not for a ‘technological invention.’ ” *Sony Computer Entm’t*, CBM2015-00040, Paper 10 at 12 (PTAB June 24, 2015). Further, to institute a CBM review, a patent need have only one claim directed to a covered business method and is not a technological invention. Office Patent Trial Practice Guide, 77 Fed. Reg. 48756 (Aug. 14, 2012); *see also SAP Am.*, CBM2012-00001, Paper 36 at 26.

Claims drafted to recite known technologies “such as computer hardware, communications or computer networks, software, memory, ... display devices or databases” generally do not constitute a technological invention. 77 Fed. Reg. 48763 at 48764. Nor is “combining prior art structures to achieve the normal, expected, or predictable result of that combination.” *Id.* Even sequencing elements in a way unknown in the prior art does not avoid classification as a covered business method patent if it uses known prior art technology. *Motorola Mobility v. Intellectual Ventures I, LLC*, CBM2015-00004, Paper 33 at 27 (PTAB March 27, 2015), *citing Versata*, 793 F.3d at 1326 (approving of the Board’s reliance on the criteria in the *Office Patent Trial Practice Guide*).

1. Claim Elements of the ’128 Patent were Known in the Prior Art

All of the elements in the ’128 Patent were known in the prior art. The following key evidence will be referenced and discussed throughout this petition.

- *Smart Card Handbook* 4th Edition (German) (Exs. 1008, 1009, 1010, and 1011) & *Smart Card Handbook* 3rd Edition (English) (Ex. 1007) (“Smart Card Handbook”): The *Smart Card Handbook* is a thorough reference covering electronics and software relating to card based computing systems. It discusses card related computing architectures, application design, telecommunications, payment systems, terminals, data transfer, operating systems, and the history behind each.

- U.S. Patent No. 6,970,850 entitled *Proximity Service Provider System* (“the ’850 Patent”) (Ex. 1020): The ’850 Patent also discloses electronics and software relating to card based computing systems. It discloses well known, commercially available, client/server systems and how those are used to manage access and compensation between proximity service providers (such as an attraction) and third parties. Moreover, it discloses the business lifecycle, discussed *supra*, between tourists (customers), attractions (proximity services), and system managers (PSPS).
- Examples of known existing multi-attraction sales and access: Numerous examples of multi-attraction management systems will be discussed, including:
 - The New York Pass website (Exs. 1016 & 1017) which discusses a passcard used to gain access to multiply attractions in New York City.
 - Snow.com Lift Tickets website (Exs 1018, 1019 & 1031) which discusses a multiple day, multiple ski park, pass in Colorado.
- www.cardwerk.com (“cardwerk website”) (Ex. 1005) which discusses the history of smart cards.

These references, and others, will be further interpreted by the Declaration of Roger Bodamer (Ex. 1032), an expert in the field of commercial software and

electronics systems.

2. The Relied Upon Evidence is Authentic Prior Art

Evidence used in this petition should, on its face, be understood as prior art. However, in an abundance of caution, iVenture discusses why each of the pieces of evidence should be acknowledged as authentic prior art. iVenture assumes that the priority date for the '128 Patent is July 13, 2003, but reserves all rights to challenge patent owner's assertion to this date.

Evidence	Date of Publication before July 13, 2003	Discussion
www.cardwerk.com ("cardwerk website")	December 1, 2001	In <i>SDI Technologies, Inc. v. Bose Corp.</i> (IPR2013-00350) Paper No. 36 (December 11, 2013) the board held that webpages from The Internet Archive facially appearing authentic and currently accessible were authentic.
Smart Card Handbook 4 th Edition (German)	2002 Copyright, Publication, and Indexing.	Worldcat library catalogue shows that the Handbook was published in 2002. (Ex. 1027) Further, Katalog der Fachhochschule Westküste – shows that it was indexed in 2002 in Munich. (Ex. 1026) As per the declaration of Mr. Cox, the English version (3 rd Ed.) is a direct and complete translation of this German version. (Ex. 1021).
Data Modeling Handbook	1994	The Worldcat Library Index demonstrates indexing and publication in 1994. (Ex. 1029)
Operation Based Merging	1992	Includes all the indicia of an authentic document, as published in 1992 by the Association of Computing Machinery.

Unix Network Programming	1990	The Worldcat Library Index demonstrates indexing and publication in 1990. (Ex. 1030)
The C Programming Language	1988	The Worldcat Library Index demonstrates indexing and publication no later than 1988. (Ex. 1028)
The New York Pass (FAQ's) - website	November 21, 2002	<i>See SDI Technologies, Inc. v. Bose Corp.</i> (IPR2013-00350) Paper No. 36 as discussed above.
The New York Pass Price List – website	November 19, 2002	<i>See SDI Technologies, Inc. v. Bose Corp.</i> (IPR2013-00350) Paper No. 36 as discussed above.
Lift ticket options 2-12-2003 - website	February 12, 2003	<i>See SDI Technologies, Inc. v. Bose Corp.</i> (IPR2013-00350) Paper No. 36 as discussed above.
Lift Ticket Pricing - website	February 12, 2003	<i>See SDI Technologies, Inc. v. Bose Corp.</i> (IPR2013-00350) Paper No. 36 as discussed above.
Shakespeare's Globe	January 31, 2003	Includes all the indicia of an authentic document. The document explicitly discloses its publication date.
U.S. Patent No. 6,970,850	October 26, 2000	Although the '850 Patent claims priority to two provisional applications, its filing date is sufficient to establish it as prior art. 35 USC § 102(e)(2).
SmarTrip More Than a Smart Card	August 2, 2002	<i>See SDI Technologies, Inc. v. Bose Corp.</i> (IPR2013-00350) Paper No. 36 as discussed above.
Metro Fares and Hours	August 2, 2002	<i>See SDI Technologies, Inc. v. Bose Corp.</i> (IPR2013-00350) Paper No. 36 as discussed above.
Smart Benefits	August 7, 2002	<i>See SDI Technologies, Inc. v. Bose Corp.</i> (IPR2013-00350) Paper No. 36 as discussed above.
Snow.com Lift Ticket Options	February 12, 2003	<i>See SDI Technologies, Inc. v. Bose Corp.</i> (IPR2013-00350) Paper No.

4/3/04 website		36 as discussed above.
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3. **Taken as a Whole One or More Claims Do Not Recite a Novel and Non-obvious Technological Feature**

Where computerized elements performing method steps were known in the prior art, and the patent specification stated that the invention could be implemented on various known platforms, such as computers, televisions, telephones, and transmission networks the PTAB has recognized that no novel or non-obvious technological feature existed. *See Google Inc. v. SimpleAir, Inc.*, CBM2014-00170 (PTAB Jan. 22, 2015) (Paper 13). The same situation exists here.

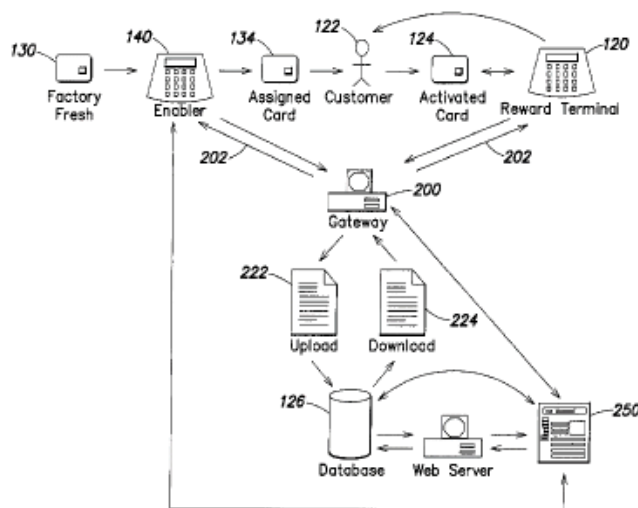
a) The '128 Patent Uses Known Computing Components

The purported invention of the '128 Patent includes various software modules running on conventional computer components. Everything illustrated in Figure 2 of the '128 Patent, and described in the accompanying text, was conventional technology used in conventional ways before the asserted priority date. Bodamer Decl. Section VII.A and VII.B ¶¶ 51-72 (Ex. 1032). As expert Roger Bodamer explains: “One of skill in the art reviewing the '128 Patent schematics would find them to reference a generic smart card (130, 134, 124), a standard computer (gateway) (200), a database (126), and a web server. The upload (222) and download

(224) code (e.g. data storage and transfer) which enables communication between the card reader, gateway, and database was well known, conventional, and routinely developed.” *Id.* at ¶ 112 (Ex. 1032). The ’128 Patent specification discloses the availability of each of these elements in the prior art. *Id.* at Section VII.A ¶¶ 51-59, as the following excerpts confirm:

(1) **Fashionable uses of smart card technology:**

“Smart card technology has become *fashionable* in a variety of contexts [I]t has an embedded microprocessor for storing information, used for banking, medical alerts, etc. Such devices may



be used by inserting the card into a reading device which includes a processor.” ’128 Patent at 1:21-32 (Ex. 1001).

(2) **Known, patented, smart card reading devices:** “When a purchaser buys and uses the card (e.g., by ‘dunking’ it in a reader), the reader can verify that the card has been programmed.” *Id.* at 1:35-37 (Ex. 1001). “Some examples of such as system are described in U.S. Pat. No. 6,738,750.” *Id.* at 1:47-49 (Ex. 1001).

(3) **Known, commercially available, computer servers and gateways:** “[T]he gateway **200** may be a standard personal computer or mainframe computer

that may be running an operating system such as Linux or Microsoft Windows™. In a preferred example, the gateway may include a PowerEdge 400SC from Dell running Red Hat versions 9 Linux. However, the system is not so limited and it is to be appreciated for example that *any server grade computer from any of the major manufacturers* including, for example, Gateway, Dell, HP, IBM and the like, may be used in this example of the system. Likewise, any major Linux distribution may be used including SuSe, Mandrake, Debian, and others in addition to Red Hat. *Id.* at 21: 43-55 (emphasis added).

(4) Standard databases:

- “‘Database’ as used herein includes any data structure to store data and a ‘database’ may be a collection of separate databases or a subset of data in a larger database.” *Id.* at 11:39-41.
- Databases include well known SQL or ASCII files:
 - “The gateway may write the received records in an ASCII file.” *Id.* at 23:34;
 - The upload program may “store[s] the information in the database via SQL.” *Id.* at 24: 41-42.

(5) Ordinary data storage and transfer: Storing and transfer of data was well known in the art and explicitly acknowledged in the disclosure:

- “[T]he database and the gateway may reside on the same computer base

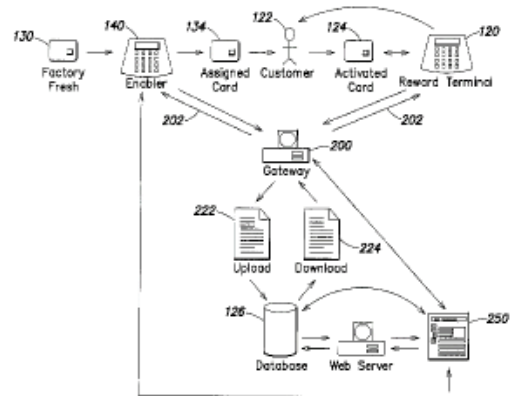
and *ordinary methods known in the art may be used to access and store data in the database.*” *Id.* at 24:51-54 (emphasis added);

- “[O]ne of ordinary skill in the art would appreciate, . . . that there would be many methods for controlling data transfer between a computer and a database.” *Id.* at 25:46-51;
- “*Methods known* in the art may be used by the gateway computer to access the database and obtain information there from or write information thereto.” *Id.* at 25:51-54 (emphasis added).

(6) **Prior systems for accessing multiple attractions:** “[O]thers have provided systems where tourists may purchase a pass that can be used at a variety of attractions. One example is a pass that is good for access to more than one ski area. Another is a day pass that allows access to various attractions.” *Id.* at 1:16-20. Therefore, similar to *Google*, the ’128 Patent explicitly discloses that the claimed methods and systems can be implemented with known existing elements and platforms. Just as in *Google* the method steps of “receiving,” and “transmitting” data among the elements were known in the prior art. *See also* Bodamer Decl. Section VII.A ¶¶ 51-59 (Ex. 1032).

b) The Known Computing Components Were Used in A Standard Client/Server Architecture

Further, the computing components, as shown in Fig. 2 are used in ways known before the priority date of the '128 Patent. Specifically, as disclosed in *The Smart Card Handbook* (Ex. 1007) and the Bodamer Decl. ¶¶ 51-72 (Ex. 1032), architecting the above elements in a client/server configuration, and transferring data in a centralized or decentralized manner (or combination of the two) was well known in the prior art.



Client/Server Architecture: A basic

architecture for a card system is shown right from Fig. 12.2 of *The Smart Card Handbook*. Ex. 1007 at 677. It consists of a background system which communicates, downloads, and uploads data through a computer network, e.g., a client/server system where the

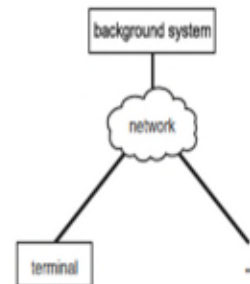


Figure 12.2 The basic architecture of a centralized system for electronic payments. All of the illustrated connections are permanent

“background system” is the server and the terminal is the client. The '128 Patent also discloses and claims a client/server architecture. Again, referring to Fig. 2 of the '128 Patent, a server (250), or gateway (200), exchanges data over a telecommunications connection (202) to a terminal client device. For example:

- in claim 1 a network interface receives data from the terminal client;
- in claim 8 a controller receives data from the terminal client; and
- in claim 18 the terminal transmits a user code to a controller (server).

Centralized vs. Decentralized Data Transfer: The techniques of the '128 Patent using centralized or decentralized data transfer was well known in the art. For example, *The Smart Card Handbook* discloses both these architectures. “The system architecture of an electronic payment system using smart cards can be either centralized or decentralized.” *The Smart Card Handbook* Ex. 1007 at 677. “A centralized system means an online system in which every payment transaction is performed directly and online by the background system.” *Id.* A decentralized

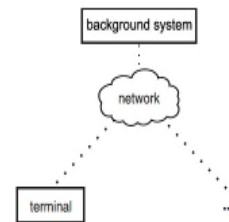


Figure 12.3 The basic architecture of a decentralized system for electronic payments. All of the illustrated connections can be established as needed

system is shown in Fig. 12.3. In a decentralized system the connections between client and server are established as needed. *Id.* at 678. Further, a “mixed solution consists of allowing both the terminals and the smart cards to compel online connections under certain conditions.” *Id.* The '128 Patent also discloses both types of systems. “Each terminal is coupled to a central controller that manages the system and collects data from the terminals. In this context, ‘coupled’ includes any vehicle for communicating data, including for example a direct connection, [and/or] a periodic networked connection.” '128 Patent at 4:65-67 (Ex. 1001). “In one

embodiment . . . the terminals may be coupled to the central controller once per night for batch-processing of the exchange of data.” *Id.* at 5:1-3 (Ex. 1001).

Similarly, the ’850 Patent also discloses electronics and software relating to card based computing systems. It discloses well known, commercially available, client/server systems and how those are used to manage access and compensation between proximity service providers (such as an attraction) and third parties. Specifically, Figure 13 discloses client terminals, referred to as system machine programs (“SMP”), including Point of Sale (“POS”) terminals, Access Control terminals, Arcade based terminals, kiosks, and amusement rides. *See* box labeled 1360. Servers, referred to as system computer/network programs, include those manufactured by Compaq, Dell, IBM running commercially available operating systems such as Microsoft Windows, Unix and OS/2. Figure 13 also discloses networking communication devices such as those manufactured by Cisco and Lucent, which enable access to the internet. *See* box labeled 1330. The right side of Figure 13 shows a user interface that interfaces to access terminals residing at multiple theme parks. *See* box labeled 1310.

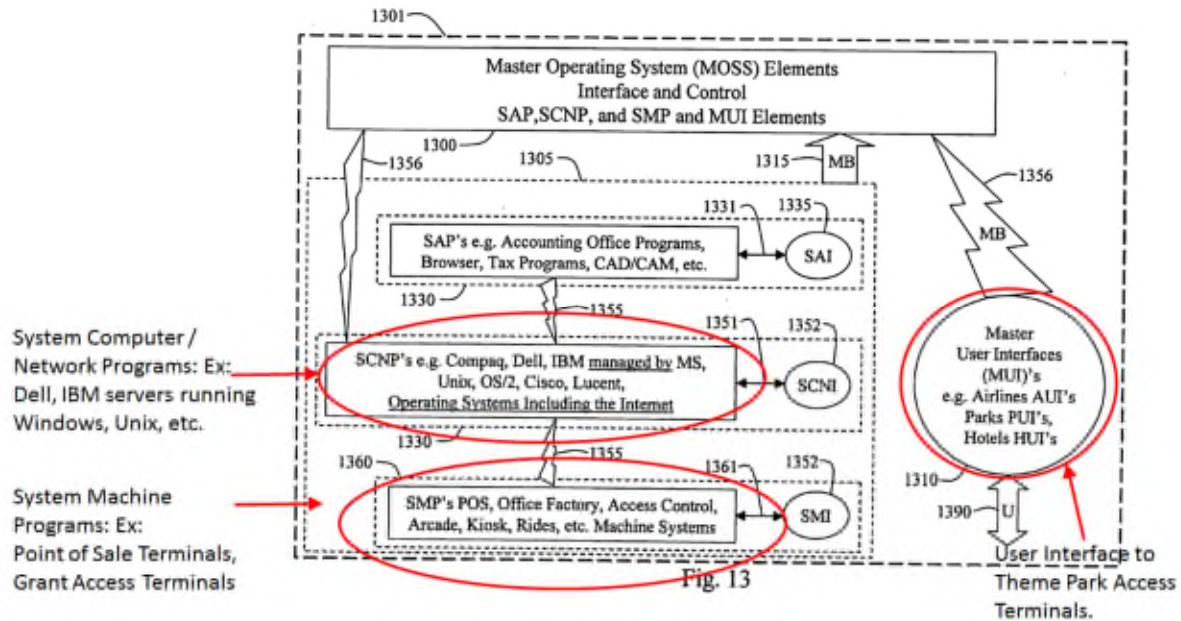
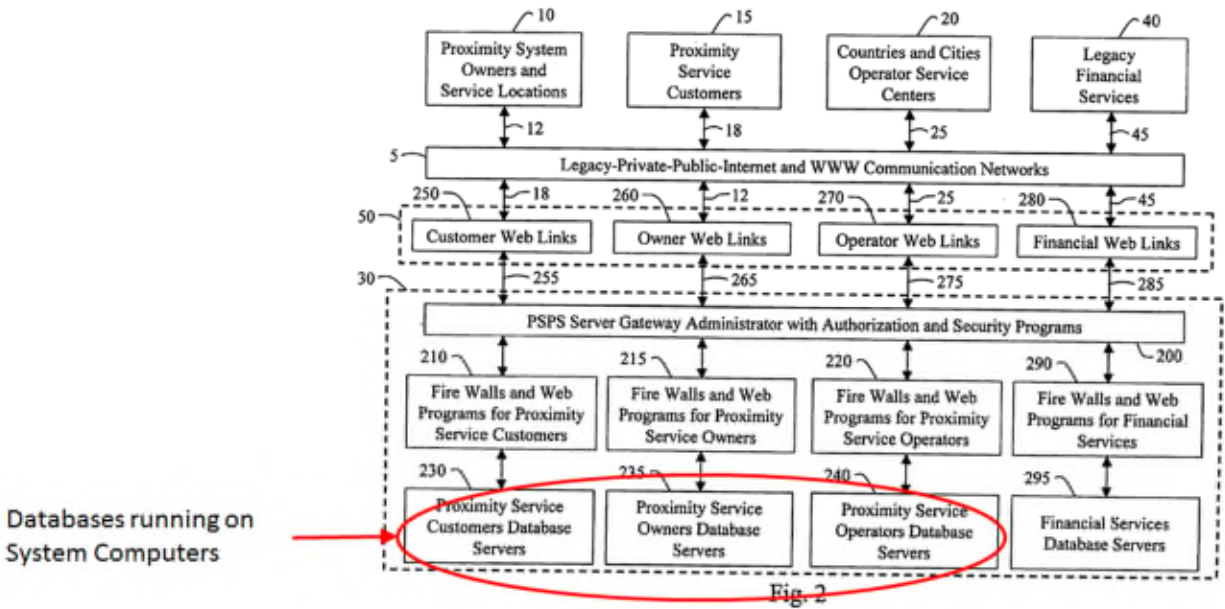


Figure 2 of the '850 Patent shows a slightly different view of the same client/server architecture, including explicit references to databases, interfacing with customers, owners, and operators of proximity services, such as amusement parks and parking structures.



Both *The Smart Card Handbook* and the '850 Patent disclose commercially available client/server architectures well known in the industry prior to the priority date of the '128 Patent. A person having ordinary skill in the art would understand that the '128 Patent uses this same fundamental client/server architecture. Bodamer Decl. ¶¶ 60-72 (Ex. 1032). In *Apple Inc. v. Smartflash, LLC*, CBM2014-00102 (PTAB Sept. 30, 2014) (Paper 8) and *Apple Inc. v. Smartflash, LLC*, CBM 2014-00103 (PTAB Sept. 30, 2014) (Paper 8) the PTAB held that the patent did not recite a novel or non-obvious technological feature where the specification disclosed that the method could be implemented on existing systems and that the “physical embodiment of the system is not critical and a skilled person will understand that the terminals, data processing systems and the like can all take a variety of forms.” *Id.* at pg. 11 (*citing* U.S. 8,118,221 at 12:29-32). Similarly, here, the specification

discloses that each of the known elements were present and “one of ordinary skill in the art would appreciate . . . that there would be many methods for controlling data transfer between a computer and database and the system is not limited to the specific examples above.” ’128 Patent at 25:46-49 (Ex. 1001).

As described below in the Section 101 analysis, when well-known, conventional, and routine elements are stripped out of the claims, all that is left (at most) are compensation calculations. Determining compensation is not a technology or technological. It has been done for centuries and has been automated in enterprise software systems and spreadsheets for decades. Bodamer Decl. ¶¶ 81-94 (Ex. 1032).

c) The ’128 Patent Claims

Each of the steps of each of the method claims and each of the elements of each of the system claims are present in the prior art. *See* Bodamer Decl. at Section VII.B ¶¶ 73-96 and Appendix A (element by element claim chart) (Ex. 1032).

(1) Receiving Data Relating to Actual Use

Claims 1 and 8: Servers receiving information of actual use of a terminal in order to grant access to a location, event, or attraction is well known in the prior art.

Claim 1	Claim 8	Claim 18
receive data corresponding to actual use of reward terminals to access respective attractions of the plurality of	receive data of actual use to access a plurality of attractions from the at least one reward terminal once every	receiving the user code at a reward terminal, recording, by the reward terminal, the use of the user code

attractions for a time period,	predetermined time period, and	to access the reward associated with the at least one tourist attraction; and
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As discussed above, client/server systems were well known in the prior art and discussed extensively in the *Smart Card Handbook* and the '850 Patent. *See* discussion *supra*. Specifically, the '850 Patent describes servers receiving access information from proximity owners/operators, using terminal based access devices, for compensation calculations.

The cyber card codes entered into the proximity service systems **3** can be batched in the proximity service systems **3** and then periodically transferred to the PSPS web-site **30** and entered into the owners [sic] location database **400**. The information associated with the legacy codes, i.e. transaction data in which the PSPS web-site **30** does not guarantee payment, is preferably transmitted to PSPS web-site **30** in real time and entered into the owners [sic] location database **400** in real time.

'850 Patent at 16:8-18 (Ex. 1020); *see also* Bodamer Decl. ¶¶ 56-66 (Ex. 1032).

As discussed *supra*, the claimed systems and methods utilize a client server architecture that passes data between the client terminals and server controllers.

Claim 18: Terminals were well known in the prior art, and were designed to

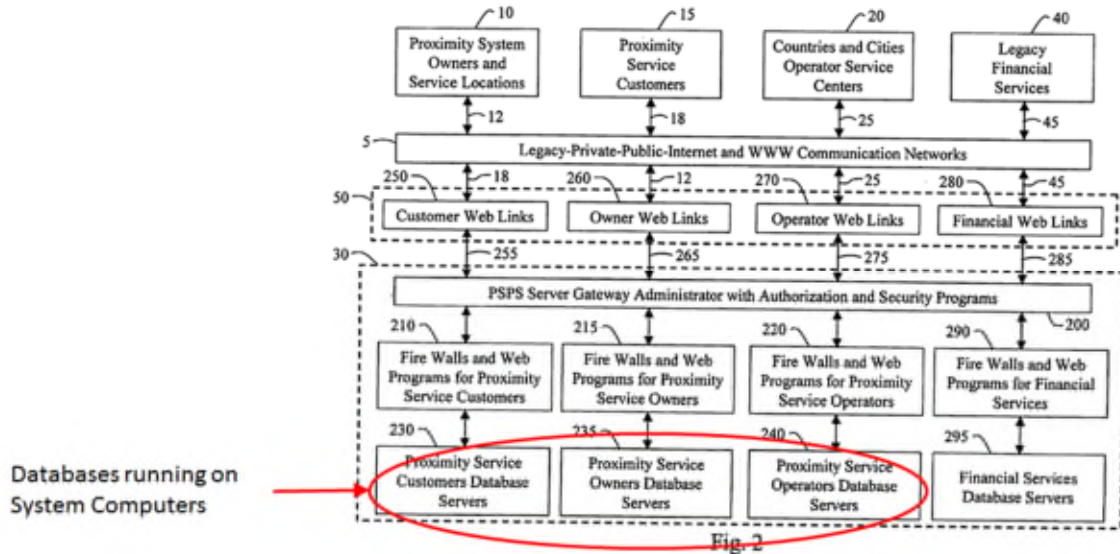
receive codes that can be associated with one or more attractions. *See The Smart Card Handbook*, Chapter 11 (Ex. 1007); *see also* Bodamer Decl. ¶ 69 (Ex. 1032). Associating a code with individual users for access to services was known in the art and would be a conventional use of conventional software developers, as the '850 patent confirms:

The special cyber card code can be utilized in conjunction with the customer access cyber card code to authorize services locally at the service location (or proximity service system) without [sic] having to get remote authorization each time a service or product is delivered

'850 Patent at 6:45-50 (Ex. 1020).

(2) Storing Data in a Standard Database

Claim 1	Claim 18
a database to store the at least one product definition; a database to store the data corresponding to the actual use of the reward terminals to access the attractions; and	a database, coupled to the controller, that stores the information to be provided to the at least one reward terminal and the data received from the at least one reward terminal;



Databases storing information sent from proximity service owners/operators was known in the prior art and discussed in the '850 Patent. Above is Fig. 2 showing databases running on servers storing information from the proximity service providers, as well as users and financial service providers.

Further, the '128 Patent acknowledges the existence of many types of databases in the prior art, and does not improve upon them.

- “‘Database’ as used herein includes any data structure to store data and a ‘database’ may be a collection of separate databases or a subset of data in a larger database.” ’128 Patent at 11:38-40.
- Databases include well known SQL or ASCII files;
 - “The gateway may write the received records in an ASCII file.” *Id.* at 23:34;
 - The upload program may “store[s] the information in the database

via SQL.” *Id.* at 24:41-42.

The Smart Card Handbook also discloses that a “subset of the database query language SQL (structured query language) has been standardized for use with smart cards in ISO/IEC 7816-7. *The Smart Card Handbook* at 483 (Ex. 1007). It discusses dozens of detailed database implementations. *See* section 7.13 for details on SCQL (“Smart Card Query Language”).

(3) Calculating Aggregated Compensation Based on Actual Use

Independent claims 1, 8, and 18 focus on calculating “aggregate compensation” based on use of terminals “wherein the controller does not compensate the attractions based on the actual use of the reward terminals at a time of the actual use of the reward terminals via a card.”

(a) *Aggregated Compensation*

The concept of having a centralized system manager paying aggregated compensation to attractions, rather than per-use payments, was known in the art. For example, U.S. 6,970,850 *Proximity Service Provider System* (“PSPS”) discloses centralized systems and methods for managing proximity services and includes ticket marketing, access authorization, fee collection, and aggregated compensation distribution to the proximity services or their operators. Proximity service systems include Point of Sale (“POS”) stations, ATM machines, toll gates, gas pumps, kiosks, pay phones, vending machines and parking meters “to name a few.” ’850

Patent at 1:33-36 (Ex. 1020) The specification also discloses systems such as “toll tags, gate and garage access” *Id.* at 2:30-31. Claim 10 specifically lists “access services” as a proximity service. Further, aggregated compensation is a feature of the ’850 Patent.

As described in Section IV.B.1 the ’128 Patent coordinates three entities, the tourist, the attraction, and the system manager. Analogously, the ’850 Patent coordinates three entities, the customer (tourist), the proximity service (attraction), and the PSPS (system manager). The flow of money between the three entities is also the same. As described above, “money flows from the Tourist, to the System Manager, and then to the Attraction.” Analogously, in at least one embodiment of the ’850 Patent money flows from the customer, to the PSPS, and then to the proximity service. The proximity service, or its operator, can be paid at the time of customer use, or at a later time after the uses are aggregated:

The . . . cyber card . . . is for receiving one of the approved services when at a specific location and these cyber card[s] . . . may be renewed by each customer at predetermined times. This feature allows the PSPS *service payments to be guaranteed to the owner of the proximity service system providing the services to the consumer without having to have remote authorization services each time the customer wants a relatively*

inexpensive service, such as the dispensing of soda pop or ice cream at an amusement park, for example. Also the feature is considered much less bothersome than refilling a smart card with money, for example, each time the card runs out of money. In addition, [sic] limits can be put on a customer's account, either by the customer or the PSPS website operator, and the cyber card becomes invalid when received services of all types exceed these predetermined amounts.

'850 Patent at 5:54-6:2 (Ex. 1020) (emphasis added). Therefore, the PSPS system compensates the proximity owner/operators at a time after initial use of the proximity service by the customer, and sends an aggregated payment after multiple uses. The specification clarifies that the aggregate compensation may be paid on a daily or weekly basis:

PSPS cyber card delivered transaction data might be delivered several times a day or weekly from the proximity service systems to the PSPS website, depending on the collection method used by the proximity service owner and desirably lists the customer cyber card code along with the amount charged for each service at each location along with the time the service was delivered.

Id. at 6:27-33 (Ex. 1020). Again, the '850 Patent specifies that an attraction owner

will be *eventually* paid after a period of time:

The above description is in regards to how the special local **15** authorization credit approval **370** may work in terms of using the special cyber card code by the customer **15** for a service and the owner **10** *eventually gets paid* and the web-site owner **30** collects from the customer **15** and provides the customer **15** a report listing all the charges, locations and service dates for example.

...

When the customer **15** is approved locally . . . or any other means agreed to between the respective owners **10** and PSPS web-site **30** owners that guarantee the payment, the amount of the transaction is computed (for example if the service is for parking the amount may be \$3.00 an hour).

Id. at 15:46-60 (Ex. 1020).

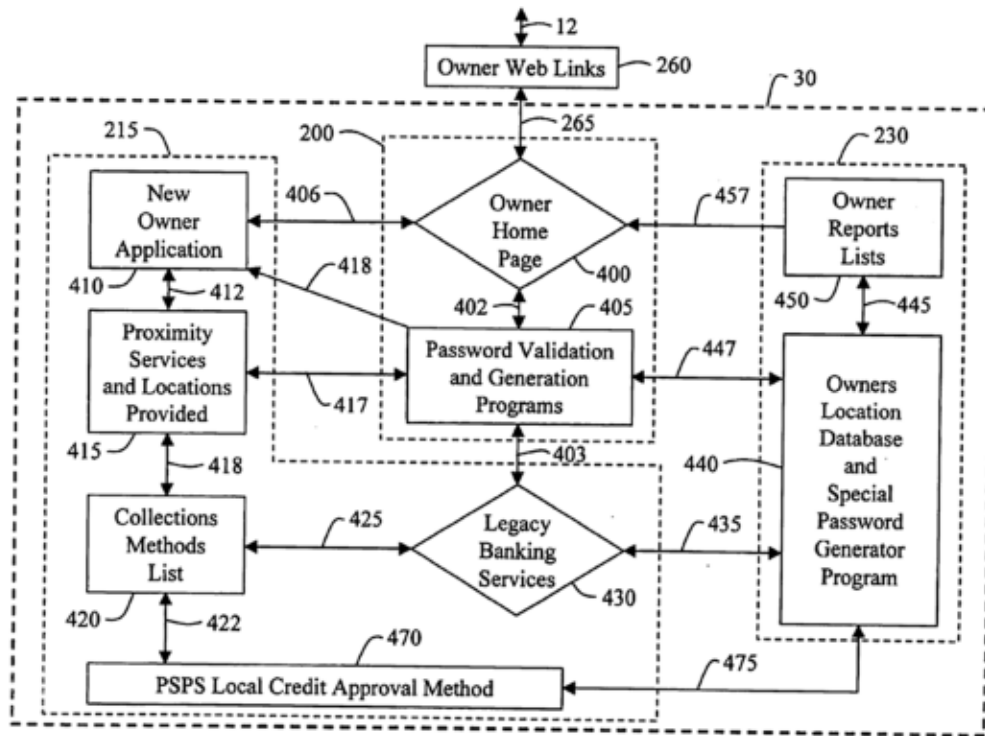


Fig. 4

Fig. 4 of the '850 Patent above shows the proximity owners viewpoint into the PSPS system. As one can see the system includes: (1) links to legacy banking systems (430); (2) owner report lists (450); (3) PSPS local credit approval method; (4) proximity services and locations provided; and (5) collection methods lists.

These computing services work together to allow compensation to flow in an aggregated fashion from the customer to the PSPS system (*e.g.* the system manager) and finally to the proximity service owner. This may occur in an aggregated fashion. *See* Bodamer Decl. ¶¶ 82-85 (Ex. 1032).

(b) *Actual Use*

Actual Use is not explicitly defined in the specification or claims of the '128 Patent, however a variety of examples are given. The claims restrict access, and

thereby actual use, by time or frequency. For example, the attraction may be:

- “constrained in time” (claims 5 & 22);
- restricted to “predetermined time period” (claim 15) during which access to the attraction is valid, which may begin on a first “actual use by a user” (claim 16);
- “constrained in frequency of use” (Claim 6 & 23);
- restrained to a “predetermined number of times” an attraction is validly accessed (claim 14).

Each of these methods of calculating compensation were known in the prior art.⁷

(i) “*Constrained in Time*” and
“*Predetermined Time Period*”

Time constraints have been used in the prior art to compute compensation. The New York City Pass system calculates the predetermined time period from the first activation to expiration. *See* FAQ’s (Ex: 1016) The New York City Pass also tracks time using at least 24 hour periods. *See id.* For example, if a 24 hour pass was first used at 8:00 p.m. on a Wednesday it would expire at 8:00 p.m. on Thursday. *See also* Bodamer Decl. Appendix A and ¶¶ 86-92 (Ex. 1032).

In addition, ski resorts set pricing depending on time of use (date) and

⁷ The ’618 Patent describes use as *number of uses*, *time of use*, and *level of use*. These terms largely recast and overlap the uses described in the ’128 Patent.

number of days. The rates decrease as the number of days increases. *See* Snow.com Lift Ticket Pricing (Ex. 1018). *See also* Bodamer Decl. Appendix A and ¶¶ 89-92 (Ex. 1032). It is also well known that live theatre and movie theatres have used matinee pricing for decades. *See* Bodamer Decl. ¶ 92 (Ex. 1032).

Further, the Washington D.C. Metro launched “SmarTrip” prior to invention of the patent in suit. A SmarTrip card enabled access throughout the Metrorail. Value (e.g. money credit) is added onto the SmarTrip Card by either its user, or the user’s employer. A user is granted access to the metro “by touch[ing] the SmarTrip card to the circular target panels on top of or inside the Metrorail station fare gates.” *See* SmarTrip More than a Smart Card (Ex. 1023) and Bodamer Decl. ¶ 90 (Ex. 1032). Fares are then computed by the level of use or time of use. During commute times regular fares are charged, and reduced fares are charged at all other times. More specifically, regular fares are charged 5:30 a.m. to 9:30 a.m. and 3:00 p.m. to 7:00 p.m. *See* Metro Fares and Hours (Ex. 1024) and Bodamer Decl. ¶ 90 (Ex. 1032). Therefore, SmarTrip constrains pricing and compensation by the time of use. Further, use of the Washington D.C. Metro is constrained by hours of operation. *See* Metro Fares and Hours (Ex. 1024), constraining use between the hours of 5:30 a.m. and midnight on non-holiday weekdays.

(ii) “*Constrained by Frequency of Use*”
and “*Predetermined Number of Times*”

The New York City Pass discloses that only a single access per attraction is

possible per day. *See* FAQ's (Ex. 1016). Further, multi-day ski passes limit access by the number of uses. *See* Lift ticket options 2/12/2003 (Ex. 1018).

It is also well known that movie theatres allow access, and are compensated on the premise of one ticket per person per movie screening. *See* Bodamer Decl. Appendix A and ¶¶ 92-93 (Ex. 1032).

(4) Characteristics of Reward Terminals

Claim 1	Claim 8	Claim 18
the reward terminals being located in proximity to the plurality of attractions, being configured to access the respective attractions using at least one product code, the data identifying at least one attraction; and	[controller] be coupled to at least one reward terminal and configured to provide information to the at least one reward terminal, ... the at least one reward terminal being configured to access rewards using at least one user code,	the reward terminal being located in proximity to the at least one tourist attraction and being configured to access a reward associated with the at least one tourist attraction using the user code,

Locating reward terminals in the proximity of attractions was well known in the prior art. For example, *see* Smart Trip More Than a Smart Card (Ex. 1023) showing a terminal for purchasing a smart card at the metro station. *See also* Bodamer Decl. ¶¶ 93-94 and Appendix A (Ex. 1032).

Specific products and discounts based on the identity of the user was also well known in the prior art. "Senior citizens and people with disabilities . . . may

buy specially encoded \$3 and \$10 farecards, or SmarTrip cards, that deduct one-half the regular fare for each trip not to exceed \$1.60.” Metros Fares and Hours (Ex. 1024).

(5) Miscellaneous Information Modeling

Claim 1	Claim 8	Claim 18
<p>[the controller] provide[s] at least one product definition to the reward terminals,</p> <p>the at least one product definition including associations between the at least one product code and the respective attractions,</p> <p>whereby a change in the associations between the at least one product code and the respective attractions changes the access to the respective attractions via the reward terminals using the at least one product code;</p>	<p>wherein the information includes an attraction list of attractions accessible from the at least one reward terminal and</p> <p>a product list of attractions that are accessible with each user code,</p> <p>whereby a change in the product list of attractions changes the rewards that are accessible with the at least one user code; and</p> <p>wherein the data includes a list of user codes and attractions,</p> <p>the user codes associated with users who access rewards for the attractions via the reward terminal during the predetermined time period.</p>	<p>associating a user code with a product, the product associated with the at least one tourist attraction;</p> <p>whereby a change in the product changes the rewards accessible via the reward terminal using the at least one user code;</p>

Modeling and associating data elements was well known in the prior art. *See* Bodamer Decl. at ¶¶ 95-96 and ¶ 72 (Ex. 1032) *citing* to the *Data Modeling Handbook* Chapter 5 and pp 88-94. (Ex. 1012).

Therefore, none of the claimed components of the '128 Patent claims constitute a “technological feature” under 37 C.F.R. § 42.301(b) because the claims cover no new, non-obvious technology and the specification makes clear that known, prior art technology can be used to perform the functions of the alleged invention.

4. The Claims Do Not Solve a Technical Problem with a Technical Solution

The '128 Patent claims are directed to solving the business problem of calculating aggregated compensation based on actual use. Therefore, at best, the '128 Patent solves a business problem, if any such problem ever existed. Similar to *Motorola Mobility* and *Versata* the claims are directed to software that “reads,” “receives,” and “configures” data which is executed on a general purpose computing system. “Likewise, the fact that the steps are accomplished via a general purpose computer (a user station, communication network, and user interface) does not change the character of the invention.” *Motorola Mobility v. Intellectual Ventures I, LLC*, CBM2015-00004, Paper 33 at 30 (PTAB March 21, 2016) *citing Versata*. “This did not change transform claim 17 in *Versata Development* into a technological invention, nor does it do so for claim 1 here.” *Id.* Just as in *Apple* the addition of networks, terminals, and cards cannot transform the functional software claims into a technological invention.

As discussed in the preceding sections the claims are directed to calculating aggregated compensation, not to solving a technical problem. Specifically:

- The '128 Patent specification explicitly states that the invention uses standard technology components. *See* section VI.3.b.
- The '128 Patent Uses the Known Computing Components in a Standard Client/Server Architecture. *See* section VI.3.c.
- As discussed *supra*, a PHOSITA would recognize that the three independent claims each have five elements (whether characterized as a system or a method), none of which solve a technical problem:

(1) receiving data relating to actual use from a terminal;

(2) storing data in a standard database;

(3) calculating an aggregate compensation;

(4) locating terminals proximate to the attraction, configured to access the attraction, associated with a product code, user code or reward; and

(5) modeling the relationships among attributes.

See sections and IV.B, VI.3.d, and VIII.D.2.a for a more thorough discussion of the independent claims.

- Similarly, the dependent claims do not solve a technical problem. The dependent claims cover standard activities that are necessary to compute aggregated compensation. *See* sections IV.B and VIII.D.2.b for a detailed discussion on the characteristics of the dependent claims.

Therefore, no claim of the '128 Patent is directed to a technological invention. Specifically, the claims, taken as a whole, do not receipt a novel and non-obvious technical feature. Lastly, the claims do not solve technical problem with a technical solution. Rather, the claims address a business problem or calculating compensation and apply standard, known computing components in a standard client/server architecture to achieve this business goal.

VII. CLAIMS 1-24 ARE INVALID UNDER SECTION 101

Claims 1-24 of the '128 Patent are invalid under 35 U.S.C. § 101 for claiming unpatentable subject matter.

iVenture's proposed construction of terms in the challenged claims is provided above, and the evidence relied upon and the precise reasons why the claims are unpatentable are provided in the following sections of this petition. The evidence relied upon in this petition is also listed in Attachment A.

VIII. THE '128 PATENT CLAIMS UNPATENTABLE SUBJECT MATTER UNDER 35 U.S.C. § 101

“Laws of nature, natural phenomena, and abstract ideas are not patentable” under Section 101 of the Patent Act. *Alice Corp. v. CLS Bank Int'l*, 134 S.Ct. 2347, 2354 (2014); *see also Versata Development Group*, 2015 WL4113722, *21 (confirming that a CBM petition can assert unpatentability under Section 101). The U.S. Supreme Court has created a two-step framework for determining whether a patent falls within this exception to patent eligibility. *Alice* at 2355. The first step

is to determine whether the claims as a whole are directed to a patent-ineligible concept, such as an abstract idea. *Id.* In so doing, one “must be careful to avoid allowing the typically convoluted claim language—‘patentese’—to obfuscate the general purpose and real essence of software patent claims.” *In re TLI Comm’s LLC Patent Litig.*, 2015 WL 627858, at *6 (E.D. Va. Feb. 6, 2015) (*affirmed in In re TLI Commc’ns LLC Patent Litig.*, No. 2015-1372, 2016 WL 2865693, at *1 (Fed. Cir. May 17, 2016)). In interpreting the first step the Federal Circuit has recently stated that the “directed to” inquiry “applies a stage-one filter to claims, in light of the specification, based on whether ‘their character as a whole is directed to excluded subject matter.’” (citing *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015); see *Genetic Techs. Ltd. v. Merial LLC*, 2016 WL 1393573, at *5 (Fed. Cir. 2016) (inquiring into “the focus of the claimed advance over the prior art”). *Enfish, LLC v. Microsoft Corp.*, No. 2015-1244, 2016 WL 2756255, at *4 (Fed. Cir. May 12, 2016).

If a patent is directed to an abstract idea, the second step of the analysis is to consider the elements of the claim to assess whether they “transform the nature of the claim into a patent-eligible application of the abstract idea.” *Content Extraction & Transmission LLC v. Wells Fargo Bank, N.A.*, 776 F.3d 1343, 1347 (Fed. Cir.

2014).⁸ The PTAB, the Federal Circuit, and federal district courts, have found a wide range of software patents, specifically those directed to financial matters, as pertaining to ineligible subject matter under *Alice*. “For instance, fundamental economic and conventional business practices are often found to be abstract ideas, even if performed on a computer.” *Enfish, LLC* at *4 (citing *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362-63).

A. The Leading Safe Harbors for Patentability are Inapplicable

The leading safe harbors for patentability relating to computerized methods are inapplicable here. The courts and the PTAB have recognized that when the claimed invention is directed to improving the underlying computing technology, the invention may be patentable. *See DDR Holdings v. Hotels.com L.P.*, 773 F.3d 1245 (Fed. Cir. 2014) and *Enfish, LLC v. Microsoft Corp., et. al.* No. 2015-1244, 2016 WL 2756255 (Fed. Cir. May 12, 2016). However, these leading cases are inapplicable here because there is no credible improvement to the underlying technology. Rather, the ’128 Patent freely admits that it relies on general purpose computing systems.

⁸ In conducting its analysis under *Alice*, the Board need not analyze every challenged claim. Instead, so long as “all the claims are substantially similar and linked to the same abstract idea,” the Board may identify and analyze representative claims. *Content Extraction*, 776 F.3d at 1348 (affirming invalidity of 4 patents with a total of 242 claims based on analysis of representative claims).

B. The Closest Cases and The Vast Majority of Software Cases Readily Find the Claims Lacking Patentable Subject Matter

The PTAB, the Federal Circuit, and many district courts consistently hold that claims and subject matter similar to those in the '128 Patent are patent ineligible.

For example:

The Federal Circuit has consistently held that claims directed toward certain financial transactions are abstract ideas.

- *See Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass'n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014) (citing *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) (“creating a transaction performance guaranty for a commercial transaction on computer networks such as the Internet”));
- *See Accenture Global Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1338 (Fed. Cir. 2013) (“generating rule-based tasks for processing an insurance claim”);
- *See Bancorp Servs., L.L.C. v. Sun Life Assur. Co. of Canada (U.S.)*, 687 F.3d 1266, 1278 (Fed. Cir. 2012) (“managing a stable value protected life insurance policy”);
- *See Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333 (Fed. Cir. 2012) (“processing loan information through a clearinghouse”). This Board recently held 67 claims directed to a “system for remote data

acquisition, and centralized processing and storage of the acquired data” unpatentable under Section 101. *Fidelity National Infor. Services, Inc. v. DataTreasury Corp.*, CBM2014-00020, Paper 34 at 2, 20 (PTAB Apr. 29, 2015).

Similarly, the Eastern District of Texas (“EDTX”) has found multiple patents, factually similar to the case at bar, ineligible for protection. For example:

- The Honorable Judge Bryson invalidated two patents directed to loyalty reward programs. *Loyalty Conversion Sys. Corp. v. Am. Airlines, Inc.*, 66 F. Supp. 3d 829, 831 (E.D. Tex. 2014). In concluding the claims patent ineligible Judge Bryson opined: “In short, such patents, although frequently dressed up in the argot of invention, simply describe a problem, announce purely functional steps that purport to solve the problem, and recite standard computer operations to perform some of those steps. *Id.* at 845 citing *Alice*, 134 S.Ct. at 2355, 2357; *Mayo Collaborative v. Prometheus Labs.*, 132 S. Ct. 1289, 1294 (2012). “As such, they represent little more than functional descriptions of objectives, rather than inventive solutions.” *Id.* citing *Alice*, 134 S.Ct. at 2354; *Mayo* at 1301–02.
- Similarly, the Honorable Judge Gilstrap held that U.S. Patent No. 5,924,080, directed to a “membership discount program,” was invalid.

“The remaining nine steps recite generic functions that occur after a computer has received a data input. These include “uploading,” “comparing,” “computing,” “downloading,” and “sorting” the data on various computers in the network.” *Nexuscard, Inc. v. Kroger Co.*, No. 2:15-CV-968-JRG-RSP, 2016 WL 1162180, at *4 (E.D. Tex. Mar. 24, 2016).

C. The Challenged Claims Are Directed to the Abstract Idea of Calculating Aggregated Compensation for Attractions Based on Actual Usage

Under the first step of the *Alice* analysis, the ’128 Patent claims as a whole are directed to the abstract and well-known idea of calculating aggregated compensation for attractions based on actual usage (over some period of time, but not at the actual time of use). *See generally* Bodamer Decl. at ¶¶ 108-122 (Ex. 1032). Calculating aggregate compensation based on actual usage (over some period of time, but not at the actual time of use) is what the claims are designed to achieve. Each of the independent claims calculate “aggregated compensation” based on “actual use” . . . of the terminals “wherein the controller does not compensate the attractions based on the actual use of the reward terminals at a time of the actual use of the reward terminals via a card.” The prosecution history and the claims are clear that the claimed advance over the prior art is calculating aggregated compensation based on actual usage (over some period of time, but not at the actual time of use).

As discussed above, the applicant specifically distinguished the claims over prior art based on calculating “aggregate compensation . . . wherein the controller does not compensate the attractions based on the actual use of the reward terminals at a time of the actual use of the reward terminals via a card.”

Using a card to access an attraction and calculating aggregated compensation based on actual use of the attraction have been disclosed in the prior art. Bodamer Decl. ¶¶ 81-94 (Ex. 1032). For example, in the ’850 Patent compensation may be completed by either “legacy cards” (*i.e.* credit cards) or cyber cards, to pay aggregated amounts.

The . . . cyber card . . . is for receiving one of the approved services when at a specific location and these cyber card[s] . . . may be renewed by each customer at predetermined times. This feature allows the PSPS *service payments to be guaranteed to the owner of the proximity service system providing the services to the consumer without having to have remote authorization services each time the customer wants a relatively inexpensive service*, such as the dispensing of soda pop or ice cream at an amusement park, for example. Also the feature is considered much less bothersome than refilling a smart card with money, for example, each time the card runs out of money. In addition. [sic] limits can be put on a customer's

account, either by the customer or the PSPS web-site operator, and the cyber card becomes invalid when received services of all types exceed these predetermined amounts.

'850 Patent at 5:54-6:2 (Ex. 1020) (emphasis added). Therefore, the PSPS system compensates the proximity owner/operators at a time after initial use of the proximity service by the customer, and sends an aggregated payment after multiple uses. The specification further clarifies that the aggregated payments may be made periodically, such as daily or weekly:

PSPS cyber card delivered transaction data might be delivered several times a day or weekly from the proximity service systems to the PSPS web-site, depending on the collection method used by the proximity service owner and desirably lists the customer cyber card code along with the amount charged for each service at each location along with the time the service was delivered.

Id. at 6:27-33 (Ex. 1020). Moreover:

The above description is in regards to how the special local **15** authorization credit approval **370** may work in terms of using the special cyber card code by the customer **15** for a service and the owner **10** *eventually gets paid* and the web-site owner **30** collects from the

customer **15** and provides the customer **15** a report listing all the charges, locations and service dates for example.

Id. at 15:46-60 (Ex. 1020) (emphasis added).

Further, different types of measuring actual use have been practiced for decades. *See generally* Bodamer Decl. at ¶¶ 81-94 (Ex. 1032). For example:

- Ski resorts set pricing depending on time of use (date) and number of days. The rates decrease as the number of days increase. *See Snow.com Lift Ticket Pricing* (Ex. 1019). *See also* Bodamer Decl. ¶ 89 (Ex. 1032). Further, multi-day ski passes limit access by the number of uses. *See Lift ticket options 2/12/2003* (Ex. 1018).
- Live and movie theatres have used matinee pricing for decades. *See* Bodamer Decl. ¶ 92 (Ex. 1032).
- Geographic based attraction passes limit access such that only a single access per attraction is possible per day. *See* FAQ's (Ex. 1016) relating to the New York City Pass. The time of use has been used in the prior art to compute compensation. The New York City Pass system calculates time from first activation to expiration. *See id.* *See also* Bodamer Decl. ¶ 88 (Ex. 1032).

Thus, the core of each claim is directed to calculating aggregate compensation based on actual use. Further, each of these were known in the prior art. Bodamer Decl. ¶¶ 81-94 (Ex. 1032).

D. The Claims Merely Recite Conventional Components Used in Conventional Ways

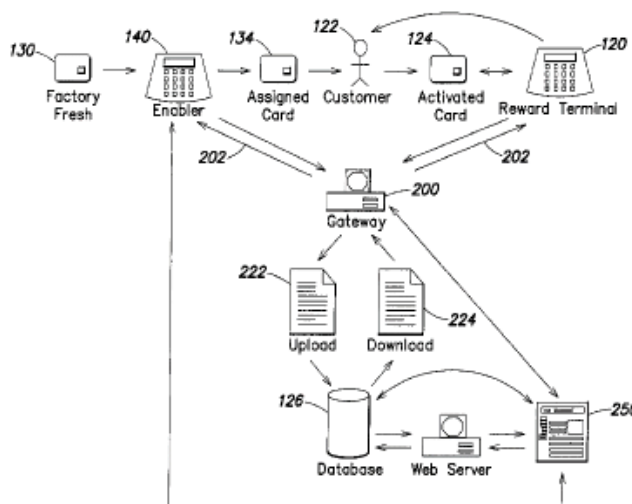
Because the '128 Patent claims an abstract idea, it is necessary to move to the second step of the *Alice* analysis. This step looks to the elements of the challenged claims and asks the question “what else is there in the claims before us?” *Alice*, 134 S. Ct. at 2355. The patent is invalid unless it includes additional elements sufficient to “transform th[e] abstract idea into a patent-eligible invention.” *Id.* at 2357. The “mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention,” nor can recitation of “well-understood, routine, conventional activities” on a computer. *Id.* “[S]imply implementing an abstract concept on a computer, without meaningful limitations to that concept, does not transform a patent-ineligible claim into a patent-eligible one.” *Accenture Global Serv’s, GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1345 (Fed. Cir. 2013).

Here, the claims “do not transform the abstract idea that they recite into patent-eligible subject matter because the claims simply instruct the practitioner to implement the abstract idea with routine, conventional activity.” *See Ultramercial, Inc. v. Hulu, L.L.C.*, 772 F. 3d 709 (Fed. Cir. 2014). The claims lack any form of an inventive concept because they merely employ conventional and generic

components, such as a server (personal computer, mainframe computer), smart cards, smart card readers, databases, and network connections. These technologies have been known for decades.

1. The Claims Use Known Computing Technology and The Specification Discloses that the Computing Technology was Known in the Prior Art

One of skill in the art reading the '128 Patent would understand that it merely teaches using generic computers, and computer components, to perform generic functions. Namely, using known computing technologies to track access and usage of attractions as a method for computing aggregate compensation. *See* Figure 2, right, from the '128 Patent. Bodamer Decl. Section VIII.A ¶ 110 (Ex. 1032).



The '128 Patent schematics reference a generic smart card (130, 134, 124), a standard computer (gateway) (200), a database (126), a terminal (120) and a web server. The upload (222) and download (224) code which enables communication between the card reader, gateway, and database was well known, conventional, and routinely developed. Bodamer Decl. Section VIII.B ¶¶ 111-116 (Ex. 1032).

The claims list little in the way of technology beyond off-the-shelf general

purpose computing tools. The claims specifically include:

- Terminals & card readers;
- Smart card technology;
- Servers & databases; and
- A controller.

Following is a description of how each of these elements was known in the art as conventional technology.

a) Terminals and Card Readers:

The '128 Patent freely acknowledges that smart card readers and terminals were widely known at the time of invention:

- “When a purchaser buys and uses the card (e.g., by ‘dunking’ it in a reader), the reader can verify that the card has been programmed.” ’128 Patent at 1:37-39.
- “Some examples of such as system are described in U.S. Pat. No. 6,738,750.” *Id.* at 1:54-56.
- “The system may include one or more reward terminals 120 which may be configured as smart card readers.” *Id.* at 11:28.
- One type of terminal can be a Point of Sale (“POS”) Terminal, such as an “Allegro 100 terminal from Intellect. However, several manufacturers (e.g., Hypercom, Verifone, Lipman, and others) produce smart card

enabled POS terminals that may also be used.” *Id.* at 13:35-39.

Prior art literature confirms the ’128 Patent’s admissions that Smart Card readers and terminals were well known.

Indeed, an entire book has been dedicated to this technology and fully disclosed its implementation.

Below is Fig. 11.1 from the *Smart Card Handbook* (Ex. 1007) showing the typical architecture of a smart card terminal, including a card

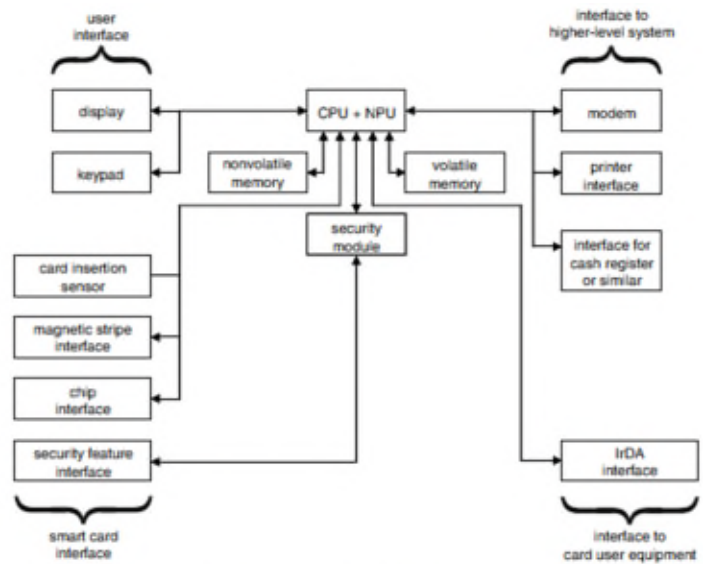


Figure 11.1 Typical architecture of a smart card terminal with a display, keypad, magnetic-stripe reader and security module. Such terminals are often used at point-of-sale locations to allow payments to be made using a wide variety of cards (credit cards, debit cards and electronic purses). A keypad that is specially protected against manipulation (a PIN pad) can be used if necessary. This diagram shows the basic energy and data flows and is not a schematic diagram

reader. *See also* Bodamer Decl. ¶¶ 54-55 and 69 (Ex. 1032).

b) Smart Card Technology

The ’128 Patent specification defines a smart card and characterizes it as being fashionable in many applications: “Smart card technology has become fashionable in a variety of contexts [I]t has an embedded microprocessor for storing information, used for banking, medical alerts, etc. Such devices may be used by inserting the card into a reading device which includes a processor.” The ’128 Patent at 1:29-37 (Ex. 1001). The specification further describes a smart card as being capable of storing information for a variety of contexts: “A ‘smart card’ is a card that is capable of storing data on it. Such data may be changed dynamically, such as

a current financial balance for the card; the card may also include pre-programmed data that is not changeable by the user, such as a unique identifier for the card; other data.” *Id*; see also Bodamer Decl. ¶¶ 67-68 (Ex. 1032).

Similarly, *The Smart Card Handbook*, devotes the entirety of chapter 2 to embossed cards, magnetic-stripe cards, optical memory cards, and smart cards with memory and microprocessors. “Its characteristic feature is an integrated circuit embedded in the card, which has components for transmitting, storing and processing data.” *The Smart Card Handbook* at 18 (Ex. 1007).

c) Servers

The ’128 Patent further admits that the servers (or “gateways”) claimed include any number of commercially available computers:

“The gateway 200 may be a standard personal computer or mainframe computer that may be running an operating system such as Linux or Microsoft Windows™. In a preferred example, the gateway may include a PowerEdge 400SC from Dell running Red Hat versions 9 Linux. However, the system is not so limited and it is to be appreciated for example that any server grade computer from any of the major manufacturers including, for example, Gateway, Dell, HP, IBM and the like, may be used in this example of the system. Likewise, any major Linux distribution may be used including SuSe, Mandrake, Debian, and others in

addition to Red Hat. The gateway may form an interface between the reward terminals and the central database 126.”

’128 Patent at 21:45-56; *see also* Bodamer Decl. ¶¶ 59-65 (Ex. 1032).

d) Standard Databases

The ’128 Patent acknowledges the existence of many types of databases in the prior art:

- “‘Database’ as used herein includes any data structure to store data and a ‘database’ may be a collection of separate databases or a subset of data in a larger database.” ’128 Patent at 11:40-42.
- Databases include well known SQL or ASCII files;
 - “The gateway may write the received records in an ASCII file.” *Id.* at 23:34;
 - The upload program may “store[s] the information in the database via SQL.” *Id.* at 24:41-42.

The Smart Card Handbook also discloses that a subset of the database query language SQL (structured query language) has been standardized for use with smart cards in ISO/IEC 7816-7. *The Smart Card Handbook* at 483 (Ex. 1007). It discusses dozens of detailed database implementations. *See* section 7.13 for details on SCQL (“Smart Card Query Language”).

e) Controller

A “controller” is a generic, functional term for the software module(s) that operate the system, at least in part. Software that controls hardware, transfers data, and computes compensation was well known in the prior art at the time of filing the ’128 Patent. Bodamer Decl. ¶ 59 (Ex. 1032). The specification describes a controller as managing the system and collecting data from terminals. The ’128 Patent at 4:63–5:3 (Ex. 1001).

Networking was, of course, well known in the prior art. The ’128 Patent makes no improvements to networking. Rather, it uses networks as a means for communication between the terminals and servers. Bodamer Decl. ¶ 58 (Ex. 1032).

Therefore, one of skill in the art would not find any specialized computer or other equipment necessary for carrying out the claimed elements in the ’128 Patent. *Id.* at ¶ 93 (Ex. 1032). The mere recitation of these components does not, by itself, introduce a technological feature or impose any meaningful limit on claim scope.

2. The Known Computing Technology is Used in Conventional Ways

a) The Independent Claims

The claims of the ’128 Patent apply well known processes on top of this well-known computing technology. As described above in the *Summary of the Alleged Invention* section claims 1, 8, and 18 are directed to methods, and analogous systems, for accessing and compensating an attraction. At their core each of the three claims

has five elements (or steps):

- (1) receiving data relating to actual use from a terminal;
- (2) storing data in a standard database;
- (3) calculating an aggregate compensation;
- (4) locating terminals proximate to the attraction, configured to access the attraction, associated with a product code, user code or reward; and
- (5) modeling the relationships among attributes.

These steps apply the computing technology in known ways. It was well known in the prior art that card readers could be associated with attractions, that the card readers were designed to read visitors cards, and that this would allow access to the attraction. Bodamer Decl. ¶¶ 110-120 (Ex. 1032).

As discussed above, the applicant distinguished the claims over prior art by filing an amendment further limiting the aggregated compensation element with a negative limitation: “wherein the controller does not compensate the attractions based on the actual use of the reward terminals at a time of the actual use of the reward terminals via a card.” ’287 File Wrapper at 582-594 (Ex. 1004).

Therefore, the claims were distinguished over the prior art solely upon calculating an aggregated compensation based on actual use. These elements solve no technical problem and implement no technical solution. These claim elements are solely financial and known in the prior art.

(1) receiving data relating to actual use from a terminal: As discussed *supra*, the '128 Patent uses a well-known client server architecture for communication between the server controller and client terminal. Receiving data of actual use from a terminal is using client server technology is a conventional way. Bodamer Decl. at ¶¶ 58-66, 74-80, and Appendix A (Ex. 1032).

(2) storing data in a standard database: As discussed *supra*, the '128 Patent uses standard database base technology. It does not attempt to use the database in any unique or non-conventional way. It merely stores the product definition and actual use data. These are conventional uses of database technology. Bodamer Decl. at ¶¶ 78-80 (Ex. 1032).

(3) calculating an aggregated compensation: As discussed *supra*, the '128 Patent calculates aggregated compensation based on actual use data. Calculating an aggregated compensation was well-known in the prior art and can be done by hand. Bodamer Decl. at ¶¶ 81-92 (Ex. 1032). Calculating compensation is not a technology, nor is it applied in a non-conventional way. *Id.* at ¶¶ 117-120 (Ex. 1032).

(4) locating terminals proximate to the attraction, configured to access the attraction, associated with a product code, user code or reward: Locating terminals in the proximity of the attraction, as discussed *supra*, was well known in the prior art. Further, it is not a non-conventional use of a terminal. Bodamer Decl. at ¶¶ 93-94 and 72 (Ex. 2032). As discussed *supra*, associated products, attractions and

rewards are simply data structures, or attributes, in order to achieve a business objective. There is no non-conventional use of technology. Terminals and the associated software were designed to function in this fashion. Bodamer Decl. at ¶¶ 93-94 and Appendix A (Ex. 1032). *See also Smart Card Handbook* Chapter 11 discussing smart card terminals, their mechanical properties and data structures for connecting with higher level software systems. *Id.*

(5) modeling the relationships among attributes: Modeling the relationship between different data elements, or attributes, was well known in the prior art, as discussed *supra*. Specifically, associating codes with users and the attractions would have been a conventional use of the known technology. Bodamer Decl. at ¶¶ 95-96 and Appendix A (Ex. 1032) *citing the Data Modeling Handbook*.

More efficient processing of these calculations on generic computers is insufficient to limit the abstract idea to turn it into a patentable invention. Where, as here, a claim “can be performed in the human mind, or by a human using a pen and paper,” the claim is directed to “unpatentable mental processes.” *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372 (Fed. Cir. 2011). *See* Bodamer Decl. ¶¶ 115 (Ex. 1032).

b) Dependent Claims 2-7, 9-17, and 19-24 Do Not Add an Inventive Aspect

In *Content Extraction*, 776 F.3d at 1349, the court rejected dependent claims because even though they “may have a narrower scope than the representative

claims, no claim contains an ‘inventive concept’ that transforms the corresponding claim into a patent-eligible application of the otherwise ineligible abstract idea.” The use of conventional steps to implement an abstract idea cannot make it patentable. *Mayo* at 1300 (2012) (“simply appending conventional steps, specified at a high level of generality, to laws of nature, natural phenomena, and abstract ideas cannot make those laws, phenomena, and ideas patentable.”); *Fidelity National Information Services*, CBM2014-00020, Paper 34 at 19 (holding “challenged claims recite nothing more than conventional equipment and steps, specified at a high level of generality on top of the underlying abstract concept”).

Limitations added by the dependent claims 2-7, 9-17, and 19-24 of the ’128 Patent also do not add an “inventive aspect.” The dependent claims cover standard activities that are necessary to compute aggregate compensation. They cover:

- standard information modeling (2 and 19): These claims are directed to creating a data structure in the information model, including a list of a plurality of attractions and associating each with a user code. As discussed *supra*, data modeling and associating data elements was well known in the prior art. See Bodamer Decl. at ¶¶ 95-96 (Ex. 1032) *citing* to the Data Modeling Handbook Chapter 5 and pp 88-94. (Ex. 1012). For example data structures that that can store lists see Bodamer Decl. at Appendix A (Ex. 1032) *citing* The “C” Programming Language (Ex.

1015).

- periodic data exchange (3, 9, 10, and 20): These claims are directed to periodic exchange of information between the client terminal and the servers. As discussed *supra*, exchange of information between client and servers was well known in the prior art and adds no inventive aspect. *See* section above *The Known Computing Components Were Used in A Standard Client/Server Architecture*. *See also* Bodamer Decl. at ¶¶ 52, 58-66 and Appendix A.
- smart card reading (4, 11, and 21): These claims are directed to smart card readers and store information on smart cards. As discussed *supra*, card readers, smart cards, and storing information on smart cards was well known in the prior art and adds no inventive contribution. *See section Fashionable uses of smart card technology, supra*. *See also* Bodamer Decl. at ¶¶ 53-54.
- attractions that are constrained in time (5, 12, 13, 15, 16, and 22): These claims are directed to “restricting” or “constraining” where access to the attraction, and thereby compensation to the attraction, is limited to a specific period of time. As discussed *supra*, The New York City Pass, ski resorts, and the D.C. Metro SmarTrip restricted access to varying lengths and times of usage. *See* sections on *Actual Use* and

Constrained in Time, supra. See also Bodamer Decl. at ¶¶ 86-96 and Appendix A.

- attractions that are constrained by frequency of use (6, 14, and 23):

These claims are directed to constraining where access to the attraction, and thereby compensation to the attraction, is limited to “frequency of use” or the “number of times” that an access to the attraction is valid. As discussed *supra*, The New York City Pass and movie screening were well known applications of limiting access by the frequency of use. *See* section above on *Constrained by Frequency of Use and Predetermined Number of Times. See also* Bodamer Decl. ¶¶ 86-96 and Appendix A.

- reward terminals that are under attraction control (7, 17, and 24): These claims allow the local attraction to individually control access to the attraction. For a variety of reasons relating to performance, security, and reliability it is necessary to allow terminals to operate separate from the servers. Bodamer Decl. at Appendix A (Ex. 1032) and Chapter 11 of *Smart Card Handbook* (Ex. 1007). Centralized and decentralized systems, where the terminal client is decoupled from server control, is discussed *supra*. For details of architecting such a system see The Smart Card Handbook Chapter 12.1 and *supra*.

Therefore, the dependent claims merely delineate how aggregate compensation is calculated by interfacing to the client terminals. Each was well known in the prior art and adds no inventive concept. *See* Bodamer Decl. Appendix A (Ex. 1032). Attached as Appendix A to the Bodamer Decl. is a complete claim chart delineating how each element and each claim was known in the prior art and/or used in conventional ways.

**D. The Claims Elements, When Considered as An Ordered
Combination, Merely Recite Conventional Activity**

The claim elements when considered as an ordered combination merely recite conventional activity, well known at both the technological and business level.

Systems for accessing multiple attractions were known in the prior art. “Others have provided Systems where tourists may purchase a pass that can be used at a variety of attractions. One example is a pass that is good for access to more than one ski area. Another is a day pass that allows access to various attractions.” ’128 Patent at 1:16-20 (Ex. 1001); *see also* Bodamer Decl. ¶¶ 110-120 (Ex. 1032).

The client / server computing architecture used in the ’128 Patent claims was well known in the prior art, whether centralized or decentralized. As discussed in more detail in the Bodamer Decl., both types were well known in the prior art.

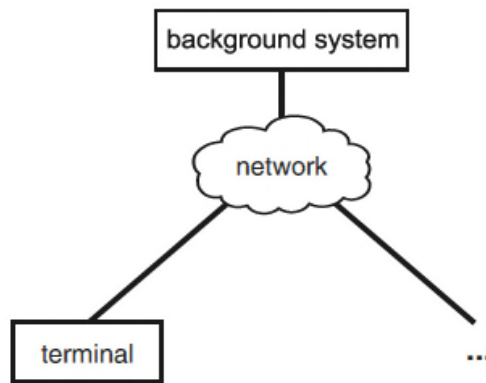


Figure 12.2 The basic architecture of a centralized system for electronic payments. All of the illustrated connections are permanent

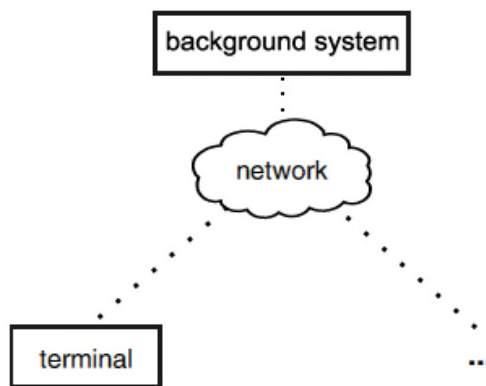


Figure 12.3 The basic architecture of a decentralized system for electronic payments. All of the illustrated connections can be established as needed

At the technology level, the claims utilize, and the disclosure explicitly describes, a client/server architecture, well known to a PHOSITA. *Id.* at ¶¶ 59-71. Here, the client is a terminal with a card reader, that validates access to the attraction, and a server and/or gateway communicating with the card reader that calculates compensation. The claims, when considered as a whole, utilize the computing

devices in known and conventional ways.

As discussed *supra*, a PHOSITA would recognize that the three independent claims each have five elements (whether characterized as a system or a method):

- (1) receiving data relating to actual use from a terminal;
- (2) storing data in a standard database;
- (3) calculating an aggregate compensation;
- (4) locating terminals proximate to the attraction, configured to access the attraction, associated with a product code, user code or reward; and
- (5) modeling the relationships among attributes.

Id. at ¶¶ 73-96.

The claims utilize known software, such as terminal software, networking software, and operating systems software in known prior art combinations. For example, reading codes, copying data between terminals and servers, and calculating compensation. These generic functions do not improve the functioning of the computing devices or network communications and are not used in an unconventional way. Bodamer Decl. ¶¶ 117 and 73-96 (Ex. 1032).

The purpose of the claims is to calculate aggregate compensation based on actual usage of the attractions. These mechanisms have been well known as a way of calculating compensation, as detailed above. The '128 Patent claims combine these conventional ways of calculating compensation with a conventional

client/server computing architecture. Placing known applications on known computer technology is an insufficient limitation to make the claims patent eligible. *Alice at 2358.*

Indeed, these “processing” limitations are recited at a high level of generality, defined by their functions, *i.e.*, “reading,” “calculating,” and “receiving.” Reciting generic claim limitations by their functions “is no different than adding [the words] ‘instruction for’ in front of the abstract idea; in either case, any and all implementations of the abstract idea are being claimed, which is essentially equivalent to claiming the abstract idea itself.” *Hewlett Packard Co. v. ServiceNow, Inc.*, 2015 WL 1133244, at *6 (N.D. Cal. Mar. 10, 2015) (declining to find an inventive concept in a claim reciting components of a “monitoring server,” “database,” and “help desk client,” all of which were defined in terms of their function).

One of skill in the art would not find anything else in the claims that adds a meaningful limitation to the underlying abstract idea of calculating compensation for attractions based on usage. The claims, when considered as a whole, add no “inventive aspect” to the abstract idea underlying the claimed processing steps. Bodamer Decl. ¶¶ 108-120 (Ex. 1032).

The claim elements—whether considered individually or in combination—merely utilize the above-described conventional components in conventional ways.

3. The '128 Patent Claims Fail the Machine or Transformation Test in Light of *Alice*

A claimed process can be patent-eligible under Section 101 if: “(1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing.” *Ulramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 716 (Fed. Cir. 2014) (citations removed).

In the wake of *Alice*, the United States Court of Appeals for the Federal Circuit, has specifically addressed how the machine or transformation test should be properly applied. In *Ulramercial* the Court stated: “While the Supreme Court has held that the machine-or-transformation test is not the sole test governing § 101 analyses, that test can provide a ‘useful clue’ in the second step of the *Alice* framework.” *Id.* The Court made clear that: “the Internet is not sufficient to save the patent under the machine prong of the machine-or-transformation test.” *CyberSource*, 654 F.3d at 1370. “It is a ubiquitous information-transmitting medium, *not a novel machine*. And adding a computer to otherwise conventional steps does not make an invention patent-eligible.” *Alice*, 134 S.Ct. at 2357 (emphasis added). Any transformation from the use of computers or the transfer of content between computers is merely what computers do and does not change the analysis.” *Ulramercial*, at 716-17 (Fed. Cir. 2014) (emphasis added).

Patent owner is likely to argue that the inclusion of reward terminals in the independent claims suffices to make the claims patent eligible. However, since card

readers and terminals were well-known, general purpose computing devices, the addition of this computing element to the claims does not transform the claims into a *novel machine*, as required by *Ultramercial*.

Numerous cases support the proposition that electronic devices used for input or output, such as a terminal, are insufficient to transform the claims into a novel machine. For example, in *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass'n*, 776 F.3d 1343, 1348 (Fed. Cir. 2014) the court concluded that the use of a scanner or other digitizing device to extract data from a document was well-known at the time of filing, as was the ability of computers to translate the shapes on a physical page into typeface characters. The court concluded that such an application was a routine, conventional activity, and not a novel machine. Similarly, this Board held that claims including “data access terminal” was insufficient to survive the second step of *Alice*. *Google Inc. v. Smartflash LLC*, CBM2015-00129, 2015 WL 9599186, at *10 (Nov. 23, 2015). Further, this Board held that claims including a “data access terminal” was patent ineligible. *Apple Inc. v. Smartflash LLC*, CBM2015-00131, 2015 WL 7296438 (Nov. 16, 2015).

For the same reasons, this Board should reject any arguments that the use of terminals, or other standard computing components, renders the claims of the '128 Patent eligible for patent protection.

E. The Claims Do Not Meaningfully Restrict the Abstract Idea Thereby Foreclosing Future Innovation

Patent owner is likely to argue that not all methods and systems of compensation are preempted by the '128 Patent claims and therefore are not directed to an abstract idea. This argument fails as a matter of law and on application of the facts. The claims add no meaningful limitation on calculating aggregate compensation for attractions based on actual usage. Therefore, the claims are directed toward an abstract idea that is a fundamental building block of the Internet economy.

The Supreme Court has described the “pre-emption concern” as “undergird[ing] our § 101 jurisprudence.” *Apple Inc. v. Smartflash LLC*, CBM2015-00131, 2015 WL 7296438 (Nov. 16, 2015) (*citing Alice*, 134 S.Ct. at 2358). The concern “is a relative one: how much future innovation is foreclosed relative to the contribution of the inventor.” *Id.* (*citing Mayo*, 132 S.Ct. at 1303). “While preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.” *Id.* (*citing Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015)).

1. As a Matter of Law Preemption Concerns are Moot

“Where a patent's claims are deemed only to disclose patent ineligible subject matter under the *Mayo* framework, as they are in this case, preemption concerns are fully addressed and made moot.” *Ariosa*, 788 F.3d at 1379. Although *Ariosa*

excluded the patenting of natural phenomena, this Board has explicitly stated that *Ariosa* applies equally to the abstract idea analysis. “Although the facts and claims in this case certainly differ from those in *Ariosa*, we are not persuaded by Patent Owner's arguments that the general principle described by the Federal Circuit in that case does not apply here.” *Apple Inc.* (applying the *Ariosa* standard to portable data storage together with a means for conditioning access to that data upon validated payment). Therefore, as a matter of law, preemption need not be considered by this Board after applying the two step *Mayo* framework and deciding that an abstract idea exists.

2. The Purported Contribution of the Inventors are Low and a Swath of Future Innovation will be Curtailed

Assuming that the Board wishes to apply preemption in light of *Ariosa*, the ’128 Patent claims lack any innovation that should be afforded protection. The claims are extremely broad, calculating aggregate compensation. All other limitations merely recite conventional components used in conventional ways, as described above, or include elements necessary to compute the compensation. For example, limiting the receipt of data from client terminals for “a time period” or “a predetermined time period” does not fundamentally limit the way compensation is calculated.

Further the method and system claims are directed to broad functional language including “receiving,” “configured to,” and “associating.” Functions such

as these are conventional. Bodamer Decl. ¶¶ 110-122 (Ex. 1032). Protecting a fundamental building block of compensation would curtail innovation in the entertainment and travel markets. Further, the purported innovation is virtually non-existent. *Id.* at ¶¶ 121-122 (Ex. 1032).

IX. CONCLUSION

For the reasons stated above, claims 1-24 of the '128 Patent are unpatentable. iVenture therefore respectfully requests covered business method review to cancel these claims.

Respectfully submitted,

//Kevin M. Pasquinelli

Kevin M. Pasquinelli

Registration No. 63,913

ATTACHMENT A

INDEX OF EXHIBITS IN SUPPORT OF PETITION

Exhibit	Description
1001	U.S. Patent No. 7,765,128 (The '128 Patent)
1002	U.S. Patent No. 8,346,618 File Wrapper – '183 Application
1003	U.S. Patent No. 8,346,618 File Wrapper – '287 Application Part 1
1004	U.S. Patent No. 8,346,618 File Wrapper – '287 Application Part 2
1005	www.cardwerk.com (Cardwerk website)
1006	Smartcard Project (Smartcard project)
1007	Smart Card Handbook 3 rd Edition (English)
1008	Smart Card Handbook 4 th Edition (German) Part 1
1009	Smart Card Handbook 4 th Edition (German) Part 2
1010	Smart Card Handbook 4 th Edition (German) Part 3
1011	Smart Card Handbook 4 th Edition (German) Part 4
1012	Data Modeling Handbook
1013	Operation Based Merging (Ernst Lippe)
1014	Unix Network Programming
1015	The C Programming Language
1016	The New York Pass (FAQ's) – Website
1017	The New York Pass Price List – Website
1018	Snow.com Lift Ticket Options 2/12/2003 – Website

Exhibit	Description
1019	Snow.com Lift Ticket Pricing – Website
1020	U.S. Patent No. 6,970,850 (The '850 Patent)
1021	Declaration of Kenneth Cox
1022	Shakespeare's Globe
1023	SmarTrip More Than a Smart Card
1024	Metro Fares and Hours
1025	Smart Benefits
1026	Katalog der Fachhochschule Westküste – results_titledata
1027	Smart Card Handbook (German) WorldCat
1028	The C Programming Language (1988) WorldCat
1029	The Data Modeling Handbook – A Best-Practice Approach to Building Quality Data Models (1994) WorldCat
1030	UNIX Network Programming (1990) WorldCat
1031	Snow.com Lift Ticket Pricing 12/1/2002 to 1/4/2003 – Website
1032	Declaration of Roger Bodamer
1033	Complaint
1034	U.S. Patent No. 8,346,618 (The '618 Patent)
1035	Curriculum Vitale of Roger Bodamer
1036	Webster's American Dictionary-“aggregate”

CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2016, I caused a complete and entire copy of this Petition for Covered Business Method Review and all supporting exhibits to be served on the following attorney of record identified on U.S. PAIR:

Daniel Rose
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Foley & Lardner LLP
3000 K Street N.W.
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Washington DC 20007-51009
Customer No. 48329

A courtesy copy was also sent to the Patent Owner's litigation counsel at the following address:

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*Attorney for the Petitioner iVenture Card
Travel Ltd*

CERTIFICATE OF WORD COUNT

I hereby certify that according to Microsoft Word this petition for CBM review contains 17,738 words, not including the table of contents, table of authorities, grounds for standing, mandatory notices, certificate of service or word count, and appendix of exhibits.

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