

## **DECLARATION OF MR. THOMAS N. TURI**

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## **DECLARATION OF MR. THOMAS N. TURI**

I, Thomas N. Turi, declare as follows:

### **I. PERSONAL BACKGROUND AND EXPERIENCE**

1. My name is Thomas N. Turi. I am the founder and principal of Rivendell Consultancy based in Louisville, Kentucky. I have been retained to testify and serve as an expert in this *Inter Partes* Review (“IPR”) proceeding on behalf of the Petitioner, Pay-Plus Solutions, Inc. (“Pay-Plus”). As part of that engagement, I have been asked to provide analysis and expert opinions concerning the anticipation and obviousness of U.S. Patent No. RE43,904 (“the ’904 Patent”).

2. I am being compensated for my work on this case at my standard consulting rate. I am also being reimbursed for all incurred expenses. No part of my compensation is contingent upon the outcome of this proceeding. I have no other interests in this proceeding or with either of the parties.

3. I expect to be called to provide expert testimony regarding opinions formed based on my analysis of the issues considered in this Declaration. I may also discuss my own work and publications in the field, and my personal knowledge of the state of the art in the relevant time period. I may rely on handbooks, textbooks, technical literature, and the like to demonstrate the state of the art in the relevant time period and the evolution of relevant technologies.



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I reserve the right to modify or supplement my opinions, as well as the basis for my opinions, based on the nature and content of the documentation, data, proof, and other evidence or testimony that the patent owner, StoneEagle Services, Inc. (“StoneEagle”) or its experts may present, or based on any additional discovery or other information provided to me or found by me in this matter.

4. In reaching the conclusions described herein, I have considered the documents and materials identified in Section III of this Declaration, and any other document or publication cited in this Declaration. My opinions are also based upon my education, training, research, knowledge, and personal and professional experience.

5. It is my understanding that StoneEagle may submit an expert declaration responding to this Declaration and Pay-Plus’s Petition for Inter Partes Review of the ’904 Patent (the “IPR Petition”). I reserve the right to rebut any positions taken in any such declaration.

## **II. BASIS FOR OPINION**

6. I am currently principal of Rivendell Consultancy based in Louisville, Kentucky. I also have previously held management positions at Comdata Corporation, Emdeon, Inc., IBM Corporation, Payspan, and National Processing Company. While at Comdata, I launched the business unit of Comdata Health—

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one of the largest issuers of virtual cards within the healthcare marketplace. While at IBM, I was an associate partner in IBM's Healthcare Payer Practice. In addition to my private industry experience, I also served as Co-Chair to the national Council for Affordable Quality Healthcare (CAQH) sub-committee for the Affordability Care Act (aka Obamacare) for the electronic remittance advices and electronic payments aspect of the Act.

7. Additional details of my education and work experience, awards and honors, and publications that may be relevant to the opinions I express in this matter are set forth in my curriculum vitae (see Appendix H). Additionally, I have consulted for several companies in the area of healthcare claim processing and payments.

### **III. MATERIALS REVIEWED**

8. In forming my opinions, I reviewed: (i) the '904 Patent and its prosecution history; and (ii) various prior art references known to me or provided by counsel. The materials that I reviewed include the exhibits to the petition listed below, many of which were used to form the bases of at least some of my opinions and conclusions herein:

<b>Title</b>	<b>Exhibit #</b>
U.S. Patent No. RE43,904 to Allen	1002

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The file history of U.S. Patent No. RE43,904	1003
David. W. Gillman, et al. v. StoneEagle Services, Inc., Case No. CBM2013-00047 (U.S.P.T.O. Patent Trial and Appeal Board, Feb. 18, 2014)	1004
U.S. Patent Application Publication No. 2007/0005403 to Kennedy et al., filed on June 30, 2006 (“Kennedy”)	1005
Exhibit 1006: U.S. Patent No. 5,991,750 to Watson, filed on October 24, 1997, issued on November 23, 1999 (“Watson”)	1006
LeRoy H. Graw, <i>Purchasing Credit Cards Introduction</i> , <a href="http://www.ipscmi.org/tipsandsolutions/purchasingcredit.php">www.ipscmi.org/tipsandsolutions/purchasingcredit.php</a> (retrieved from August 19, 2006 archive at <a href="https://web.archive.org/web/20060819120418/www.ipscmi.org/tipsandsolutions/purchasingcredit.php">https://web.archive.org/web/20060819120418/www.ipscmi.org/tipsandsolutions/purchasingcredit.php</a> ) (“vPayment Interview”);	1007
GE Pre-Authorization System <sup>TM</sup> , <a href="http://www.gebusinessmarketplace.com/int_preauth.htm">http://www.gebusinessmarketplace.com/int_preauth.htm</a> (retrieved from August 12, 2003 archive at <a href="https://web.archive.org/web/20030812180305/http://www.gebusinessmarketplace.com/int_preauth.htm">https://web.archive.org/web/20030812180305/http://www.gebusinessmarketplace.com/int_preauth.htm</a> ) (“GE Pre-Authorization”);	1008
How vPayment Works, <a href="http://www.gebusinessmarketplace.com">http://www.gebusinessmarketplace.com</a> .	1009

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<i>com/int_vpayment2.htm</i> (retrieved from October 10, 2003 archive at <a href="https://web.archive.org/web/20031010171903/http://www.gebusinessmarketplace.com/int_vpayment2.htm">https://web.archive.org/web/20031010171903/http://www.gebusinessmarketplace.com/int_vpayment2.htm</a> ) (“How vPayment Works”);	
Viewpointe and Payformance Collaborate To Provide Image Statement Products,  <a href="http://www.payformance.com/contactus/press/ViewpointePayformanceIS.pdf">http://www.payformance.com/contactus/press/ViewpointePayformanceIS.pdf</a> (dated September 30, 2002; retrieved from March 22, 2006 archive at <a href="https://web.archive.org/web/20060322175410/http://www.payformance.com/contactus/press/ViewpointePayformanceIS.pdf">https://web.archive.org/web/20060322175410/http://www.payformance.com/contactus/press/ViewpointePayformanceIS.pdf</a> ) (“Image Statement Products”);	1010
<i>Health Care Claim Payment/Advice 835 electronic Data Interchange Transaction Set Implementation Guide</i> , March 2003, Washington Publishing Corporation (“835 Implementation Guide”);	1011
<i>Thrifty Revolutionizes Electronic Commission Payments to Travel Agents</i> , July 9, 1996, PR Newswire (“Thrifty Comission Payments”);	1012
<i>Help on the Way for Pay? ASTA Touts NPC Commission Express</i> , August 11, 1997, Travel Agent (vol. 287, iss. 5) (“NPC Commission Express”);	1013

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<i>National Processing Co. Activates Pay-Tracking Site</i> , June 15, 1999, Travel Weekly (“NPC Pay-Tracking”);	1014
<i>NPC Offers Currency Conversion of Travel Commissions with the Launch of NPC Global Payment Network Free Currency Conversion for Travel Agency Commissions from Vendors</i> , October 16, 1998, www.hospitalitynet.org (“NPC Offers Currency Conversion”);	1015
<i>Health Alliance Medical Plans, Inc. Selects National Processing Company for Complete Electronic Settlement Solution: NPC's AcceleratedPay(SM) to Provide Automation of Payment and Settlement Functions</i> , December 6, 2001, PR Newswire (“Health Alliance Selects NPC”);	1016
<i>Humana Announces Emphesys and New Wave of Services to Expand Consumer And Physician Control of Health Decisions: New Technology and Consumer-Centric Programs Combine to Increase Choice</i> , November 29, 2001, PR Newswire (“Humana Announces Emphesys”).	1017
<i>Advanced Business Fulfillment (ABF) Launches Healthpayers USA: New System Saves Clients Significant Money by Reducing Postage and Eliminating Envelope Charges</i> , February 3, 2003, PR Newswire (“ABF Launches Healthpayers USA”);	1018

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<i>Blue Cross and Blue Shield Association and Payformance Corporation</i> <i>Sign National Agreement</i> , November 30, 2004, Business Wire (“BCBSA and Payformance Sign National Agreement”);	1019
<i>National Processing Company to Support HealthLink Electronic Payment</i> <i>Processing</i> , July 1, 2003, National Processing, Inc. Press Release (“NPC to Support HealthLink”).	1020

**IV. PERSON OF ORDINARY SKILL IN THE ART OF THE '904 PATENT**

9. I have been informed and understand that the content of a patent or other printed publications relied upon as prior art relative to the '904 Patent should be interpreted the way a person of ordinary skill in the art would have interpreted the reference at the time of the earliest priority date claimed by the '904 Patent, which is December 5, 2006.

10. I understand that StoneEagle, in its Preliminary Response in an earlier, similar proceeding (CBM2013-00047), characterized a person of ordinary skill in the art with respect to the '904 Patent as “someone who has several years of experience in claims adjudication, card programs, and card processing.” I agree with StoneEagle’s characterization of a person of ordinary skill in the art.

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11. I have been informed and understand that a person of ordinary skill is a hypothetical person who is assumed to be aware of all the pertinent information that qualifies as prior art. In addition, a person of ordinary skill in the art makes inferences and takes creative steps. He or she is not an automaton, but has ordinary creativity.

12. Based on my experience, I have an understanding of the capabilities of a skilled person in this field, and my opinions are provided from the perspective of such a person.

**V. STANDARDS FOR CLAIM CONSTRUCTIONS, ANTICIPATION, AND OBVIOUSNESS**

13. I have been informed and understand that, in an IPR proceeding, the claims are to be given their broadest reasonable construction consistent with the patent specification. I also understand that limitations from the specification are not to be read into the claims.

14. I have been informed and understand that a patent claim is invalid as anticipated (*i.e.*, invalid under 35 U.S.C. § 102) if every limitation of a claim is found identically (either expressly, implicitly, or inherently) in a prior art reference. A prior art reference inherently discloses the subject matter that a person of ordinary skill in the art would have recognized as necessarily being present in the subject matter expressly disclosed in the reference.

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15. I have been informed and understand that a patent may not be obtained although the invention is not identically disclosed or described as set forth in a combination of prior art references, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious (*i.e.*, invalid under 35 U.S.C. § 103) at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

16. I have been informed and understand that, in order for a patent claim to have been obvious, there should be a reasoned explanation as to why collectively the prior art references would have rendered the claimed invention obvious. Depending on the real-world context of the invention described in a patent, various factors or reasons can suffice as a reason to modify or combine the subject matter disclosed in prior art references.

17. These factors and reasons include the following: (a) obvious to try – choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success, (b) common sense, (c) combining or substituting known elements from the prior art to obtain predictable results, (d) ordinary creativity, (e) whether the need or problem addressed by the patent was known in the prior art, (f) use of known techniques to improve similar devices in



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the same way, (g) a teaching, suggestion, or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or combine reference teachings, and (h) when a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. I have been informed and understand that these factors are identified in the U.S. Supreme Court's decision in *KSR v. Teleflex*.

18. I have been informed and understand that the Patent Office follows its published guidelines for determining whether a patent claim would have been obvious at the time the invention was made to a person of ordinary skill in the art. Those guidelines are in the PTO's "Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.*" ("*KSR* Guidelines") ([http://www.uspto.gov/web/offices/pac/mpep/documents/2100\\_2141.htm#sect214](http://www.uspto.gov/web/offices/pac/mpep/documents/2100_2141.htm#sect214)) and I have read those guidelines and I follow them below when I analyze a claim for obviousness.

19. I have been informed and understand that, for the purpose of the IPR of the '904 Patent, the date of the invention is the effective filing date of the '904 Patent—December 5, 2006. I have been informed and understand that prior art

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under 35 U.S.C. § 102(a) includes patents and printed publications that were available before the effective filing date of the '904 Patent. I understand that prior art under 35 U.S.C. § 102(b) includes patents and printed publications that were available more than one year before the effective filing date of the '904 Patent. I also understand that prior art under 35 U.S.C. § 102(e) includes any issued patent or published patent application based on a patent application that was filed by another in the United States before the alleged invention by the applicant of the '904 Patent. All of the prior art references I discuss in this Declaration are prior art relative to the '904 Patent under § 102(a), § 102(b), or § 102(e).

**VI. CLAIM CONSTRUCTION**

In preparing this Declaration I have consulted with counsel for Petitioner regarding the broadest reasonable interpretation of the claim terms in view of the patent specification. Accordingly, in conducting my analysis and arriving at the opinions expressed herein, I applied the constructions listed in the table below.

<b>Claim(s)</b>	<b>Claim term</b>	<b>Construction</b>
1, 5, 6, 11, 16, 21, 26	medical services terminal	a machine for charging medical services
1, 2, 4-7, 11, 12,	stored-value card	credit card, debit card, or EFT

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16, 17, 21, 22, 26		card
1, 2, 4-7, 11, 12, 16, 17, 21, 22, 26	stored-value card account	credit card account, debit card account, or EFT card account
1-3, 6,	image file	an electronic file that contains an image
1, 2, 6, 7, 12, 17, 22	single-use[,] stored-value card account	a stored-value card account that may only be used to make a single payment
2	intercepting	receiving
1, 6, 7	loading . . . with an amount	associating an amount of value with a card account, such that the card account is chargeable for the amount of value
2	loading . . . with funds	
12	prefunded with an amount	
17	funding . . . with an amount	
22	fund . . . with an amount	

20. As indicated in the table above, I interpret the term “intercepting,” as used in claim 2 of the ’904 Patent, to mean “receiving.” My interpretation of this term is based on the specification of the ’904 Patent and my knowledge of the health care claim processing and payment industry. “Intercepting” is used only in claim 2 and in one paragraph of the “Summary of the Invention” section that

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basically restates the language from claim 2. *See* Ex. 1001 at 2:28-49. The remainder of the specification provides no additional clues as to the meaning of “intercepting” or what entity may be performing the “intercepting.” Furthermore, the traditional meaning of “intercepting”—to seize something on its way to an intended destination before it reaches the destination—does not make sense in the context of claim 2 in which it is an “explanation of benefits and payment information transmitted from the administrator to the health care provider” that is “intercepted.” Seizing private medical and financial information intended for another entity is not a welcome or permitted practice in the industry. Therefore, it is my opinion, as one skilled in the art, that the specification and claims of the ’904 Patent do not support a meaning for “intercepting” any narrower than “receiving.”

**VII. OVERVIEW OF HEALTH CARE CLAIM AND PAYMENT PROCESSING**

21. It is my intent to establish in this Declaration that the methods and systems claimed in the ’904 Patent were entirely obvious to those of us in the payment and health care claim processing industries and that all of the prior art components recited in the claims were widely known and in use, in virtually the identical configuration as claimed, for many years before the application for the ’904 Patent. Having spent 20 years in the financial services industry, with 14 years

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focused on financial service applications within the healthcare industry, I speak with experience, authority and as a respected expert in the field.

22. As I will explain in the following paragraphs, the only difference between prior art payment processing systems and the systems and methods claimed in the '904 Patent is the mere substitution in the '904 Patent of a stored-value card as the payment mechanism in place of a paper-based check or an electronic ACH/EFT. All other features and aspects of the methods and systems described and claimed in the '904 patent were well-known and widely used in the prior art, as I will explain.

23. The use of a stored value card requires the entity receiving the payment to perform a slightly different process for accepting the payment, but yields the same predictable result that one would expect from the paper-based check and/or the ACH/EFT, i.e., the transfer of funds from one entity to another. As evidenced at least by Watson and vPayment Interview, cited herein, stored-value cards were known and were already starting to be used to replace check-based payments in many industries, including the healthcare industry (*see, e.g.,* vPayment Interview at 3; Watson at 9:27-31), prior to the filing date of the '904 Patent. Therefore, in my opinion, the substitution of a stored-value card for a

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paper-based check or an electronic ACH/EFT for healthcare claims processing would have been trivially obvious to anyone having ordinary skill in the art.

24. Furthermore, in my opinion, the '904 Patent does not describe or claim any innovation toward a more efficient payment processing workflow. For example, the process of the '904 Patent, through its fax distribution modality, does not remove the expense of paper-based reporting; it only shifts the expense of the printing from the payer to the payee. Also, the stored-value card payment modality, with its fully loaded associated fees, is the most expensive payment modality to process for the payee, as compared to paper-check and/or ACH/EFT.

25. For context, I will briefly explain the administrative side of the typical payment process between a patient, the healthcare provider and subsequently the payer. This same general payment process has been in place for over 20 years.

26. A patient (in this case an insured individual, one with some form of third party financial responsibility coverage for their healthcare expense) goes to a healthcare provider for care/service. The provider in this case could be a physician, hospital, clinic, dentist, pharmacy, physical therapist, mental health provider, anyone or any entity that renders a form of healthcare or wellcare service.

27. After the patient is treated, the provider files a claim (equivalent to an invoice) for a fee for the services rendered with the entity that has primary

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financial responsibility for the patient. More often than not, the payer is a commercial insurance carrier, managed care organization, third party administrator and/or governmental agency such as Medicare or Medicaid. The claim may be filed through a paper-based system or electronically. In either case, the claim will contain all of the data that the payer requires in order to adjudicate (settle) the claim accurately.

28. The adjudication process consists of running the claims data submitted by the provider through a rules engine that considers both the patient's contracted coverage as well as the provider's contracted rates. Based on the reconciliation of those rules, an output file containing an explanation of the payment ("EOP") and authorization for said payment is created. The actual payment is a "remittance," the explanation of the "why/what for" behind the payment is a "remittance advice" ("RA") or EOP.

29. For clarification purposes, technically the "inbound" data from the provider to the payer is the "claim." The provider files a claim for payment for the services rendered on behalf of the payer's patient. The "outbound" file from the payer to the provider is the settlement of the claim or the remittance advice (explanation) with the corresponding remittance (payment). The term "claim" is

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sometimes used in reference to both the “inbound” data and the “outbound” file, but someone familiar with the industry will understand the different contexts.

30. Depending on the payer’s workflow process, the output file could have many formats. The generally accepted nomenclature for the explanation of payment information is either “Remittance Advice” (or “RA”) or “Explanation of Payment” (or “EOP”). In lesser instances pertaining to the provider’s information, the output file is referred to as “Explanation of Benefits” (or “EOB”), which is the term used in the ’904 Patent. All these terms are used for the exact same payer output file as it pertains to the provider.

31. Usually the term “EOB” is reserved for a similar but not exactly equal document sent to the patient. Patients receive from the entity that is providing financial coverage for healthcare, an EOB whenever a benefit has been extended to them. In many instances the EOB has a heading that states “This is not a Bill.” This heading serves the purpose of making it clear to the patient that it is only a statement of the benefits that were paid on their behalf to the provider that rendered healthcare service, with some indication of what the patient’s additional financial liability might also be to the provider. While the ’904 Patent uses the term “Explanation of Benefits” or “EOB” when referring to the information that a payer includes with the payment to the provider, it would be undisputed and



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accepted by all persons of ordinary skill in the art that the commonly used terms for said information are “Explanation of Payment” (EOP) and “Remittance Advice” or RA. Therefore, for purposes of my analysis of the ‘904 patent in view of the prior art, I view the terms “EOP,” “RA” and “EOB” as interchangeable.

32. An electronic version of an RA is called an “Electronic Remittance Advice” (or “ERA”). In the healthcare industry, the use of the term “ERA” usually is identified with the industry standard HIPAA ASC X12 835 EDI file (“835”), which is a computer-to-computer data file. A format of an 835 file is detailed in the *Health Care Claim Payment/Advice 835 Electronic Data Interchange Transaction Set Implementation Guide*, currently published by the Washington Publishing dated March 2003. 835 Implementation Guide at 39-173. To a human reader, an 835 file appears as lines of computer code, with many alpha-numeric characters, and is difficult to interpret. Therefore, there had to be an application that would render an 835 file into a human readable format, which would then be usable for posting into the provider’s system.

33. It was common knowledge in the industry that, prior to the filing date of the ’904 Patent, less than 20% of providers had systems that were programmed to read and post 835 files automatically. Conversely, that means that approximately 80% of providers needed to receive some form of human readable

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RA/EOP with corresponding payment information. Third party payment distribution services therefore maintained the systems needed for receiving native 835 files (or other non-standard data files “NSF”) from payers and for generating human-readable images representing the 835 files.

34. If an 835 file or NSF received by a third party payment distribution service did not itself contain payment data (i.e., ACH/EFT data), the third party payment distribution service would receive that payment data in a separate file and would then merge the payment data with the data from the 835 file or NSF and map all of that data into a human readable format, i.e., an image. Once this image was created, it was either printed and mailed to the applicable provider or it was delivered electronically via fax, email, or on-line. When the human-readable image was delivered electronically, it could be appropriately referred to as an ERA, albeit, in the generic use of the term.

35. It was common practice, prior to the filing date of the '904 patent, for a third party payment distribution service to include its ERA (i.e., in image generated from a 835 file) an image of the check issued by the payer for the applicable payment or, when the payment was made by ACH/EFT, an image that looked like a check but was labeled “EFT” or “ACH.” This practice would allow

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the recipient provider to quickly identify in his/her mind a payment had been authorized and initiated by the payer.

36. The very important point to be made here is that any company facilitating the reporting of data and payment information in the healthcare industry prior to the filing date of the '904 Patent had to be able to deliver the data to providers in a human readable image format; otherwise, the company would not have been able to service 80% of the industry. This obligation was on both the payers and the third party vendors providing services to payers. All third party payment distribution services of which I was aware prior to the filing date of the '904 Patent, were in fact receiving native 835 files from payers and generating human-readable images representing those files for delivery to providers, as I described above.

37. The payment corresponding to a RA/EOP or ERA may take the form of a paper-based check, an EFT (ACH), a wire transfer, or a form of a virtual "stored-value card." In the case of an ERA, there is a compelling case to make the corresponding payment some form of electronic funds transfer. Otherwise, the need to print and mail a paper-based check would defeat one of the main purposes (efficiency and cost-savings) of delivering the ERA electronically. However, at the time of the '904 Patent, there was no consistency between the use of an RA or

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an ERA and the form of payment. At the time of the '904 Patent, all permutations of the above formats / delivery options were available and used in the industry, including: (i) paper RA/EOP with paper check; (ii) paper RA/EOP with ACH payment; (iii) paper RA/EOP with stored-value card payment; (iv) ERA with ACH payment; (v) ERA with paper check; and (vi) ERA with stored-value payment.

38. While there was a field in the standard 835 file for including payment details, it was optional for a payer to populate it and it could only accommodate check or ACH/EFT information. By necessity, if the chosen payment modality was a stored-value card, the payment data would have to have been rendered as an image in order for the receiving provider to process the payment.

39. The provider must reconcile the RA/EOP data with the original claim that he/she had submitted for payment, regardless of the mode of delivery. Successful reconciliation will close out the receivable that was created when the original claim for services rendered was generated and will clear the provider's books on the claim being satisfied and why. Additionally, if the amount of remittance is not equal to the amount of the claim, the provider must either accept the new payment based on the reason codes in the RA/EOP or appeal to the payer challenging its reasons. In either case the RA/EOP data is as important as the payment itself.

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40. In the years 1996-2002, when I was employed by National Processing Company “NPC” (at the time a totally owned subsidiary of National City Bank), I personally lead the development and launch of a payment processing service for the travel industry that is equivalent to the process of the ’904 Patent in all respects, except for the mere substitution of a stored-value card as the form of payment. By the year 2001, each of the top 10 car rental companies, 84% of the cruise lines, Radisson and Marriott Hotels, and Southwest Airlines were all active clients. *See, e.g.,* Thrift Commission Payments, NPC Commission Expires, NPC Pay-Tracking, and NPC Offers Currency Conversion.

41. NPC’s service involved the “interception” or, better said, the receiving, of a data file from the payer (i.e., the entity making the payment) with detailed information as to the explanation of the payment to be remitted to the service provider (i.e., the entity that provided the service to the payer and submitted a “claim” for payment to the payer). In this case the provider was the travel agent and the payer the travel industry vendor (e.g., Thrifty Car Rental, Carnival Cruiseline, Southwest Airlines). The NPC service then merged the remittance data with the payment data and created various forms of output from which the service provider could choose. The payment and the data were both available in paper-based formats and electronic image formats.

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42. Upon achieving a successful penetration in the travel industry, in 1999 we began to strategize, asking ourselves, what other industries this service and functionality could be applied to. We decided that the healthcare industry offered the greatest opportunity. By 2001 we had contracted and began implementing our first clients in the healthcare industry, Humana based in Louisville, KY and Health Alliance based in Urbana, IL. There were some unique attributes to the healthcare industry's EOP/RA and payment processes that had to be added to the NPC system, but they were relatively minor programming projects and involved only changes in data content, not functionality. *See, e.g.,* Health Alliance Selects NPC, Humana Announces Emphesys.

43. During this same timeframe a competitor to NPC emerged in the healthcare industry named Advanced Business Fulfillment ("ABF"). *See* ABF Launches Healthpayers USA. Thus, during the years 2001-2003, there were at least two known payment processing companies establishing themselves in the healthcare payment distribution industry using essentially the same functions and processes described in the '904 Patent (i.e., merging EOP data with payment data, creating electronic data files and/or image files of RA/EOP and payments and delivering them on behalf of payers to providers). Again, the only distinction between the services offered by these companies and the process of the '904 Patent

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is that the '904 Patent merely substitutes a stored-value card for a check and/or ACH/EFT as the form of payment.

44. In 2003, I left NPC and was employed by another company, Payformance Corporation, desiring to build out a similar solution. At Payformance we implemented this same payment processing functionality, but with the latest advance iteration in technology that added additional functionality for the healthcare industry. The product was launched under the name PaySpan.

45. PaySpan included the functionality I described above for including check images ACH/EFT images in its ERAs (i.e., in the images it generated from 835 files and any separate payment data files). This functionality was provided by Payformance's Data Transformation Engine software, which it had been using in other contexts since at least 2002. Image Statement Products at 2.

46. Therefore, by 2004 there were now three (3) companies actively offering essentially the same payment processing service and functionality as described in the '904 Patent, with the only difference between these prior art services and the process of the '904 Patent being the mere substitution of the stored-value card for the check or ACH/EFT as the form of payment. *See, e.g.,* BCBSA and Payformance Sign National Agreement, NPC to Support HealthLink, and ABF Launches Healthpayers USA. The stored-value card was well-known and

technically available at that time, but nascent in its development and had not yet been widely deployed by the Card Associations (e.g., MasterCard, Visa, and Discover).

### **VIII. OVERVIEW OF THE '904 PATENT**

47. The '904 Patent is titled “Medical Benefits Payment System” and is directed to transmitting payment information along with an explanation of benefits (“EOB”). *See* Ex. 1001 at Abstract. In particular, the '904 Patent describes loading a stored-value card account with funds equal to the amount of the payable benefit and merging stored-value card account information with EOB information to generate an image file for electronic transmission to a provider. *Id.* at 3:36-46.

48. By stating that “stored-value cards and stored-value card accounts shall also include financial instruments known as credit cards, debit cards and EFT cards,” the '904 Patent defines stored-value card and stored-value card accounts much more broadly than the understanding of those terms in the industry. *Id.* at 1:54-57. In particular, the term “stored-value card” is typically used in reference to a type of electronic bank debit card.<sup>1</sup> Nonetheless, I understand that I am to apply

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<sup>1</sup> *See, e.g.,* <http://www.investopedia.com/terms/s/stored-value-card.asp> (last accessed August 28, 2014) (“Stored-value cards have a specific dollar value programmed into them. Banks provide these cards as a service for customers who



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the meaning assigned to the term “stored-value card” in the ’904 Patent for purpose of analyzing the ’904 Patent claims.

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cannot open checking or other deposit accounts.” “Stored-value cards can be divided into two categories. Closed-loop cards have a one-time limit; merchant gift cards and prepaid phone cards are two examples. Open-loop cards, on the other hand, can be reloaded with cash and used again.”); *see also*, [http://en.wikipedia.org/wiki/Stored-value\\_card](http://en.wikipedia.org/wiki/Stored-value_card) (last accessed August 28, 2014) (“a stored-value card is a payment card with a monetary value stored on the card itself, not in an external account maintained by a financial institution and differs from debit cards where money is on deposit with the issuer. Another difference between stored-value cards and debit cards is that debit cards are usually issued in the name of individual account holders, while stored-value cards are usually anonymous. The term stored-value card means the funds and or data are metaphorically 'physically' stored on the card, in the form of binary-coded data. With prepaid cards the data is maintained on the card issuer's computers. The value associated with the card can be accessed using a magnetic stripe embedded in the card, on which the card number is encoded; using radio-frequency identification (RFID); or by entering a code number, printed on the card, into a telephone or other numeric keypad.”

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49. The so-called invention of the '904 Patent is simply the fact that a benefits payment is made to a health care provider by way of a file (or sometimes an image file) that includes a credit card (or debit card or other stored-value card) account number and EOB/EOP/RA information. The patent describes that the image file may also include the security verification code and the expiration date of the stored-value card, which are often required to fully execute the stored-value payment transaction. *Id.* at 3:58-61. Funds equal to the benefits payment are associated with an account tied to the stored-value card number. The '904 Patent further describes an embodiment in which the "stored-value card account is chargeable only on a medical services terminal and it cannot be charged over the amount loaded onto it." *Id.* at 3:56-58. The health care provider enters the stored-value card account number into a point of sale ("POS") terminal to effect receipt of the payment via known financial networks. The expected result would be no different than the provider depositing a check into his/ her bank account. In both cases, depending on his/her contracts, the provider would have the funds available in a day or two after the transaction.

**IX. THE '904 PATENT IS INVALID IN VIEW OF KENNEDY, WATSON, VPAYMENT INTERVIEW AND IMAGE STATEMENT PRODUCTS**

50. Kennedy discloses a process that utilizes a medical services terminal, i.e., a point of sale ("POS") terminal to exchange EOB and payment data between

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a provider and a payer regarding a patient to which the provider has rendered healthcare service. The described process leads to the same predictable result as the process described in the '904 Patent. As a result of the information exchange, the payer is able to adjudicate a payment and authorize said payment to be made.

51. In more detail, Kennedy discloses a healthcare provider entering information at a POS terminal regarding the patient and a treatment. Kennedy at [0031]. Kennedy further discloses using the entered information to generate an electronic claim and submitting the claim to a third party payer, with EOB data generated and returned in a real-time fashion by the insurer for display at the POS terminal. *Id.* at [0031]. Kennedy discloses a third party payer processing the claim information by querying a database to determine whether the patient is covered/eligible, to determine the features of the patient's coverage such as co-pays and deductibles, and to determine the permitted charge for the treatment rendered by the provider under the claim. *Id.* at [0054]. Kennedy further discloses that the EOB data sent to the provider may be in electronic remittance advice ("ERA") format. *Id.* at 57.

52. Kennedy discloses that the EOB information is used to generate an EOB statement (*see* my prior discussion of needing a human-readable formatted image) and may include the amount of claim submitted, an agreed to payment,

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adjustments to claimed amount, and the patient responsibility. *Id.* at [0057]. Kennedy further discloses that the EOB statement displayed at a POS terminal may include the patient's credit card or debit card information and that the patient may authorize that the owed amount may be paid using a displayed account. *Id.* at [0062], Fig. 7. Kennedy also discloses that payment from the insurance company to the provider may be completed by an electronic ACH transaction. *Id.* at [0064].

53. In one disclosed embodiment, a third party processing entity submits claims from the provider to a health plan/network, receives corresponding EOB data, and forwards the EOB data to the provider. *Id.* at [0072]. Kennedy also discloses performing a nominal authorization of a patient's credit card to verify the existence and good standing of an account which may be used to pay the patient's portion of the healthcare charge. *Id.* at [0080]. Finally, Kennedy discloses updating patients' individual accounts and provider accounts receivable to reflect payments made by health insurance networks and/or patients. *Id.* at [0064].

54. It should be noted that while the Kennedy disclosure discusses the process in terms of patient payments, the POS terminal and card system does not differentiate between a consumer and a corporation. If it can be used to perform this transaction on behalf of the provider and the patient, it can equally be used to perform this transaction on behalf of the provider and the payer.

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55. Watson<sup>2</sup> discloses details of GE's vPayment service. In particular, Watson discloses an account processing method and system that provides specific pre-authorization parameters for categories of transactions that would otherwise be completely denied authorization using only general authorization parameters. *See* Watson at Abstract. For example, standard industrial codes (SIC) may be used for wholly barring categories of transactions and/or for designating categories of goods/services requiring specific authorization according to pre-authorization parameters. *Id.* at 1:45-60, 4:46-60. Such parameters can include transaction limits, account balance limit, limitations on categories of goods or services, etc. *Id.* According to Watson, "one or more of the pre-authorization parameters may be

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<sup>2</sup> *See* Exhibit 1009: *How vPayment Works* ("The vPayment system serves as a bridge between the customer's Accounts Payable or procurement system and the credit card authorization system at Total Systems (TSYS). . . . TSYS uses GE Corporate Payment Services' patented Pre-Authorization technology."); *see, also*, Exhibit 1008: *GE Pre-Authorization* ("GE Corporate Payment Services has developed a patented approach to paying for goods and services by bankcard (Patent No. 5,991,750). The GE Pre-Authorization System™ is a business-to-business payment solution that eliminates check writing and provides key controls that prevent card misuse.").

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specified while others may not be specified thus permitting the spectrum of possible options for such criteria.” *Id.* at 5:22-25.

56. Watson explicitly describes application of such payment accounts to the insurance industry wherein an account manager may play the role of a claims adjuster disclosing an account number to a merchant for payment of services rendered for an insurance claim. *Id.* at 9:27-31. Watson further discloses permitting an account manager to define a specific transaction identifier, such as an insurance claim number, that is authorized to be paid from an account. *Id.* at 4:19-24. Still further, Watson discloses that payment from such accounts may be performed by presenting a transaction card or other credit card-like credentials and that authorization may be routed through credit card companies (e.g., Visa, American Express, and MasterCard). *Id.* at 9:14-16, Fig. 2, 2:24-29. Finally, Watson discloses that the transaction identifier (e.g. insurance claim number) is included with general billing information to permit reconciliation. *Id.* at 4:18-34.

57. vPayment Interview includes the transcript of an interview of GE’s Mike O’Malley, in which he talks about a GE payment service called vPayment. vPayment Interview discloses that the vPayment service “runs on the MasterCard railroad track” and permits authorization for exact amounts. vPayment Interview describes a payer logging into a website and configuring a payment including a cap

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on the transaction amount and receiving a card number, expiration date, and credit card verification code to give to a merchant or service provider to permit payment. vPayment further discloses that such information may be faxed to the merchant or service provider. Finally, vPayment Interview discloses automatic reconciliation and describes the card transaction record as including the exact PO number or account code thereby permitting reconciliation. There is nothing about the vPayment service that would have precluded it from being used in the healthcare industry, working just like the process described in the '904 Patent with the same predictable results. Upon reading the vPayment Interview article, a person with ordinary skill in the art would see that there needs to be a rearranging of elements of the vPayment service to make it viable for the healthcare industry, but simply rearranging old elements with each performing the same function it had been known to perform and yielding no different results is a clear case of obviousness.

58. Image Statement Products discusses a collaboration between Viewpointe Archive Services LLC and Payformance Corporation to ViewPointe's financial institution customers with statements having images of checks inserted within them. Image Statement Products at 1-2. Image Statement Products describes receiving statement information from banks or financial institutions and using Payformance's Data Transformation Engine to insert the check images from

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Viewpointe's archive electronically into individual statements. Image Statement Products at 2. After the check images are inserted, the combined statements are either transmitted to the financial institution or stored for rendering on behalf of the financial institution. Image Statement Products at 2.

**A. Claim 1 is rendered obvious by Kennedy, Watson, vPayment Interview and Image Statement Products**

59. Claims 1 is invalid under 35 U.S.C. § 103 over Kennedy in view of Watson, vPayment Interview, and Image Statement Products as explained herein below and in the claim chart found in Appendix A.

**i. Preamble: "A method of facilitating payment of adjudicated health care benefits to a health care provider on behalf of a payer"**

60. The preamble is non-limiting. Thus, no further analysis of the preamble is needed.

61. Even if the preamble were construed as limiting, Kennedy discloses a method of facilitating payment of adjudicated health care benefits to a health care provider on behalf of a payer. In particular, Kennedy discloses a provider entering treatment into a POS terminal, generating and submitting a claim to a third party payer, receiving explanation of benefits information data for display on the POS terminal and for use in submitting a request for payment from an MSA on behalf of



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the patient (one type of payer for health care services) without the patient having to separately submit such a request. For example, Kennedy states:

Some systems are implemented by the provider entering information at the POS terminal regarding the patient and a treatment. Such information is used to generate an electronic claim that is submitted to the third party payer, with EOB data generated and returned in real-time fashion by the insurer (or an estimating system) for display at the POS terminal. The EOB data can be used to submit, either automatically or when directed by the patient, a request for reimbursement or payment from an MSA account (or other payment source) for the patient portion of the charge, without the patient having to separately submit such claim. The EOB data is used in its electronic form for such purpose . . . .

Kennedy at [0031]. Kennedy further discloses “expedit[ing] an automatic payment to the provider (by the health network), further reducing administrative costs and eliminating delays in settling accounts.” Kennedy at [0064].

- ii. **Limitation [a]: “loading a unique, single-use, stored-value card account with an amount equal to a single, authorized benefit payment, the card account only chargeable through a medical services terminal”**

62. As discussed above, the broadest reasonable construction of “stored-value card account,” as used in the ’904 Patent, is “credit card account, debit card account, or EFT card account.” Kennedy in combination with Watson and

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vPayment Interview teaches and/or suggests loading a unique, single-use, stored-value card account with an amount equal to a single, authorized benefit payment, the card account only chargeable through a medical services terminal.

63. For example, Watson discloses an account manager establishing an account with a card issuer, the card account having an account number used to identify the account (and therefore necessarily unique), and issuing a pre-authorization request to a card issuer. Watson at 4:61-67. The pre-authorization request specifies transaction limitations for a particular account number. Watson at 5:12-16. Watson discloses that a preferred embodiment includes “account processing incorporating pre-authorization of individual transactions” and further discloses that “[t]ransaction limitations generally include items such as transaction limits, account balance limit, limitations on categories of goods or services as denoted by standard industrial codes (SIC) and other parameters that may be incorporated into a specific accounting scheme” and that “[t]ransactional limits may include single transaction limits or aggregate limitations upon successive transactions.” Watson at 7:34-37, 7:48-52, 1:58-60. The preauthorization of a card account for a single payment (single use) by specifying a transaction amount is loading a unique, single-use, stored-value card account with an amount equal to a

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single, authorized payment. Furthermore, Watson explicitly contemplates application of it disclosed process to insurance benefit payments:

Such a process has application to businesses such as the insurance industry wherein account manager 202 may play the role of a claims adjuster disclosing an account number to merchant 206 for payment of services rendered for an insurance claim.

Watson at 9:28-32. Finally, Watson also discloses ability to limit the use of the card account to point of sale terminals designated with an specific standard industrial code (SIC) corresponding to their predominate business function of a merchant (e.g. medical service provider). Watson at 1:48-56.

64. vPayment Interview discloses “assigning end users a unique credit card number for a specific purchase” and capping the amount of that payment:

Here’s how it works. Let’s say I want to pay a subscription invoice for Cool Tools. I log into the website and request a payment number, cap the value, and set a date that you have to process it by. In the user-defined field I enter, ‘Cool Tools, invoice number XYZ,’ or whatever accounting string I want. That information appends to the transaction. I hit submit, and then ‘boop boop beep,’ a card number, an expiration date, and a CVC (credit card verification code) number comes back.

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vPayment Interview at 2, 3.

65. In my opinion, it would have been obvious to one of ordinary skill in the art to incorporate the vPayment method disclosed in Watson and vPayment Interview into the Kennedy system to effect payment from the insurance company to the health care provider. As stated earlier, the use of a stored-value card is simply a replacement payment mode for a paper check, and less often for an ACH/EFT. It accomplishes nothing more than facilitating the movement of funds from one entity to another. Having multiple forms of payment simply provides choices depending on the transaction situation it is being used in. Each of these payment modes, results in the same very predictable outcome: the transfer of funds from one entity to another. Kennedy, vPayment Interview and Watson clearly demonstrate that stored-value payments were a viable alternative to checks and ACH/EFT payments and were in fact in use prior to the '904 Patent.

66. As discussed above, Kennedy discloses a system for healthcare claims adjudication and payment for healthcare services including authorization through credit card networks and expediting payment from health insurance companies through ACH transactions. *See* Kennedy at Abstract, Fig. 7, [0064], and [0080]. In the Kennedy system, an image file containing stored-value card information, EOB information and payment amounts is presented at a POS

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terminal at a healthcare provider location. *Id.* at [0057], [0062], Fig. 7. In this system, the stored-value card is used for processing the portion of the claim for which the patient is responsible, rather than the portion to be paid by the insurance company. However, it is readily apparent that the system's existing POS terminal could have been used to process a payment from the insurance company as well.

67. Both Watson and vPayment Interview disclose details of GE's vPayment service. The vPayment service "assigns end users a unique credit card number for a specific purchase." vPayment Interview at 3. In other words, the service generates a single-use credit card number that is used to effect a payment from one party to another. Watson explicitly discloses preauthorized payments from insurers for a specific insurance claim number through the described credit-card like device. Watson at 9:13-16, 9:28-32. Watson also discloses that the vPayment account is pre-authorized for a single authorized payment of a specific amount. Watson at 1:45-60. In other words, an amount of credit equal to the amount of the specific payment is assigned or allocated to, or associated with, the underlying account.

68. For these reasons, it would have been obvious to combine Kennedy with Watson and vPayment Interview to arrive at step [a] of claim 1 of the '904 Patent.

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**iii. Limitation [b]: “generating an explanation of benefits associated with the payment”**

69. Kennedy teaches and/or suggests generating an explanation of benefits (EOB) associated with the payment. For example, Kennedy discloses that the “system may receive real-time, actual EOB information relating to some payers (real-time adjudication of a claim)” and that a “provider submits a claim to the health plan and receives back EOB information in the form of an ERA (electronic remittance advice).” Kennedy at [0009], [0071]. An EOB pertaining to a claim for medical services is “associated” with any payments made for those services whether the payment is made by the patient, health care insurer, or other payer.

70. In my overview explanation of the healthcare claim and payment process, I detailed the imperative need to have an explanation of benefits/payments associated with the payment. A provider cannot realize the revenue he/she receives from a payer until it is posted in the provider’s system. The provider cannot post it in his/her system without having received both the payment and the associated explanation of ‘why’ the payment was made. This is precisely why the Kennedy system generates EOBs and transmits them to the providers.

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- iv. **Limitation [c]: “creating a computer-generated image file containing the stored-value card account number, the amount, a card verification value code, an expiration date, and the explanation of benefits”**

71. Kennedy in combination with Watson, vPayment Interview, and Image Statement Products teaches and/or suggests creating a computer-generated image file containing the stored-value card account number, the amount, a card verification value code, an expiration date, and the explanation of benefits. In particular, Kennedy discloses creating an electronic EOB message:

The message is a data packet-also referred to as an electronic remittance advice (ERA) message-formatted in accordance with ANSI Accredited Standards Committee X12N, "Health Care Claim Payment/Advice 835 Implementation Guide (ASC X12N 835), currently published by Washington Publishing Company ([www.wpc-edi.com](http://www.wpc-edi.com)). As seen in Fig. 6, the data packet or message includes data transmitted in three overall levels (Header, Detail and Summary). The Header level includes Transaction Information (to indicate the start of a transaction), Payer Identification, and Payee Identification. The Detail level includes the data needed for generating and displaying the EOB statement, including Claim Payment (amount of claim submitted, treatment/service codes, etc.), Claim Adjustment (agreed to payment, adjustments to claimed amount, patient

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responsibility, etc.), Patient Information (patient name and other identification) and Insured Information (insured name and other information).

Kennedy at [0057]. Kennedy further discloses electronically sending EOB information in the form of an ERA to the healthcare provider. *See, e.g.*, Kennedy at [0071], [0072]. In addition, Kennedy discloses presenting an EOB statement that includes a patient's medical savings account information and credit card information to facilitate payment from one or more of those accounts. *See* Kennedy at [0062], Fig. 7.



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Explanation of Benefits Statement																																																					
ABC Insurance Co.																																																					
						<div style="text-align: right;">Insured Name: Joe Insured Insured ID/SS#: 123-45-6789 Policy: 24680246      Cert: Claim Number: AB-13579135-001-2-03-40-0005 Control Number: 987654321 Date: 04/05/2006</div>																																															
<div style="text-align: right;">Patient Name: Pat I Insured Provider Name: Phyllis A Provider, MD</div>						<div style="text-align: right;">Patient ID/SS#: 246-80-2468 Patient Account#: YZ1357924680</div>																																															
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5678	Lab Expense	01/27/2006	\$18.00	\$9.37	\$8.63		\$9.37			0054	\$0.00																																										
1357	Lab Expense	01/27/2006	\$13.00	\$4.93	\$8.07		\$4.93			0054	\$0.00																																										
9024	Lab Expense	01/27/2006	\$10.00	\$4.44	\$5.56		\$4.44			0054	\$0.00																																										
TOTALS			\$225.00	\$157.74	\$67.26		\$157.74				\$0.00																																										
<div>Remarks 0054      Network Benefits applied. Your provider has agreed to the negotiated rate in accordance with the Managed Care provider agreement. You should not be billed for this amount.</div>																																																					
<div style="display: flex; justify-content: space-between;"><div style="width: 45%;"><div>622</div><table border="1" style="width: 100%; border-collapse: collapse;"><thead><tr><th colspan="3">Plan Accumulations – Deductible and Out-Of-Pocket</th></tr><tr><th>This Year</th><th colspan="2">2006</th></tr><tr><td></td><th>YTD</th><th>Remaining</th></tr></thead><tbody><tr><td>Family Deductible</td><td>\$157.74</td><td>\$4,842.26</td></tr></tbody></table><div>MSA Account</div><table border="1" style="width: 100%; border-collapse: collapse;"><tbody><tr><td>This Year Contributions</td><td>\$2,000.00</td></tr><tr><td>This Year Available</td><td>\$1,953.50</td></tr></tbody></table><div>Patient Portion</div><table border="1" style="width: 100%; border-collapse: collapse;"><tbody><tr><td>Submit to MSA</td><td>Y/N</td></tr><tr><td>Pay To</td><td>Provider <input type="checkbox"/></td></tr><tr><td></td><td>Patient <input type="checkbox"/></td></tr></tbody></table><div>Any Remaining Balance</div><div><input type="checkbox"/> Pay From Credit Card No. ##### <input type="checkbox"/> Pay From Other Credit Card <input type="checkbox"/> Pay From Checking Account No. ##### <input type="checkbox"/> Pay From Other Account No. #####</div></div><div style="width: 45%;"><div>630</div><table border="1" style="width: 100%; border-collapse: collapse;"><thead><tr><th colspan="2">Payment Summary</th></tr></thead><tbody><tr><td>Payment Sent To:</td><td>Physician Affiliate</td></tr><tr><td>Payment Amount:</td><td>\$0.00</td></tr><tr><td>Payment Date:</td><td>04/05/2006</td></tr><tr><td>Patient's Portion:</td><td>\$157.74</td></tr></tbody></table><div>632</div><table border="1" style="width: 100%; border-collapse: collapse;"><thead><tr><th colspan="2">Total Payment Summary</th></tr></thead><tbody><tr><td colspan="2">Payment(s) Sent To:</td></tr><tr><td>Payment Amount:</td><td>\$0.00</td></tr><tr><td>Payment Date:</td><td>04/05/2006</td></tr><tr><td colspan="2"><b>*TOTAL PATIENT PORTION: \$157.74</b></td></tr></tbody></table><div>620</div><div>*remit patient portion directly to provider</div></div></div>												Plan Accumulations – Deductible and Out-Of-Pocket			This Year	2006			YTD	Remaining	Family Deductible	\$157.74	\$4,842.26	This Year Contributions	\$2,000.00	This Year Available	\$1,953.50	Submit to MSA	Y/N	Pay To	Provider <input type="checkbox"/>		Patient <input type="checkbox"/>	Payment Summary		Payment Sent To:	Physician Affiliate	Payment Amount:	\$0.00	Payment Date:	04/05/2006	Patient's Portion:	\$157.74	Total Payment Summary		Payment(s) Sent To:		Payment Amount:	\$0.00	Payment Date:	04/05/2006	<b>*TOTAL PATIENT PORTION: \$157.74</b>	
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72. As discussed above with respect to limitation [a], Watson explicitly contemplates application of its disclosed system and method to insurance benefit payments. Furthermore, Watson discloses that “payment presentment 228 takes the form of presentment of a transaction card or other credit card-like credentials bearing an account number as previously assigned for use by account user 204.” Watson at 9:13-16. In addition, vPayment Interview discloses faxing the card

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number, expiration date, and CVC number generated to pay a specific invoice.  
vPayment Interview at 3.

73. Furthermore, as discussed previously, Image Statement Products describes the creation of a single file (a statement) that includes both the statement information and images of a payment instrument (one or more check images):

Under the agreement with Payformance, Viewpointe will deploy Payformance's Data Transformation Engine – a combination of services, capable of processing over 500 images per second, operating within a Linux based server cluster. Viewpointe will receive statement data from financial institutions, retrieve the appropriate check and document images from its shared national archive, insert them electronically into individual statements, and either return the statements back to the financial institution for printing, or store and render the statements on behalf of the bank.

Image Statement Products at 2.

74. Accordingly, it would have been obvious to one of ordinary skill in the art to incorporate the vPayment method disclosed in Watson and vPayment Interview and the techniques of Image Statement Products into the Kennedy system to effect payment from the insurance company to the health care provider. Furthermore, given the disclosure of Image Statement Products, the most obvious

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way to do so would have been for the insurance company to create an image file containing vPayment information along with the ERA message disclosed by Kennedy. As noted, this is precisely what we did at Payformance. Furthermore, given vPayment Interview's disclosure of faxing vPayment information and the fact that faxing involves creating and electronically transmitting an image, sending vPayment information along with an RA by fax would necessarily result in the creation of an image file containing the RA information and the vPayment information.

75. As previously discussed, in all of my work in the healthcare claims and payment processing industry prior to the time of the '904 Patent, in each and every case, there was a need to create an image from one or more data file(s) containing RA and payment data. This was true regardless of whether the image was then printed, faxed, emailed, or made available to the provider on-line. Therefore, in my opinion, the recitation of "creating a computer-generated image file" in limitation [c] refers to an essential function of any prior art claims and payment processing system and the only possible point of distinction offered by the claim limitation is that the recited image includes the stored value card account number and the other associated data with it. However, as I have stated, and as clearly evidenced by Watson and vPayment Interview, the mere substitution of

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stored value card account information for check and/or ACH/EFT data was known and trivially obvious well before the filing date of the '904 Patent. Indeed, vPayment Interview specifically notes that vPayment was “a very simple check replacement tool.” vPayment Interview at 3.

**v. Limitation [d]: “transmitting the image file by fax to the health care provider”**

76. Kennedy in combination with Watson, vPayment Interview, and Image Statement Products teaches and/or suggests transmitting the image file by fax to the health care provider. *See* analysis set forth above with respect to limitation [c]. Again, it is clear to me that one skilled in the art would have combined the teachings of vPayment Interview (i.e., that the vPayment information could be faxed) with the teachings of Kennedy and Watson because that is exactly what vendors were doing in the healthcare claim and payment processing industry before the filing date of the '904 Patent. *See, e.g.,* ABF Launches Healthpayers USA (explicitly identifying “e-fax” as an option for electronic claims payment distribution).

**vi. Limitation [e]: “reconciling the charged card account to confirm that the health care provider has received payment”**

77. Kennedy in combination with Watson and vPayment Interview teaches and/or suggests reconciling the charged card account to confirm that the

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health care provider has received payment. In particular, Watson discloses facilitating reconciliation of the card account through the use of a transaction identifier such as an insurance claim number:

A further advancement... provides a method and system for allowing an account manager to define a transaction identifier (e.g., insurance claim number, purchase order number, work order number, etc.) and attach the transaction identifier through a pre-authorization of a transaction. Upon the initiation and authorization of a requested transaction..., the transaction identifier is included with the generic billing information (e.g., transaction amount, merchant information, etc.) thus allowing an account manager to reconcile their accounting from a billing account information containing the transaction having the transaction identifier associated thereto with a pre-transaction assignment of a traditional identifier such as purchase order number, work order number, or insurance claim number.

Watson at 4:18-34.

78. vPayment Interview also discloses reconciliation of the card account:

... when a user requests a vPayment number on demand, they can manually input a description and accounting information into the record, so reconciliation is easy. When vPayment is integrated in a procurement system, a

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unique transaction ID automatically transfers over to the transaction file. It doesn't matter whether the supplier they're buying from is at level 1, 2, or 3 in terms of data capture. They're going to get the exact PO number or account code in the credit card transaction record.

vPayment Interview at 3. In a humorous manner, Mr. O'Malley states in the interview that "reconciliation" is the fourth most important value of VPayment, with the first three being "control, control, and control"! *Id.*

79. As discussed above with respect to limitation [a], and for the reasons stated therewith, it would have been obvious to one of ordinary skill in the art to incorporate the vPayment method disclosed in Watson and vPayment Interview into the Kennedy system to effect payment from the insurance company to the health care provider. For those same reasons, it would have been obvious to reconcile the card account in the manner described in Watson and vPayment Interview to confirm that the health care provider has received payment.

80. It should be noted, that when reconciliation occurs, the payer is looking to reconcile that the provider they intended to pay was actually paid the amount specified in the EOB/EOP/RA. Whether, the form of payment was a check, ACH/EFT, wire, or stored-value card payment, it is the actual funds that the payer is looking to reconcile against. Therefore, the same reconciliation occurs regardless of the form of payment.

**B. Claim 2 is rendered obvious by Kennedy, Watson, vPayment Interview, and Image Statement Products**

81. Claims 2 is invalid under 35 U.S.C. § 103 over Kennedy in view of Watson, vPayment Interview, and Image Statement Products as explained herein below and in the claim chart found in Appendix B.

**i. Preamble: “A method of facilitating payment of adjudicated health care benefits to a health care provider”**

82. The preamble is non-limiting. Thus, no further analysis of the preamble is needed.

83. Even if the preamble were construed as limiting, Kennedy discloses a method of facilitating payment of adjudicated health care benefits to a health care provider. *See* my analysis set forth above with respect to the preamble of claim 1.

**ii. Limitation [a]: “identifying the health care provider that renders medical services in anticipation of payment”**

84. Kennedy teaches and/or suggests identifying the health care provider that renders medical services in anticipation of payment. In particular, in one embodiment Kennedy discloses “a third party . . . operat[ing] a web host/server that runs applications using POS terminals 102 for *generating claims from the provider*, submitting those claims to the health plan, receiving back the ERA message and *forwarding the ERA message to the provider* in order to generate the EOB statement for the patient at the provider POS terminal.” Kennedy at [0072]

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(emphasis added). Furthermore, Kennedy discloses that the “Header level” of the ERA message contains “Payee Identification” and that the “Summary level includes Provider Adjustment (adjustments not specific to a claim, but due to provider circumstances, such as interest, penalties, capture of previous overpayments, etc.).” Kennedy at [0057]. This disclosure of Kennedy explicitly (“Payee Identification”) and implicitly (provider must have been identified in order to include Provider specific adjustments) discloses that the provider who rendered medical services in anticipation of payment is identified. This functionality was in fact essential to the Kennedy system. Likewise, the step of identifying the health care provider that renders medical services in anticipation of payment was a necessary part of every prior art service offering with which I was personally involved prior to the filing date of the ’904 Patent.

**iii. Limitation [b]: “identifying a payer that has agreed to pay the health care provider on behalf of a patient subject to preselected conditions”**

85. Kennedy teaches and/or suggests identifying a payer that has agreed to pay the health care provider on behalf of a patient subject to preselected conditions. In particular, Kennedy discloses “an identifying presentation instrument or card 150 that could be used by a consumer when visiting a healthcare provider” and that “[t]he card 150 has as its primary purpose the *identification of*



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*the* consumer and the *consumer's insurer or third party payer*, to assist the provider in processing a claim for reimbursement.” Kennedy at [0042] (emphasis added). Kennedy also discloses looking up a patient’s information in a database “to identify or locate the patient's payer (i.e., the insurer or other third party payer).” Kennedy at [0054]. Furthermore, Kennedy discloses that the “Header level” of the ERA message sent in response to a claim contains “Payer Identification.” Kennedy at [0057].

86. The step of identifying the payer that has agreed to pay the health care provider on behalf of a patient subject to preselected conditions was a necessary part of the Kennedy system, just like every prior art service offering with which I was personally involved prior to the filing date of the '904 Patent. If one of ordinary skill in the art considers limitation [b] for a moment, the obvious question would come to mind: “how would you be able to serve a payer client with the distribution of its RA/EOPs and payments if you didn’t know who the payer was?” Not only would a company have to have a contractual relationship with the payer client (obviously identifying them) but within the healthcare industry there are additional legal agreements that must be executed between the associated parties to protect the privacy of Personal Health Information. Limitation [b] is the equivalent of saying “I need to know who my client is.”

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- iv. **Limitation [c]: “identifying an administrator that determines whether the medical services conducted by the service provider meet the preselected conditions by the payer, generates an explanation of benefits, and authorizes payment of the service provider for an authorized amount”**

87. It should be noted that those of ordinary skill in the art would identify the “administrator” referenced in limitation [c] as either the payer, an entity the payer has sub-contracted with to perform the service, or a third party administrator “TPA” operating like and/or on behalf of the payer in this context. When the computer identifies this “administrator” through the data exchanges, it does not differentiate whether the data is coming from the payer directly, a sub-contractor, or a TPA, it simply acts on the instructions contained within the data set.

88. Kennedy teaches and/or suggests identifying an administrator that determines whether the medical services conducted by the service provider meet the preselected conditions by the payer, generates an explanation of benefits, and authorizes payment of the service provider for an authorized amount.

89. With respect to identifying an administrator, Kennedy discloses looking up a patient’s information in a database “to identify or locate the patient's payer (i.e., the insurer or other third party payer)” and Kennedy explicitly lists “third party administrator” as one example of a “payer.” Kennedy at [0054], [0029]. Furthermore, Kennedy discloses that the payer/administrator determines

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whether the medical services conducted by the service provider meet preselected conditions:

[A]n electronic claim is generated by the host and sent through the network (step 514) to the third party payer (at one of the health networks 116), where at step 516 the claim information is processed by the DBMS 120 (and the patient/insured information is retrieved at the database 122...the DBMS will query the database 122 to make sure that the patient is covered/eligible, determine the features of the patient's coverage (co-pays, deductibles, etc.), and determine the permitted charge for the treatment rendered by the provider under the claim.

Kennedy at [0054].

90. As discussed above with respect to claim 1, Kennedy also discloses the generation of an explanation of benefits. For example, Kennedy discloses that an EOB message (also referred to as an ERA message) is created at the healthcare network for transmission to a provider. *See, e.g.*, Kennedy at [0057].

91. Finally, Kennedy discloses the payer/administrator authorizing payment of the service provider for an authorized amount. For example, Kennedy discloses that, after receiving an EOB message, displaying an EOB statement to the patient, and entering payment instructions for the patient's portion, "the financial network 110 may process payments (using a conventional ACH banking

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network) from the health network 116 to the provider, by electronically processing a bank transaction that debits a health network bank account (for the amount of any insurance payment for the treatment of the patient) and that credits such amount to a bank account of the provider (step 534).” Kennedy at [0064].

92. Again, this step of “identifying an administrator...” is a clearly contemplated by Kennedy because it was a common and necessary practice within the healthcare claims and payment processing industry for any entity that performed like services. All of the entities I worked with or competed against prior to the filing date of the ’904 Patent had this functionality in active use.

**v. Limitation [d]: “intercepting the explanation of benefits and payment information transmitted from the administrator to the health care provider”**

93. Kennedy teaches and/or suggests intercepting the explanation of benefits and payment information transmitted from the administrator to the health care provider. In particular, with respect to one embodiment, Kennedy discloses that “a third party processing entity/intermediary/network 825 is used for processing claims and payments” and that “[s]uch a third party could operate a web host/server that runs applications using POS terminals 102 for generating claims from the provider, submitting those claims to the health plan, receiving back the ERA message and forwarding the ERA message to the provider.” Kennedy at

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[0072]. Under the broadest reasonable interpretation of “intercepting” (receiving), the third party intercepts (receives) the ERA message from the health plan network. Kennedy further discloses that the ERA message contains payment information:

As seen in Fig. 6, the data packet or message includes data transmitted in three overall levels (Header, Detail and Summary). The Header level includes Transaction Information (to indicate the start of a transaction), Payer Identification, and Payee Identification. The Detail level includes the data needed for generating and displaying the EOB statement, including ***Claim Payment*** (amount of claim submitted, treatment/service codes, etc.), Claim Adjustment (***agreed to payment***, adjustments to claimed amount, patient responsibility, etc.), Patient Information (patient name and other identification) and Insured Information (insured name and other information). The Summary level includes Provider Adjustment (adjustments not specific to a claim, but due to provider circumstances, such as interest, penalties, capture of previous overpayments, etc.), and finally Transaction Trailer (to indicate the end of the transaction).

Kennedy at [0057] (emphasis added). Therefore, Kennedy discloses intercepting the explanation of benefits and payment information transmitted from the administrator to the health care provider.

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94. As previously stated, the word “intercepting” is better defined as “receiving.” Again, it was an absolute necessity for an entity performing healthcare claims and payment processing services to receive a data file with the explanation of benefits and/or a data file containing payment information. The entities I worked with or competed against prior to the filing date of the ’904 Patent all had this functionality in active use.

**vi. Limitation [e]: “acquiring a single-use, stored-value card account number and loading it with funds equal to the authorized amount”**

95. Kennedy in combination with Watson and vPayment Interview teaches and/or suggests acquiring a single-use, stored-value card account number and loading it with funds equal to the authorized amount. *See* my analysis set forth above with respect to limitation [a] of claim 1.

**vii. Limitation [f]: “merging the stored-value card account number, the authorized amount, a card verification value code, and an expiration date with the explanation of benefits into a computer-generated image file”**

96. The merging of payment data with the explanation of benefits data has been well known to all skilled in the art for over 15 years. As described above, it was a functionality I was personally involved with in the travel industry as early as 1996, and in the healthcare industry as early as 2001. It was and still is the logical step necessary to produce a complete and useful computer-generated image file

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that can be posted into a provider's (or other vendor's system). By various means, a computer must obtain both the payment data and the explanation of payment data (EOB) in order for it to have a complete data set to be used to generate the image file. One could describe the generation of the image file as "merging" or a "mapping" of data, but what one skilled in the art realizes is that in order to generate a complete and meaningful image to deliver to the recipient of the RA and payment, i.e., the provider, one needs to have a full data set of both. Whether the computer has been programmed, to merge or to map data fields, it needs a defined amount of data that is contained in both the RA and payment files to perform the process of generating meaningful and useful image files.

97. Kennedy in combination with Watson, vPayment Interview, and Image Statement Products teaches and/or suggests merging the stored-value card account number, the authorized amount, a card verification value code, and an expiration date with the explanation of benefits into a computer-generated image file. *See* my reasoning set forth above with respect to limitation [c] of claim 1. As articulated previously, it was obvious in order to compete at least as early as 2004 for healthcare claims and payment processing business, the service provider had to be able to merge payment data with EOB/RA/EOP data in order to generate a meaningful and useful image that could be posted to a provider's system. The

result enables the provider to receive in one printed and/or electronic image file both the payment and the information explaining the payment, in order to reconcile it against the claims data that initiated the payment request in the first place.

**viii. Limitation [g]: “transmitting the image file to the health care provider via a computer-implemented transmission”**

98. Kennedy in combination with Watson, vPayment Interview, and Image Statement Products teaches and/or suggests transmitting the image file to the health care provider via a computer-implemented transmission. I note here that claim 3, which depends from and further limits claim 2, makes clear that transmitting the image file by fax satisfies the “computer-implemented transmission” requirement of limitation [g]. Accordingly, my analysis set forth above with respect to limitations [c] and [d] of claim 1 applies here.

99. Furthermore, Kennedy discloses that the EOB message transmissions discussed above are performed over computer networks implemented using the Internet, an intranet, or other network. *See, e.g.* Kennedy at [0034]-[0038]. Therefore, it would have been obvious to one of ordinary skill in the art to transmit the image file comprising explanation of benefits information over a computer-implemented network.

100. Additionally, consider that limitation [g] does not require the use of a fax machine, though a fax machine as mentioned in other claims is in fact one



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mode of computer-implemented transmission of an image file. The image file could also have a computer-implemented transmission to another computer for data storage and retrieval through an on-line portal, which in fact was the case in the prior art system with which I was either associated or my companies competed against. The use of the fax delivery modality was also in active use in the healthcare industry at least as early as 2003. *See, e.g.,* ABF Launches Healthpayers USA.

**C. Claim 6 is rendered obvious by Kennedy, Watson, vPayment Interview, Image Statement Products and Knowledge**

101. Claims 6 is invalid under 35 U.S.C. § 103 over Kennedy in view of Watson, vPayment Interview, Image Statement Products and the knowledge of one of ordinary skill in the art (“Knowledge”) as explained herein below and in the claim charts found in Appendix C.

**i. Preamble: “A method of facilitating payment of adjudicated health care benefits to a health care provider on behalf of a payer”**

102. The preamble is non-limiting. Thus, no further analysis of the preamble is needed.

103. Even if the preamble were construed as limiting, Kennedy discloses a method of facilitating payment of adjudicated health care benefits to a health care

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provider on behalf of a payer. *See* my reasoning set forth above with respect to the preamble of claim 1.

- ii. Limitation [a]: “loading a unique, single-use, stored-value card account with an amount equal to a single, authorized benefit payment, the card account only chargeable through a medical services terminal”**

104. Kennedy in combination with Watson and vPayment Interview teaches and/or suggests loading a unique, single-use, stored-value card account with an amount equal to a single, authorized benefit payment, the card account only chargeable through a medical services terminal. In fact, limitation [a] of claim 6 is identical to limitation [a] of claim 1. Accordingly, my analysis set forth above with respect to limitation [a] of claim 1 applies to the present limitation.

- iii. Limitation [b]: “generating an explanation of benefits associated with the payment”**

105. Kennedy teaches and/or suggests generating an explanation of benefits (EOB) associated with the payment. In fact, limitation [b] of claim 6 is identical to limitation [b] of claim 1. Accordingly, my analysis set forth above with respect to limitation [b] of claim 1 also applies to the present limitation.

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- iv. Limitation [c]: “creating a computer-generated image file containing the stored-value card account number, the amount, a card verification value code, an expiration date, and the explanation of benefits”**

106. Kennedy in combination with Watson, vPayment Interview, and Image Statement Products teaches and/or suggests creating a computer-generated image file containing the stored-value card account number, the amount, a card verification value code, an expiration date, and the explanation of benefits. In fact, limitation [c] of claim 6 is identical to limitation [c] of claim 1. Accordingly, my analysis set forth above with respect to limitation [c] of claim 1 also applies to the present limitation.

- v. Limitation [d]: “transmitting the image file by a computer-implemented electronic transmission medium selected from the group consisting of fax, SMTP, SMS, MMS, HTTP, HTTPS, and FTP to the health care provider wherein the electronic transmission includes a computer-generated image of a physical card”**

107. Kennedy in combination with Watson, vPayment Interview, Image Statement Products and Knowledge teaches and/or suggests transmitting the image file by a computer-implemented electronic transmission medium selected from the group consisting of fax, SMTP, SMS, MMS, HTTP, HTTPS, and FTP to the health care provider wherein the electronic transmission includes a computer-generated image of a physical card. In fact, limitation [d] of claim 1 requires “transmitting

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the image file by fax to the health care provider.” Therefore, this limitation is met for at least the reasons set forth above with respect to limitation [d] of claim 1.

108. In addition, Kennedy discloses that the EOB message transmissions discussed above are performed over computer networks implemented using the Internet, an intranet, or other network. *See, e.g.*, Kennedy at [0034]-[0038]. Moreover, HTTP, HTTPS, FTP, and SMTP are well-known protocols used for communicating data between computers across networks. Therefore, it would have been obvious to one of ordinary skill in the art to transmit the image file comprising explanation of benefits information over a computer-implemented electronic transmission medium selected from the group consisting of fax, SMTP, SMS, MMS, HTTP, HTTPS, and FTP.

109. Furthermore, a person skilled in the ordinary art, once able to create the image file, would have been able to use any of these common computer protocols for transmission. For example, it was common in my experience during implementation of a new client for NPC or Payformance, and I know this was true for ABF as well, to ask the client for its preferred protocol and to implement the image file transmission accordingly. All commercially viable and competitive companies involved in computer transmission data files in all industries prior to the

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filing date of the '904 Patent would have been expected to transmit data using all or many of the protocols recited in this limitation [d].

110. Still further, one of ordinary skill in the art would have recognized in view of Kennedy, Watson, vPayment Interview, Image Statement Products and his or her own knowledge that the vPayment information of Watson and vPayment Interview could have been presented as an image of a physical card. Whether to present stored-value card information as text or as text on an image of a card would have been a mere design choice to one of ordinary skill in the art. Further, one of ordinary skill in the art would have been motivated to present stored-value card information on or in an image of a physical card so to make such information more easily and quickly recognizable on the EOB statement. Again, we were doing just that when I was at Payformance – including check images or ACH/EFT images in the ERA's that we generated for our providers. *See, e.g.*, Image Statement Products at 2 (disclosing insertion of an image of a payment instrument (a check) into s statement). The mere substitution of an image of a physical card, to represent stored-value card information, for a check image or ACH/EFT image would have been trivially obvious and would have immediately occurred to anyone of ordinary skill in the art choosing to use a stored-value card as the payment modality.

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**vi. Limitation [e]: “reconciling the charged card account to confirm that the health care provider has received payment”**

111. As previously stated this limitation is equivalent to clearing a check. In other words, when a card is issued there is a need to reconcile that the issued card was in fact used by the provider (cashed) to receive payment. The equivalent function occurs when a provider cashes a check, in which case the bank provides a file indicating when the check cleared (was cashed) which would also indicate provider received payment. The expected result is the same whether it is a check or a card that has been used to move the funds.

112. Kennedy in combination with Watson and vPayment Interview teaches and/or suggests reconciling the charged card account to confirm that the health care provider has received payment. In fact, limitation [e] of claim 6 is identical to limitation [e] of claim 1. Accordingly, my analysis set forth above with respect to limitation [e] of claim 1 also applies to the present limitation.

**D. Claim 7 is rendered obvious by Kennedy, Watson, vPayment Interview, and Image Statement Products**

113. Claims 7 is invalid under 35 U.S.C. § 103 over Kennedy in view of Watson, vPayment Interview, and Image Statement Products as explained herein below and in the claim charts found in Appendix D.

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- i. **Preamble: “A method of facilitating payment of adjudicated health care benefits to a health care provider on behalf of a payer”**

114. The preamble is non-limiting. Thus, no further analysis of the preamble is needed.

115. Even if the preamble were construed as limiting, Kennedy discloses a method of facilitating payment of adjudicated health care benefits to a health care provider on behalf of a payer. *See* my analysis set forth above with respect to the preamble of claim 1.

- ii. **Limitation [a]: “loading a unique, single-use stored-value card account by one or more computers with an amount equal to a single, adjudicated benefit payment, generating an explanation of benefits associated with the payment”**

116. Kennedy in combination with Watson and vPayment Interview teaches and/or suggests loading a unique, single-use stored-value card account by one or more computers with an amount equal to a single, adjudicated benefit payment, generating an explanation of benefits associated with the payment. In fact this limitation is nothing more than limitations [a] and [b] of claim 1 combined with the further requirement that the loading of the stored-value card account is “by one or more computers.” Accordingly, my analysis set forth above with respect to limitations [a] and [b] of claim 1 also applies to limitation [a] of claim 7.

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117. With respect to the requirement that the loading of the unique, single-use stored-value card account is “by one or more computers,” both Watson and vPayment Interview disclose this requirement. For example, Watson discloses that “once an account is established with a card issuer, account manager 202 may perform pre-authorization of transactions with card issuer 214 directly” and that “account manager 202 using a personal computer may routinely generate pre-authorization requests by transferring pre-authorization parameters to card issuer 214 via the INTERNET.” Watson at 8:9-15. Watson further discloses that the pre-authorization requests are then forwarded to an authorizing agent where they are stored in a pre-authorization table for use in later authorizing the pre-authorized transaction. Watson at 8:65-9:6. Similarly, vPayment Interview discloses that vPayment provides a “manual interface . . . that allows users to obtain their credit card number online” and provides an example scenario of using the online interface:

Here’s how it works. Let’s say I want to pay a subscription invoice for Cool Tools. I log into the website and request a payment number, cap the value, and set a date that you have to process it by. In the user-defined field I enter, ‘Cool Tools, invoice number XYZ,’ or whatever accounting string I want. That information appends to the transaction. I hit submit, and then ‘boop



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boop beep,’ a card number, an expiration date, and a CVC (credit card verification code) number comes back.

vPayment Interview at 3.

- iii. **Limitation [b]: “creating a computer-generated file containing the stored-value card account number, the adjudicated benefit payment amount, a card verification value code, an expiration date, and the explanation of benefits by one or more computers”**

118. Kennedy in combination with Watson, vPayment Interview, and Image Statement Products teaches and/or suggests creating a computer-generated file containing the stored-value card account number, the adjudicated benefit payment amount, a card verification value code, an expiration date, and the explanation of benefits by one or more computers. In fact, limitation [b] of claim 7 is substantively similar to, albeit it broader than, limitation [c] of claim 1. Therefore, limitation [b] of claim 7 is met by the prior art for at least the reasons set forth above with respect to limitation [c] of claim 1.

119. Furthermore, the addition of the requirement that file is created “by one or more computers” has no impact on the applicability of my analysis of limitation [c] of claim 1 to the present limitation because Kennedy, Watson, vPayment Interview, and Image Statement Products all disclose computer-

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implemented systems and methods<sup>3</sup> and therefore the combination the references presented above would certainly use one or more computers to carry out the creation of such a file. Notably, Image Statement Products disclose generating an image file using “Payformance’s Data Transformation Engine . . . operating within a Linux based server cluster.” Image Statement Products at 2.

120. Additionally, I note that there is no human-only non-computer enabled business process that can create a stored-value card account number, the adjudicated benefit payment amount, a card verification code, an expiration date, and the explanation of benefits. In other words, it would have been obvious to anyone having ordinary skill in the art that a computer, or more than one computer, would be required to create the image file for transmission.

121. The entire stored-value card network is predicated and dependent on an authorization process to effect the payment. When a stored-value card number and other associated information is input into the POS terminal, a validation process occurs in which the provider receives an authorization number that guarantees the payment. In order for this to occur, all of the data contained on the card must also reside on the computers of the company that issued the card in the

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<sup>3</sup> See, e.g., Kennedy at [0034]-[0038], Watson at 8:9-15, vPayment Interview at 3, Image Statement Products at 2.

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first place, so the issuer can validate it when used. A computer must be involved in order to have the stored-value data elements residing on another computer involved in the authorization process to effect the payment.

122. Moreover, it should be noted that, unlike the previous claims, Claim 7 does not use the term “image file.” Therefore, as one skilled in the art, I understand this claim to encompass (as it states) a computer implemented process that created computer-generated file (but not necessarily an image file) for transmission to the Healthcare Provider as payment for the services. The difference of Claim 7 requiring only a computer-generated file and not an image file cannot be minimized. Not only would an image file with EOB information and vPayment information discussed above with respect to limitation [c] of claim 1 satisfy the “computer-generated file” limitation, a data file containing the same information would satisfy the “computer-generated file” limitation as well. Notably, Kennedy explicitly discloses creating an electronic file with EOB information in the 835 format. Kennedy at [0057]. As discussed above, the format of an 835 file is designed to include payment information (ACH/EFT) in addition to EOB information. *See* 835 Implementation Guide at 41 (stating that using “the data contents of the Health Care Payment/Advice Transaction Set (835) . . . This transaction set can be used to make a payment, send an Explanation of Benefits

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(EOB) remittance advice, or make a payment and send an EOB remittance advice only from a health insurer to a health care provider . . . .”). While modifying the 835 format to include information for other payment types would have been technically trivial, practically it may have been difficult because the 835 format is a national standard, requiring committee approval for changes. However, it would have been obvious to one of ordinary skill in the art create a file containing EOB information in the 835 format and vPayment information in order to easily and conveniently transmit it to providers as payment.

**iv. Limitation [c]: “transmitting the file by one or more computers to the health care provider”**

123. Kennedy in combination with Watson, vPayment Interview, and Image Statement Products teaches and/or suggests transmitting the file by one or more computers to the health care provider. I note here that claim 10, which depends from and further limits claim 7, makes clear that transmitting the image file by fax satisfies the “transmitting the file by one or more computers” requirement of limitation [c]. Accordingly, my analysis set forth above with respect to limitations [c] and [d] of claim 1 applies here.

124. Furthermore, Kennedy discloses that the EOB message transmissions discussed above are performed over computer networks implemented using the Internet, an intranet, or other network. *See, e.g.* Kennedy at [0034]-[0038].

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Therefore, it would have been obvious to one of ordinary skill in the art to use a computer to transmit the image file comprising explanation of benefits information. In fact, the transmission of the images files to providers by one or more computers was standard functionality and necessary to compete for business as a third party solution for the distribution of the ERAs and payments. All prior art claim and payment processing services with which I was involved or competed against had this capability before and/or no later than 2004.

125. Similarly, the 835 Implementation Guide states that “Transaction Set (835) [is] for use within the context of an Electronic Data Interchange (EDI) environment” and that may be sent from a health insurer to a health care provider directly. 835 Implementation Guide at 41. By definition of the Transaction Set (835) is electronic and therefore, must be sent by one or more computers.

**E. Claim 12 is rendered obvious by Kennedy, Watson, vPayment Interview, and Image Statement Products**

126. Claims 12 is invalid under 35 U.S.C. § 103 over Kennedy in view of Watson, vPayment Interview, and Image Statement Products as explained herein below and in the claim charts found in Appendix E.

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- i. Preamble: “A system for payment of adjudicated health care benefits combining payment terms and an explanation of benefits”**

127. The preamble is non-limiting. Thus, no further analysis of the preamble is needed.

128. Even if the preamble were construed as limiting, Kennedy in combination with Watson and vPayment Interview teaches and/or suggests a system for payment of adjudicated health care benefits combining payment terms and an explanation of benefits. *See* my analysis set forth below with respect to limitations [a]-[c] of claim 12.

- ii. Limitation [a]: “an explanation of benefits describing medical services provided to a patient by a health care provider, an amount billed by the health care provider and an amount paid by the patient's insurance company”**

129. Kennedy teaches and/or suggests an explanation of benefits describing medical services provided to a patient by a health care provider, an amount billed by the health care provider and an amount paid by the patient's insurance company. As discussed above with respect to limitation [b] of claim 1, Kennedy discloses generating an EOB message (or ERA message). Kennedy further discloses that the EOB message includes “treatment/service codes” that describe the medical services provided to the patient, the “amount of the claim submitted,” “adjustments to claimed amount,” and the “agreed to payment.” Kennedy at [0057]. Like all

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prior art claims and payment processing systems with which I was personally involved, this functionality was core to the Kennedy system.

- iii. **Limitation [b]: “a payment mechanism associated with the explanation of benefits, the payment mechanism merging a stored-value card account number, an adjudicated benefit payment amount, a card verification value code, and an expiration date with the explanation of benefits into a document by one or more computers”**

130. Kennedy in combination with Watson, vPayment Interview and Image Statement Products teaches and/or suggests a payment mechanism associated with the explanation of benefits, the payment mechanism merging a stored-value card account number, an adjudicated benefit payment amount, a card verification value code, and an expiration date with the explanation of benefits into a document by one or more computers. Limitation [b] of claim 12 is substantively the same as limitation [b] of claim 7. The addition of the term “payment mechanism associated with the explanation of benefits” adds nothing over the requirements of claim 1 as the “payment mechanism” is simply required to perform the same function as required by claim 1, namely generation of a file containing the EOB information, an authorized payment amount, and a stored-value card account number and its card verification value code and expiration date.

- iv. **Limitation [c]: wherein the stored-value card account number is linked to a unique, single-use stored-value card account prefunded with an amount equal to a single, adjudicated**

**benefit payment, and wherein the document is electronically transmitted to the health care provider as payment for the medical services by said one or more computers.**

131. Kennedy in combination with Watson, vPayment Interview, and Image Statement Products teaches and/or suggests wherein the stored-value card account number is linked to a unique, single-use stored-value card account prefunded with an amount equal to a single, adjudicated benefit payment, and wherein the document is electronically transmitted to the health care provider as payment for the medical services by said one or more computers. Limitation [c] of claim 12 is substantively the same as the combination of limitation [a] of claim 1 and limitation [c] of claim 7. Accordingly, my analysis set forth above with respect to limitation [a] of claim 1 and limitation [c] of claim 7 also applies to limitation [c] of claim 12.

**F. Claim 17 is rendered obvious by Kennedy, Watson, vPayment Interview, and Image Statement Products**

132. Claims 17 is invalid under 35 U.S.C. § 103 over Kennedy in view of Watson, vPayment Interview, and Image Statement Products as explained herein below and in the claim charts found in Appendix F.



**i. Preamble: “A computer implemented method for combining payment of adjudicated health care benefits with an associated explanation of benefits”**

133. The preamble is non-limiting. Thus, no further analysis of the preamble is needed.

134. Kennedy in combination with Watson and vPayment Interview teaches and/or suggests a computer implemented method for combining payment of adjudicated health care benefits with an associated explanation of benefits. *See* my analysis set forth below with respect to limitations [a]-[e] of claim 17.

**ii. Limitation [a]: “receiving an explanation of benefits related to medical services provided by a health care provider”**

135. Kennedy teaches and/or suggests receiving an explanation of benefits related to medical services provided by a health care provider. Because limitation [a] of claim 17 is substantively similar to limitation [d] of claim 2, my analysis set forth above with respect to limitation [d] of claim 2 also applies to limitation [a] of claim 17.

**iii. Limitation [b]: “receiving authorization to pay at least a portion of submitted charges associated with the explanation of benefits and the associated funds for payment”**

136. Kennedy teaches and/or suggests receiving authorization to pay at least a portion of submitted charges associated with the explanation of benefits and the associated funds for payment. For example, Kennedy discloses that, after

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receiving an EOB message, displaying an EOB statement to the patient, and entering payment instructions for the patient's portion, "the financial network 110 may process payments (using a conventional ACH banking network) from the health network 116 to the provider, by electronically processing a bank transaction that debits a health network bank account (for the amount of any insurance payment for the treatment of the patient) and that credits such amount to a bank account of the provider (step 534)." Kennedy at [0064].

137. As one skilled in the art, I am compelled to explain that even when a stored-value card is used to effect a payment, the actual funds are transferred through the conventional ACH banking network. In other words, while there may be advantages to using stored-value cards as a form of payment, every one of them is ultimately settled through the ACH banking network. Therefore, whether one uses the ACH network to execute the payment in the first place, or for whatever rational uses a stored-value card to effect the payment, the result is the same, i.e., the beneficiary of the payment, in this case the provider, will receive an ACH payment deposited in his/her chosen bank account.

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- iv. Limitation [c]: “funding a unique, single-use stored-value card account with an amount equal to the adjudicated benefit payment by one or more computers”**

138. Kennedy in combination with Watson and vPayment Interview teaches and/or suggests funding a unique, single-use stored-value card account with an amount equal to the adjudicated benefit payment by one or more computers. Because limitation [c] of claim 17 is substantively similar to limitation [a] of claim 7, my analysis set forth above with respect to limitation [a] of claim 7 also applies to limitation [c] of claim 17.

- v. Limitation [d]: “merging the explanation of benefits with the stored-value card account number, the adjudicated benefit amount of payment, a card verification value code, and an expiration date in an electronic file by said one or more computers”**

139. Kennedy in combination with Watson, vPayment Interview, and Image Statement Products teaches and/or suggests merging the explanation of benefits with the stored-value card account number, the adjudicated benefit amount of payment, a card verification value code, and an expiration date in an electronic file by said one or more computers. Because limitation [d] of claim 17 is substantively similar to limitation [b] of claim 7, my analysis set forth above with respect to limitation [b] of claim 7 also applies to limitation [d] of claim 17.

- vi. Limitation [e]: “electronically sending the merged file to the health care provider as payment for the services by said one or more computers”**

140. Kennedy in combination with Watson, vPayment Interview, and Image Statement Products teaches and/or suggests electronically sending the merged file to the health care provider as payment for the services by said one or more computers. Because limitation [e] of claim 17 is substantively similar to limitation [c] of claim 7, my analysis set forth above with respect to limitation [c] of claim 7 also applies to limitation [e] of claim 17.

**G. Claim 22 is rendered obvious by Kennedy, Watson, vPayment Interview, and Image Statement Products**

141. Claims 22 is invalid under 35 U.S.C. § 103 over Kennedy in view of Watson, vPayment Interview, and Image Statement Products as explained herein below and in the claim chart found in Appendix G.

- i. Preamble: “A system for payment of adjudicated health care benefits to a health care provider”**

142. The preamble is non-limiting. Thus, no further analysis of the preamble is needed.

143. Even if the preamble were construed as limiting, Kennedy discloses a system for payment of adjudicated health care benefits to a health care provider. *See* my analysis set forth above with respect to the preamble of claim 1.

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- ii. **Limitation [a]: “an administration system operable to receive a benefit claim from the health care provider and to generate an explanation of benefits for the benefit claim along with an approved payment”**

144. Kennedy teaches and/or suggests an administration system operable to receive a benefit claim from the health care provider and to generate an explanation of benefits for the benefit claim along with an approved payment. Limitation [a] of claim 22 is substantially identical to limitation [c] of claim 2. Accordingly, my analysis set forth above with respect to limitation [c] of claim 2 also applies to limitation [a] of claim 22.

- iii. **Limitation [b]: “a card processing system operable to fund a single-use stored-value card account with an amount equal to the approved payment by one or more computers, the card processing system also operable to merge the explanation of benefits with the stored-value card account number by one or more computers, the adjudicated amount of payment, a card verification value code, and an expiration date in an electronic file and to send the electronic file to the health care provider as payment for the benefit claim by one or more computers”**

145. Kennedy in combination with Watson, vPayment Interview, and Image Statement Products teaches and/or suggests Kennedy in combination with Watson and vPayment Interview. Limitation [b] of claim 22 is substantially similar to the combination of limitations [a], [b], and [c] of claim 7. Accordingly, my analysis set forth above with respect to limitations [a], [b], and [c] of claim 7 also applies to limitation [b] of claim 22.

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**H. Claims 3-5, 8-11, 13-16, 18-21, and 23-26 are rendered obvious by Kennedy, Watson, vPayment Interview, and Image Statement Products**

146. Claims 3-5, 8-11, 13-16, 18-21, and 23-26 are invalid under 35 U.S.C. § 103 over Kennedy, Watson and vPayment Interview as further explained herein below.

147. The preambles of claims 3-5, 8-11, 13-16, 18-21, and 23-26 are not limiting. To the extent that the preambles are interpreted as limiting, each of the elements of the preambles of claims 3-5, 8-11, 13-16, 18-21, and 23-26 was discussed with respect to the preambles of claims 1, 2, 6, 7, 12, 17, and 22.

**i. Claims 3: “transmitted by fax” / Claims 10, 15, 20, and 25: “sent by computer-implemented electronic transmission medium selected from the group consisting of fax, SMTP, SMS, MMS, HTTP, HTTPS, and FTP”**

148. With respect to claim 3, Kennedy in combination with Watson, vPayment Interview, and Image Statement Products teaches and/or suggests transmission of an electronic file by fax. Because claim 3 is substantively identical to limitation [d] of claim 1, my analysis set forth above with respect to limitation [d] of claim 1 also applies to claim 3.

149. With respect to claims 10, 15, 20, and 25, Kennedy in combination with Watson, vPayment Interview, and Image Statement Products teaches and/or suggests an electronic file being sent by computer-implemented electronic

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transmission medium selected from the group consisting of fax, SMTP, SMS, MMS, HTTP, HTTPS, and FTP. Because claims 10, 15, 20, and 25 are substantively identical to a portion of limitation [d] of claim 6, my analysis set forth above with respect to the corresponding portion of limitation [d] of claim 6 also applies to claims 10, 15, 20 and 25.

- ii. **Claim 4: “reconciling the charge incurred against the stored-value card account number to confirm the health care provider has been paid for the services approved by the administrator” / Claim 8: “reconciling the charged card account to confirm that the health care provider has received payment” / Claims 13, 18, and 23: “the charged card account is reconciled to confirm that the health care provider has received payment”**

150. Kennedy in combination with Watson and vPayment Interview teaches and/or suggests reconciling the charged card account to confirm that the health care provider has received payment. Claims 4, 8, 13, 18, and 23 are substantially similar to each other and to limitation [e] of claim 1. Accordingly, my analysis set forth above with respect to limitation [e] of claim 1 also applies to claims 4, 8, 13, 18, and 23.

- iii. **Claims 5, 11, 16, 21, and 26: “the stored-value card account [number] is [chargeable only/only chargeable] through a medical services terminal”**

151. Kennedy in combination with Watson and vPayment Interview teaches and/or suggests that a stored-value card account is only chargeable through

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a medical services terminal. Claims 5, 11, 16, 21, and 26 are substantially identical to a portion of limitation [a] of claim 1. Accordingly, my analysis set forth above with respect to the corresponding portion of limitation [a] of claim 1 also applies to claims 5, 11, 16, 21, and 26.

152. It is worth noting again that anyone skilled in the art would understand the claimed “medical services terminal” to be nothing more or less than a POS device used at a medical service provider location and that such a POS device is the same as any other POS device used at any other merchant location that has the ability to accept forms of stored-value cards. In other words, a stored-value card is simply a card that is charged at a POS terminal. The only way to limit the use of what cards may be used at what POS terminals is by using SIC codes or Merchant Category Codes “MCC”. MCC codes are assigned to a POS terminal by the company that installs the terminal at the merchant’s location. One skilled in the art would understand, from a reading of the ’904Patent, that the processes for restricting the use of a stored value card to POS terminals located at medical service provider locations would simply require additional programming of these codes into the stored-value card use for payment. Therefore, given no other disclosure in the patent as to the meaning of “medical services terminal,” one



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skilled in the art must conclude that a “medical services terminal” is nothing more than a standard POS terminal that is used at a medical service provider location.

- iv. Claims 9: “providing a computer-generated image of a physical card in the transmitted file” / Claim 14: “a computer-generated image of a physical card is provided in the electronically transmitted document” / Claim 19: “a computer-generated image of a physical card is provided in the merged file” and Claim 24: “a computer-generated image of a physical card is provided in the electronic file.”**

153. Kennedy in combination with Watson, vPayment Interview, Image Statement Products and Knowledge teaches and/or suggests providing a computer-generated image of a physical card in a transmitted file. Claims 9, 14, 19, and 24 are substantially similar to each other and to a portion of limitation [d] of claim 6. Accordingly, my analysis set forth above with respect to the corresponding portion of limitation [d] of claim 6 also applies to claims 9, 14, 19, and 24.

154. Also, as previously referenced, check images were being generated with the EOB/EOP/RA for years prior to the '904 Patent. The '904 Patent merely uses a virtual stored value card as a substitute for a check or ACH/EFT payment, which is entirely obvious for the reasons previously discussed. It follows then that the substitution of an “image of the physical card” for an image of a check in an EOB/EOP/RA would have been likewise obvious to anyone skilled in the art.

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**X. CONCLUSION**

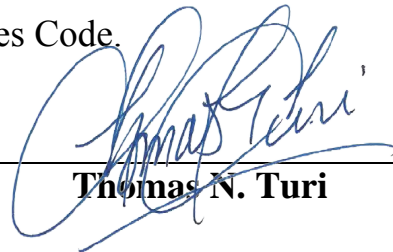
155. In signing this Declaration, I recognize that it will be filed as evidence in a contested case before the Patent Trial and Appeal Board of the United States Patent and Trademark Office. I recognize that I may be subject to cross examination in the case and that cross examination will take place within the United States. If cross examination is required of me, I will appear for cross examination within the United States during the time allotted therefor.

156. I reserve the right to supplement my opinions in the future to respond to any arguments raised by the owner of the '904 Patent and to take into account new information as it becomes available to me.

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

28 August 2014

**Date**



**Thomas N. Turi**

## **XI. APPENDICES**

### **Appendix A – Claim Chart for Claim 1**

#### **Claim 1 - Method**

<b>U.S. Patent No. RE43,904 - Claim 1</b>	<b>Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products</b>
1. A method of facilitating payment of adjudicated health care benefits to a health care provider on behalf of a payer comprising the steps of:	<p>Kennedy discloses the preamble of claim 1.</p> <p><i>See, e.g.</i>, Kennedy at Title: “Healthcare System And Method For Right-Time Claims Adjudication And Payment.”</p> <p><i>See, e.g.</i>, Kennedy at [0006]: “There is provided, in accordance with embodiments of the present invention, a network/system and method for providing claim adjudication and payment for a healthcare charge.”</p> <p><i>See, e.g.</i>, Kennedy at [0031]: “Some systems are implemented by the provider entering information at the POS terminal regarding the patient and a treatment. Such information is used to generate an electronic claim that is submitted to the third party payer, with EOB data generated and returned in real-time fashion by the insurer (or an estimating system) for display at the POS terminal. The EOB data can be used to submit, either automatically or when directed by the patient, a request for reimbursement or payment from an MSA account (or other payment source) for the patient portion of the charge, without the patient having to separately submit such claim. The EOB data is used in its electronic form for such</p>

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	<p>purpose . . . .”</p> <p><i>See, e.g.,</i> Kennedy at [0064]: “[T]he system 100 may expedite an automatic payment to the provider (by the health network), further reducing administrative costs and eliminating delays in settling accounts. Thus, as illustrated in FIG. 5, the financial network 110 may process payments (using a conventional ACH banking network) from the health network 116 to the provider, by electronically processing a bank transaction that debits a health network bank account (for the amount of any insurance payment for the treatment of the patient) and that credits such amount to a bank account of the provider (step 534).”</p> <p><i>See also, e.g.,</i> Kennedy at Abstract, [0027], [0029] and evidence cited below with respect to elements [a]-[e] of claim 1.</p>
[a] loading a unique, single-use, stored-value card account with an amount equal to a single, authorized benefit payment, the card account only chargeable through a medical services terminal;	<p>Kennedy in combination with Watson and vPayment Interview discloses limitation [a] of claim 1.</p> <p><i>See, e.g.,</i> Kennedy at [0028]: “Some embodiments of the invention use a POS ("point of sale" or "point of service") terminal in order for a healthcare provider to have real-time access to healthcare payment information used by a payer for adjudicating claims. The term "provider" is intended to encompass any person or entity that provides a health-related service to a patient or consumer, including a physician (or other healthcare professional), clinic, hospital, treatment center,</p>

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	<p>medical testing laboratory, pharmacy, dispensary, health-related store, and the like.”</p> <p><i>See, e.g.</i>, Kennedy at [0030]: “[P]ayments of a patient’s portion of a charge may be made from many different kinds of financial accounts (other than MSAs), such as line-of-credit accounts, checking accounts, branded credit and debit card accounts (VISA®, MasterCard®, American Express®, Discover®, etc.) and private label or branded accounts (maintained by pharmacies, health networks, and the like).”</p> <p><i>See, e.g.</i>, Kennedy at [0031]: “... the provider entering information at the POS terminal regarding the patient and a treatment. Such information is used to generate an electronic claim that is submitted to the third party payer, with EOB data generated and returned in real-time fashion by the insurer (or an estimating system) for display at the POS terminal. The EOB data can be used to submit, either automatically or when directed by the patient, a request for reimbursement or payment from an MSA account (or other payment source) for the patient portion of the charge, without the patient having to separately submit such claim. The EOB data is used in its electronic form for such purpose, and since it represents in some instances the results of a processed insurance claim, it is suitable for confirming the amounts which are permitted to be charged by the provider as well validly document the basis for an MSA payment request on behalf of a consumer.”</p> <p><i>See, e.g.</i>, Kennedy at [0040]: “The use of the POS terminals 102 and the provider</p>

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	<p>host 106 for... submitting electronic claims and electronic requests for payments helps reduce delay and overhead to the provider in obtaining real-time payment when there are different or overlapping payers involved.”</p> <p><i>See, e.g.,</i> Kennedy at [0046]: “..., the card number 154 (which can be both physically displayed as well as encoded electronically on the card) identifies the patient and his insurance plan or some other identifier. The card 150 will typically be issued by the insurer, and will have information formatted in accordance with well known industry standards so as to be readable by a card reader (if on a magnetic stripe) or a scanner (if in the form of a bar code). Such information is used by the POS terminal and provider network 104 to access the patient's records, to ultimately process insurance claims and/or route the transaction data to the financial network 110. However, the card 150 need not be issued by the insurer--it could be issued by the provider or a third party (plan administrator, employer, financial institution).”</p> <p><i>See, e.g.,</i> Kennedy at [0057]: “FIG. 6 illustrates the EOB message sent from the DBMS 120 to the provider host 106, for purposes of creating the displayed EOB statement. The message is a data packet--also referred to as an electronic remittance advice (ERA) message--formatted in accordance with ANSI Accredited Standards Committee X12N, "Health Care Claim Payment/Advice 835 Implementation Guide (ASC X12N 835), currently published by Washington</p>

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	<p>Publishing Company (www.wpc-edi.com). As seen in FIG. 6, the data packet or message includes data transmitted in three overall levels (Header, Detail and Summary). The Header level includes Transaction Information (to indicate the start of a transaction), Payer Identification, and Payee Identification. The Detail level includes the data needed for generating and displaying the EOB statement, including Claim Payment (amount of claim submitted, treatment/service codes, etc.), Claim Adjustment (agreed to payment, adjustments to claimed amount, patient responsibility, etc.), Patient Information (patient name and other identification) and Insured Information (insured name and other information). The Summary level includes Provider Adjustment (adjustments not specific to a claim, but due to provider circumstances, such as interest, penalties, capture of previous overpayments, etc.), and finally Transaction Trailer (to indicate the end of the transaction). As mentioned earlier, the EOB or ERA message is used at the provider host 106 to create an EOB statement at the POS terminal 102.”</p> <p><i>See, e.g.,</i> Kennedy at [0062]: “Referring to FIG. 7 in conjunction with FIG. 5, in the present example the patient has enrolled in an MSA account and the current available amount for an MSA account is shown below the EOB statement at 630 in the display of FIG. 7. The provider uses the display of FIG. 7 to enter instructions from the patient when any patient portion is to be submitted to an MSA account or other secondary payment source (step 528, FIG. 5), using the payment menu display 632 in FIG. 7. The payment menu 632 includes an entry field for whether a</p>

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	<p>payment should be requested from the MSA account, as well as whether the payment from the MSA should be made to the patient or to the provider (if made to the patient, then the patient will normally be required to make payment at the time of service for any amount to be later reimbursed to the patient out of the MSA account). In some cases, the patient may not have sufficient funds in the MSA account to pay deductibles, and in that case the provider (with patient authorization), may designate at menu 632 that the owed amount is to be paid out of a credit card or other account (such as an account having an account identifier stored at the provider host at step 308).”</p> <p><i>See, e.g.,</i> Kennedy at [0064]: “[T]he system 100 may expedite an automatic payment to the provider (by the health network), further reducing administrative costs and eliminating delays in settling accounts. Thus, as illustrated in FIG. 5, the financial network 110 may process payments (using a conventional ACH banking network) from the health network 116 to the provider, by electronically processing a bank transaction that debits a health network bank account (for the amount of any insurance payment for the treatment of the patient) and that credits such amount to a bank account of the provider (step 534).”</p> <p><i>See, e.g.,</i> Kennedy at [0080]: “At step 1310 in FIG. 13, the patient provides a card, e.g., either a financial card (MSA card, credit card, debit card, etc.) or health plan card 150 illustrated in FIG. 2 (card 150 may store the account number for an MSA,</p>



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	<p>credit card or other financial account). The provider 820 swipes the card to read the account number, and a reference number is assigned (e.g., by the third party network 825) for the transaction, with the patient agreeing to pay any amounts not covered by the health plan 830, and with a nominal authorization (\$1) sent through the third party network 825 to the financial network 840. The financial network 840 is illustrated as including a card transaction processing network 840A used by the provider (such as FDMS--First Data Merchant Services), a card network 840B (such Visa®, MasterCard®, American Express®, Discover®, etc.), and a card issuer or bank 840C where the authorization amount is approved. The approval of the authorization assures the provider that the card is valid and that the patient has an account which may be used for the patient responsibility amount.”</p> <p><i>See, e.g.,</i> Kennedy at [0082]: “At step 1350, the provider is notified that \$50 is being paid to the provider as part of the EOB or electronic remittance advice (ERA). As discussed earlier, the EOB information is sent to the provider so that a statement can be generated at the provider terminal (and displayed or printed for the patient, if desired).”</p> <p><i>See also, e.g.,</i> Kennedy at Abstract, [0007], [0008], [0029], [0032], [0033], [0037], [0043], [0044], [0049], [0050], [0051], [0054], [0055], [0059], [0060], [0071], [0072], [0074], [0081], [0083], [0097], [0098], Fig. 7.</p> <p><i>See, e.g.,</i> Watson at 1:45-60: “Exemplary desired account limitations include</p>

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	<p>restrictions on the types of services and goods that may be procured by an account user 104 as directed by account manager 102. Industry standards have been established for the partitioning of goods and services into categories designated by a standard industrial code (SIC). A merchant 106 is assigned a specific standard industrial code corresponding to their predominate business function. For business transactions that adhere to the SIC coding, transactions originating at a point of sale terminal having a restricted SIC identifier may be unable to obtain proper authorization to complete a transaction with an account user. Other limitations frequently desired by account managers include transactional limits. Transactional limits may include single transaction limits or aggregate limitations upon successive transactions.”)See, e.g., Watson at 4:35-45: “The above described system and method includes an account establishment phase of an account process wherein an account manager approaches a card issuer to establish an account in an establish account step. During the establishment of an account, limitations on transactions relating to that account are negotiated between the account manager and card issuer. Transaction limitations generally include items such as transaction limits, account balance limit, limitations on categories of goods or services as denoted by standard industrial codes (SIC) and other parameters that may be incorporated into a specific accounting scheme.”</p> <p>See, e.g., Watson at 4:61-67: “In the present invention, once an account is established with a card issuer, an account manager may perform preauthorization</p>

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	<p>of transactions with the card issuer directly. In the preferred embodiment, an account manager using a personal computer may routinely generate pre-authorization requests by transferring pre-authorization parameters to the card issuer via the INERNET.”</p> <p><i>See, e.g.,</i> Watson at 5:12-27: “The account manager issues a pre-authorization request to the card issuer via a personal computer. The account manager in the pre-authorization request specifies an account number for which pre-authorization transaction parameters apply. In the preferred embodiment, one or more transaction parameters including a quote amount resulting from the quotation process, an acceptable variance or deviation range from the quotation amount, a merchant identifier (MID) or an acquiring bank identification number (BIN) are dispatched to the card issuer. It should be pointed out that in the present invention, one or more of the pre-authorization parameters may be specified while others may not be specified thus permitting the spectrum of possible options for such criteria. The card issuer relays the pre-authorization parameters to the authorizing agent for storage and usage during authorization processing.”</p> <p><i>See, e.g.,</i> Watson at 7:34-52: “FIG. 2 is a flow diagram of account processing incorporating pre-authorization of individual transactions or transaction types, in accordance with a preferred embodiment of the present invention. As account processing has become increasingly prevalent and sophisticated, the complexities</p>

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	<p>of account processing have also increased. For example, in the establishment and processing of an account, additional specified participants are incorporated into the processing flow. During an account establishment phase of an account process, an account manager 202 approaches a card issuer 214 to establish an account as represented in FIG. 2 by establish account step 216. During the establishment of an account, limitations on transactions relating to that account are negotiated between account manager 202 and card issuer 214. Transaction limitations generally include items such as transaction limits, account balance limit, limitations on categories of goods or services as denoted by standard industrial codes (SIC) and other parameters that may be incorporated into a specific account scheme.”</p> <p><i>See, e.g.,</i> Watson at 9:13-16: “In the preferred embodiment, payment presentment 228 takes the form of presentment of a transaction card or other credit card-like credentials bearing an account number as previously assigned for use by account user 204.”</p> <p><i>See, e.g.,</i> Watson at 9:28-32: “Such a process has application to businesses such as the insurance industry wherein account manager 202 may play the role of a claims adjuster disclosing an account number to merchant 206 for payment of services rendered for an insurance claim.”</p> <p><i>See also, e.g.,</i> Watson at Abstract, 2:24-28, 4:18-34, 5:1-27, 5:41-50, 7:66-8:15,</p>

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	<p>8:31-54, 9:13-23, 9:33-60, 11:58-12:5, 12:60-67, 13:1-11, 13:26-35.</p> <p><i>See, e.g.,</i> vPayment Interview at 3: “Debbie: Isn’t that the GE application that assigns end users a unique credit card number for a specific purchase, so managers aren’t just handing over a credit card? Mike: That’s it. vPayment runs on the MasterCard railroad track. It uses a pool of accounts that authorized buyers access in an automated fashion, through integration with procurement systems like Oracle or through batch A/P. . . . vPayment also sets up caps for each transaction, plus a small buffer on the approved amounts... for tax and freight, or you can authorize the exact amount of the purchase. This also means your supplier charges only what you agreed to pay.”</p> <p><i>See, e.g.,</i> vPayment Interview at 2: “Here’s how it works. Let’s say I want to pay a subscription invoice for Cool Tools. I log into the website and request a payment number, cap the value, and set a date that you have to process it by. In the user-defined field I enter, ‘Cool Tools, invoice number XYZ,’ or whatever accounting string I want. That information appends to the transaction. I hit submit, and then ‘boop boop beep,’ a card number, an expiration date, and a CVC (credit card verification code) number comes back.”</p>
[b] generating an explanation of benefits associated with the	<p>Kennedy discloses limitation [b] of claim 1.</p> <p><i>See, e.g.,</i> Kennedy at [0009]: “In some embodiments, claim adjudication may be</p>

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payment;	<p>achieved by estimating amounts to be paid (e.g., to be paid by a third party payer or by the patient), in response to a healthcare claim. In other embodiments, some payers provide real-time claim adjudication and some do not. The system may receive real-time, actual EOB information relating to some payers (real-time adjudication of a claim) and estimated EOB information relating to other payers (e.g., an estimating system estimates EOB information, but actual adjudication and actual EOB information may be provided later). In either instance, payment can be made by the patient based on information provided at the time a healthcare claim is made. This type of transaction, where payment may be made by a patient immediately (based on either estimated or actual EOB information), is sometimes referred to herein as "right-time" claim adjudication."</p> <p><i>See, e.g., Kennedy at [0054]:</i> "The provider host performs a look-up of the patient's account information in order to identify or locate the patient's payer (i.e., the insurer or other third party payer) at step 508. . . . an electronic claim is generated by the host and sent through the network (step 514) to the third party payer (at one of the health networks 116), where at step 516 the claim information is processed by the DBMS 120 (and the patient/insured information is retrieved at the database 122, as required). Among other things, the DBMS will query the database 122 to make sure that the patient is covered/eligible, determine the features of the patient's coverage (co-pays, deductibles, etc.), and determine the permitted charge for the treatment rendered by the provider under the claim. The</p>

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	<p>database 122 will also store previous charges that may have been applied to the patient deductible, and the DBMS 120 will determine the extent to which any charge is within the deductible (and to be paid by the patient).”</p> <p><i>See, e.g.</i>, Kennedy at [0029]: “The term ‘payer’ may be a third party payer, such as a health insurance company, health maintenance organization (HMO), third party administrator, self-insured employer, and the like.”</p> <p><i>See, e.g.</i>, Kennedy at [0057]: “Fig. 6 illustrates the EOB message sent from the DBMS 120 to the provider host 106, for purposes of creating the displayed EOB statement. The message is a data packet . . . The Detail level includes the data needed for generating and displaying the EOB statement, including Claim Payment (amount of claim submitted, treatment/service codes, etc.), Claim Adjustment (agreed to payment, adjustments to claimed amount, patient responsibility, etc.).”</p> <p><i>See, e.g.</i>, Kennedy at [0071]: “FIG. 8 illustrates... the flow of information and payment between the parties... in the claim adjudication process (patient 810, provider 820, health plan / network 830, and financial networks 840)... provider submits a claim to the health plan and receives back EOB information in the form of an ERA (electronic remittance advice)”</p> <p><i>See also, e.g.</i>, Kennedy at [0007], [0008], [0031], [0032], [0037], [0040], [0041], [0042], [0043], [0044], [0046], [0047], [0048], [0050], [0051], [0052], [0055],</p>

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	[0059], [0060], [0064], [0065], [0072], [0073], [0074], [0075], [0078], [0081], [0082], [0083], [0084], [0086], [0091], [0092], [0096], [0097], [0098].
[c] creating a computer-generated image file containing the stored-value card account number, the amount, a card verification value code, an expiration date, and the explanation of benefits;	<p>Kennedy in combination with Watson, vPayment Interview, and Image Statement Products discloses limitation [c] of claim 1.</p> <p><i>See, e.g.,</i> Kennedy at [0057]: “Fig. 6 illustrates the EOB message sent from the DBMS 120 to the provider host 106, for purposes of creating the displayed EOB statement. The message is a data packet-also referred to as an electronic remittance advice (ERA) message-formatted in accordance with ANSI Accredited Standards Committee X12N, "Health Care Claim Payment/Advice 835 Implementation Guide (ASC X12N 835), currently published by Washington Publishing Company (www.wpc-edi.com). As seen in Fig. 6, the data packet or message includes data transmitted in three overall levels (Header, Detail and Summary). The Header level includes Transaction Information (to indicate the start of a transaction), Payer Identification, and Payee Identification. The Detail level includes the data needed for generating and displaying the EOB statement, including Claim Payment (amount of claim submitted, treatment/service codes, etc.), Claim Adjustment (agreed to payment, adjustments to claimed amount, patient responsibility, etc.), Patient Information (patient name and other identification) and Insured Information (insured name and other information). The Summary level includes Provider Adjustment (adjustments not specific to a claim, but due to provider</p>



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	<p>circumstances, such as interest, penalties, capture of previous overpayments, etc.), and finally Transaction Trailer (to indicate the end of the transaction). As mentioned earlier, the EOB or ERA message is used at the provider host 106 to create an EOB statement at the POS terminal 102.”</p> <p><i>See, e.g.,</i> Kennedy at [0062]: “Referring to FIG. 7 in conjunction with FIG. 5, in the present example the patient has enrolled in an MSA account and the current available amount for an MSA account is shown below the EOB statement at 630 in the display of FIG. 7. The provider uses the display of FIG. 7 to enter instructions from the patient when any patient portion is to be submitted to an MSA account or other secondary payment source (step 528, FIG. 5), using the payment menu display 632 in FIG. 7. The payment menu 632 includes an entry field for whether a payment should be requested from the MSA account, as well as whether the payment from the MSA should be made to the patient or to the provider (if made to the patient, then the patient will normally be required to make payment at the time of service for any amount to be later reimbursed to the patient out of the MSA account). In some cases, the patient may not have sufficient funds in the MSA account to pay deductibles, and in that case the provider (with patient authorization), may designate at menu 632 that the owed amount is to be paid out of a credit card or other account (such as an account having an account identifier stored at the provider host at step 308).”</p>

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U.S. Patent No. RE43,904 - Claim 1	Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products																																																																																													
	<p><i>See, e.g., Kennedy at Fig. 7:</i></p> <div style="border: 1px solid black; padding: 10px; margin: 10px auto; width: 90%;"><p style="text-align: center;"><b>Explanation of Benefits Statement</b></p><p><b>ABC Insurance Co.</b></p><div style="display: flex; justify-content: space-between;"><div>Insured Name: Joe Insured Insured ID/SS#: 123-45-6789 Policy: 24680246 Claim Number: AB-13579135-001-2-03-40-0005 Control Number: 987654321 Date: 04/05/2006</div><div>Patient Name: Pat I Insured Provider Name: Phyllis A Provider, MD Patient ID/SS#: 246-80-2468 Patient Account#: YZ1357924680</div></div><div style="display: flex; justify-content: space-between; margin-top: 10px;"><div>602 604 606 608 610 612 616</div></div><table border="1" style="width: 100%; border-collapse: collapse; font-size: 0.8em;"><thead><tr><th>Service Code</th><th>Service Description</th><th>Service Date(s)</th><th>Provider Charge</th><th>Allowed Amount</th><th>Discount Amount</th><th>Not Covered</th><th>Deductible</th><th>Copay</th><th>Pay At</th><th>Remarks</th><th>Amount Paid</th></tr></thead><tbody><tr><td>1234</td><td>Physician</td><td>01/27/2006</td><td>\$184.00</td><td>\$139.00</td><td>\$45.00</td><td></td><td>\$139.00</td><td></td><td></td><td>0054</td><td>\$0.00</td></tr><tr><td>5678</td><td>Lab Expense</td><td>01/27/2006</td><td>\$18.00</td><td>\$9.37</td><td>\$8.63</td><td></td><td>\$9.37</td><td></td><td></td><td>0054</td><td>\$0.00</td></tr><tr><td>1357</td><td>Lab Expense</td><td>01/27/2006</td><td>\$13.00</td><td>\$4.93</td><td>\$8.07</td><td></td><td>\$4.93</td><td></td><td></td><td>0054</td><td>\$0.00</td></tr><tr><td>9024</td><td>Lab Expense</td><td>01/27/2006</td><td>\$10.00</td><td>\$4.44</td><td>\$5.56</td><td></td><td>\$4.44</td><td></td><td></td><td>0054</td><td>\$0.00</td></tr><tr><td colspan="3"><b>TOTALS</b></td><td>\$225.00</td><td>\$157.74</td><td>\$67.26</td><td></td><td>\$157.74</td><td></td><td></td><td></td><td>\$0.00</td></tr></tbody></table><p>Remarks 0054 Network Benefits applied. Your provider has agreed to the negotiated rate in accordance with the Managed Care provider agreement. You should not be billed for this amount.</p><div style="display: flex; justify-content: space-between; margin-top: 10px;"><div style="width: 45%;"><p>622</p><table border="1" style="width: 100%; border-collapse: collapse; font-size: 0.7em;"><thead><tr><th colspan="3">Plan Accumulations - Deductible and Out-Of-Pocket</th></tr><tr><th rowspan="2">This Year</th><th colspan="2">2006</th></tr><tr><th>YTD</th><th>Remaining</th></tr></thead><tbody><tr><td>Family Deductible</td><td>\$157.74</td><td>\$4,842.26</td></tr></tbody></table><div style="border: 1px solid black; padding: 5px; margin-top: 5px; font-size: 0.7em;"><p>MSA Account</p><p>This Year Contributions \$2,000.00</p><p>This Year Available \$1,953.50</p></div><div style="border: 1px solid black; padding: 5px; margin-top: 5px; font-size: 0.7em;"><p>Patient Portion</p><p>Submit to MSA Y/N</p><p>Pay To <input type="checkbox"/> Provider <input type="checkbox"/> Patient</p><p>Any Remaining Balance</p><p><input type="checkbox"/> Pay From Credit Card No. #####</p><p><input type="checkbox"/> Pay From Other Credit Card</p><p><input type="checkbox"/> Pay From Checking Account No. #####</p><p><input type="checkbox"/> Pay From Other Account No. #####</p></div></div><div style="width: 45%;"><p>630</p><table border="1" style="width: 100%; border-collapse: collapse; font-size: 0.7em;"><thead><tr><th colspan="2">Payment Summary</th></tr></thead><tbody><tr><td>Payment Sent To:</td><td>Physician Affiliate</td></tr><tr><td>Payment Amount:</td><td>\$0.00</td></tr><tr><td>Payment Date:</td><td>04/05/2006</td></tr><tr><td>Patient's Portion:</td><td>\$157.74</td></tr></tbody></table><div style="border: 1px solid black; padding: 5px; margin-top: 5px; font-size: 0.7em;"><p>Total Payment Summary</p><p>Payment(s) Sent To:</p><p>Payment Amount: \$0.00</p><p>Payment Date: 04/05/2006</p><p><b>*TOTAL PATIENT PORTION: \$157.74</b></p><p><small>*remit patient portion directly to provider</small></p></div></div></div><div style="text-align: center; margin-top: 10px;"><b>Print and Retain This Statement for Patient</b></div></div>	Service Code	Service Description	Service Date(s)	Provider Charge	Allowed Amount	Discount Amount	Not Covered	Deductible	Copay	Pay At	Remarks	Amount Paid	1234	Physician	01/27/2006	\$184.00	\$139.00	\$45.00		\$139.00			0054	\$0.00	5678	Lab Expense	01/27/2006	\$18.00	\$9.37	\$8.63		\$9.37			0054	\$0.00	1357	Lab Expense	01/27/2006	\$13.00	\$4.93	\$8.07		\$4.93			0054	\$0.00	9024	Lab Expense	01/27/2006	\$10.00	\$4.44	\$5.56		\$4.44			0054	\$0.00	<b>TOTALS</b>			\$225.00	\$157.74	\$67.26		\$157.74				\$0.00	Plan Accumulations - Deductible and Out-Of-Pocket			This Year	2006		YTD	Remaining	Family Deductible	\$157.74	\$4,842.26	Payment Summary		Payment Sent To:	Physician Affiliate	Payment Amount:	\$0.00	Payment Date:	04/05/2006	Patient's Portion:	\$157.74
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U.S. Patent No. RE43,904 - Claim 1	Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products
	<p><i>See also, e.g.,</i> Kennedy at [0031], [0032], [0033], [0041], [0043], [0049], [0059], [0071], [0072], and [0080].</p> <p><i>See, e.g.,</i> Watson at 9:13-16: “[P]ayment presentment 228 takes the form of presentment of a transaction card or other credit card-like credentials bearing an account number as previously assigned for use by account user 204.”</p> <p><i>See, e.g.,</i> Watson at 2:24-28: “Authorization requests may electronically pass through acquiring bank 108 as designated by the BIN... the authorization request and additionally may route through a card company 110 (e.g., MasterCard®, VISA®, Discover Card® or American Express®) prior to reaching authorizing agent 112 for comparison of account parameters.”</p> <p><i>See also, e.g.,</i> Watson at 5:41-50, 9:33-60, 13:1-11, 13:26-35.</p> <p><i>See, e.g.,</i> vPayment Interview at 3: “Let’s say I want to pay a subscription invoice for Cool Tools. I log into the website and request a payment number, cap the value, and set a date that you have to process it by. In the user-defined field I enter, ‘Cool Tools, invoice number XYZ,’ or whatever accounting string I want. That information appends to the transaction. I hit submit, and then ‘boop boop beep,’ a card number, an expiration date, and a CVC (credit card verification code) number comes back. I can fax that information to you.”</p> <p><i>See, e.g.,</i> vPayment Interview at 3: “It’s just like buying something with a normal</p>

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	<p>MasterCard credit card. . . . To the supplier, vPayment looks just like a regular MasterCard.”</p> <p><i>See also, e.g.,</i> vPayment Interview at 2.</p> <p><i>See, e.g.,</i> Image Statement Products at 1: “Image statements allow financial institutions to return electronic or printed images of processed checks to customers within their monthly account statement in lieu of the original check document.”</p> <p><i>See, e.g.,</i> Image Statement Products at 1: “Under the agreement with Payformance, Viewpointe will deploy Payformance’s Data Transformation Engine – a combination of services, capable of processing over 500 images per second, operating within a Linux based server cluster. Viewpointe will receive statement data from financial institutions, retrieve the appropriate check and document images from its shared national archive, insert them electronically into individual statements, and either return the statements back to the financial institution for printing, or store and render the statements on behalf of the bank.”</p>
[d] transmitting the image file by fax to the health care provider; and	<p>Kennedy in combination with Watson, vPayment Interview, and Image Statement Products discloses limitation [d] of claim 1.</p> <p><i>See, e.g.,</i> evidence set forth above with respect to limitation [c] of claim 1.</p> <p><i>See, e.g.,</i> Kennedy at [0071]: “FIG. 8 illustrates one embodiment..., particularly</p>

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U.S. Patent No. RE43,904 - Claim 1	Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products
	<p>the flow of information and payment between the parties involved in the claim adjudication process (patient 810, provider 820, health plan/network 830, and financial networks 840). As seen, the provider submits a claim to the health plan and receives back EOB information in the form of an ERA (electronic remittance advice).”</p> <p><i>See, e.g.,</i> Kennedy at Fig. 9 and [0072]: “FIG. 9 illustrates another embodiment... where... a third party processing entity/intermediary/network 825 is used for processing claims and payments. Such a third party could operate a web host/server that runs applications using POS terminals 102 for generating claims from the provider, submitting those claims to the health plan, receiving back the ERA message and forwarding the ERA message to the provider. . .”</p> <p><i>See also, e.g.,</i> Kennedy at Abstract, [0033], [0037], [0038], [0039], [0041], [0055], [0057], [0059], [0060], [0074], and Figs. 1, 9, and 10.</p> <p><i>See, e.g.,</i> vPayment Interview at 3: “Let’s say I want to pay a subscription invoice for Cool Tools. I log into the website and request a payment number, cap the value, and set a date that you have to process it by. In the user-defined field I enter, “Cool Tools, invoice number XYZ,” or whatever accounting string I want. That information appends to the transaction. I hit submit, and then ‘boop boop beep,’ a card number, an expiration date, and a CVC (credit card verification code) number comes back. I can fax that information to you. vPayment offers all the benefits of</p>

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U.S. Patent No. RE43,904 - Claim 1	Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products
	control and reconciliation, but it doesn't have the electronic back-end of eProcurement system. It's a very simple check replacement tool."
[e] reconciling the charged card account to confirm that the health care provider has received payment.	<p>Kennedy in combination with Watson and vPayment Interview discloses limitation [e] of claim 1.</p> <p><i>See, e.g.,</i> Kennedy at [0064]: "... the system 100 may expedite an automatic payment to the provider (by the health network), further reducing administrative costs and eliminating delays in settling accounts. Thus, as illustrated in FIG. 5, the financial network 110 may process payments (using a conventional ACH banking network) from the health network 116 to the provider, by electronically processing a bank transaction that debits a health network bank account (for the amount of any insurance payment for the treatment of the patient) and that credits such amount to a bank account of the provider (step 534). Such payment can be reflected at the provider host by updating the patient's individual account and the provider's accounts receivables (step 536). A payment for any patient portion of the charge may also be electronically processed and credited to the provider account as part of step 534."</p> <p><i>See, e.g.,</i> Watson at 4:18-34: "A further advancement... provides a method and system for allowing an account manager to define a transaction identifier (e.g., insurance claim number, purchase order number, work order number, etc.) and attach the transaction identifier through a pre-authorization of a transaction. Upon</p>

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U.S. Patent No. RE43,904 - Claim 1	Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products
	<p>the initiation and authorization of a requested transaction..., the transaction identifier is included with the generic billing information (e.g., transaction amount, merchant information, etc.) thus allowing an account manager to reconcile their accounting from a billing account information containing the transaction having the transaction identifier associated thereto with a pre-transaction assignment of a traditional identifier such as purchase order number, work order number, or insurance claim number.”</p> <p><i>See, e.g., vPayment Interview at 3:</i> “... when a user requests a vPayment number on demand, they can manually input a description and accounting information into the record, so reconciliation is easy. When vPayment is integrated in a procurement system, a unique transaction ID automatically transfers over to the transaction file. It doesn’t matter whether the supplier they’re buying from is at level 1, 2, or 3 in terms of data capture. They’re going to get the exact PO number or account code in the credit card transaction record. ... for example, the only time someone touches the accounting code is when they build their shopping cart. It all happens at the front end; posting to the general ledger is hands free.”</p> <p><i>See, e.g., vPayment Interview at 3:</i> “With vPayment, we’re seeing automated reconciliation in the 98% range and higher.”</p> <p><i>See, e.g., vPayment Interview at 3:</i> “Let’s say I want to pay a subscription invoice for Cool Tools. I log into the website and request a payment number, cap the</p>

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<b>U.S. Patent No. RE43,904 - Claim 1</b>	<b>Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products</b>
	<p>value, and set a date that you have to process it by. In the user-defined field I enter, “Cool Tools, invoice number XYZ,” or whatever accounting string I want. That information appends to the transaction. I hit submit, and then ‘boop boop beep,’ a card number, an expiration date, and a CVC (credit card verification code) number comes back. I can fax that information to you. vPayment offers all the benefits of control and reconciliation, but it doesn’t have the electronic back-end of eProcurement system. It’s a very simple check replacement tool.”</p>



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**Appendix B – Claim Chart for Claim 2**

**Claim 2 - Method**

<b>U.S. Patent No. RE43,904 - Claim 2</b>	<b>Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products</b>
2. A method of facilitating payment of adjudicated health care benefits to a health care provider comprising:	Kennedy discloses the preamble of claim 2.  <i>See, e.g.,</i> evidence set forth above with respect to the preamble of claim 1.  <i>See also, e.g.,</i> evidence cited below with respect to elements [a]-[g] of claim 2.
[a] identifying the health care provider that renders medical services in anticipation of payment;	Kennedy discloses limitation [a] of claim 2.  <i>See, e.g.,</i> Kennedy at [0057]: “Fig. 6 illustrates the EOB message sent from the DBMS 120 to the provider host 106, for purposes of creating the displayed EOB statement. The message is a data packet-also referred to as an electronic remittance advice (ERA) message-formatted in accordance with ANSI Accredited Standards Committee X12N, "Health Care Claim Payment/Advice 835 Implementation Guide (ASC X12N 835), currently published by Washington Publishing Company (www.wpc-edi.com). As seen in Fig. 6, the data packet or message includes data transmitted in three overall levels (Header, Detail and Summary). The Header level includes Transaction Information (to indicate the start of a transaction), Payer Identification, and Payee Identification. The Detail level includes the data needed for generating and displaying the EOB statement, including Claim Payment (amount of claim submitted, treatment/service codes, etc.), Claim Adjustment

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U.S. Patent No. RE43,904 - Claim 2	Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products
	<p>(agreed to payment, adjustments to claimed amount, patient responsibility, etc.), Patient Information (patient name and other identification) and Insured Information (insured name and other information). The Summary level includes Provider Adjustment (adjustments not specific to a claim, but due to provider circumstances, such as interest, penalties, capture of previous overpayments, etc.), and finally Transaction Trailer (to indicate the end of the transaction). As mentioned earlier, the EOB or ERA message is used at the provider host 106 to create an EOB statement at the POS terminal 102.”</p> <p><i>See, e.g., Kennedy at [0072]: “FIG. 9 illustrates another embodiment...where...a third party processing entity/intermediary/network 825 is used for processing claims and payments. Such a third party could operate a web host/server that runs applications using POS terminals 102 for <i>generating claims from the provider</i>, submitting those claims to the health plan, receiving back the ERA message and <i>forwarding the ERA message to the provider</i> in order to generate the EOB statement for the patient at the provider POS terminal.”</i></p> <p><i>See also, e.g., Kennedy at Abstract, [0007], [0008], [0031], [0035], [0037], [0046], [0047], [0052], [0053], [0071], [0084], [0091], [0096], [0097], [0098], Figs. 5 and 9.</i></p>
[b] identifying a payer that has agreed to pay the health	Kennedy discloses limitation [b] of claim 2.

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care provider on behalf of a patient subject to preselected conditions;	<p><i>See, e.g., Kennedy at [0042]: “an identifying presentation instrument or card 150 that could be used by a consumer when visiting a healthcare provider. The card 150 has as its primary purpose the <i>identification of the consumer and the consumer's insurer or third party payer</i>, to assist the provider in processing a claim for reimbursement...”</i></p> <p><i>See, e.g., Kennedy at [0053]: “[T]he patient first seeks treatment from a provider at step 502 and then provides the presentation instrument or card 150 at step 504, when the patient's treatment charge is to be processed. The card 150 is read at the POS terminal 102 so the patient's identifying data (along with any treatment data) may be sent to the provider host 106 at step 506.”</i></p> <p><i>See, e.g., Kennedy at [0054]: “The provider host performs a look-up of the patient's account information in order to identify or locate the patient's payer (i.e., the insurer or other third party payer) at step 508. In some instances, where specific insurers may require additional information for submitting a claim, the host may request additional data (e.g., the third party payer may require additional information such as a dependent's name, a pre-authorization code, provider ID and the like), steps 510 and 512. Such additional information may be requested at the POS terminal 102 for entry by the provider. Once any additional information is entered, an electronic claim is generated by the host and sent through the network (step 514) to the third party payer (at one of the health networks 116), where at</i></p>

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	<p>step 516 the claim information is processed by the DBMS 120 (and the patient/insured information is retrieved at the database 122, as required). Among other things, the DBMS will query the database 122 to make sure that the patient is covered/eligible, determine the features of the patients coverage (co-pays, deductibles, etc.), and determine the permitted charge for the treatment rendered by the provider under the claim. The database 122 will also store previous charges that may have been applied to the patient deductible, and the DBMS 120 will determine the extent to which any charge is within the deductible (and to be paid by the patient).”</p> <p><i>See, e.g.,</i> Kennedy at [0057]: “Fig. 6 illustrates the EOB message sent from the DBMS 120 to the provider host 106, for purposes of creating the displayed EOB statement. The message is a data packet-also referred to as an electronic remittance advice (ERA) message-formatted in accordance with ANSI Accredited Standards Committee X12N, "Health Care Claim Payment/Advice 835 Implementation Guide (ASC X12N 835), currently published by Washington Publishing Company (<a href="http://www.wpc-edi.com">www.wpc-edi.com</a>). As seen in Fig. 6, the data packet or message includes data transmitted in three overall levels (Header, Detail and Summary). The Header level includes Transaction Information (to indicate the start of a transaction), Payer Identification, and Payee Identification. The Detail level includes the data needed for generating and displaying the EOB statement, including Claim Payment (amount of claim submitted, treatment/service codes, etc.), Claim Adjustment</p>

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[c] identifying an administrator that determines whether the medical services conducted by the service provider meet the preselected conditions by the payer, generates an explanation of benefits, and authorizes payment of the service provider for an	<p>Kennedy discloses limitation [c] of claim 2.</p> <p><i>See, e.g.,</i> Kennedy at [0029]: “The term ‘payer’ may be a third party payer, such as a health insurance company, health maintenance organization (HMO), third party administrator, self-insured employer, and the like.”</p> <p><i>See, e.g.,</i> Kennedy at [0054]: “The provider host performs a look -up of the patient's account information... to identify or locate the patient's payer (i.e., the insurer or other third party payer) at step 508...an electronic claim is generated by the host and sent through the network (step 514) to the third party payer (at one of</p>

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authorized amount;	<p>the health networks 116), where at step 516 the claim information is processed by the DBMS 120 (and the patient /insured information is retrieved at the database 122...the DBMS will query the database 122 to make sure that the patient is covered/eligible, determine the features of the patient's coverage (co-pays, deductibles, etc.), and determine the permitted charge for the treatment rendered by the provider under the claim. The database 122 will also store previous charges that may have been applied to the patient deductible, and the DBMS 120 will determine the extent to which any charge is within the deductible (and to be paid by the patient).”</p> <p><i>See, e.g.,</i> Kennedy at [0057]: “Fig. 6 illustrates the EOB message sent from the DBMS 120 to the provider host 106, for purposes of creating the displayed EOB statement. The message is a data packet-also referred to as an electronic remittance advice (ERA) message-formatted in accordance with ANSI Accredited Standards Committee X12N, "Health Care Claim Payment/Advice 835 Implementation Guide (ASC X12N 835), currently published by Washington Publishing Company (www.wpc-edl.com). As seen in Fig. 6, the data packet or message includes data transmitted in three overall levels (Header, Detail and Summary). The Header level includes Transaction Information (to indicate the start of a transaction), Payer Identification, and Payee Identification. The Detail level includes the data needed for generating and displaying the EOB statement, including Claim Payment (amount of claim submitted, treatment/service codes, etc.), Claim Adjustment</p>

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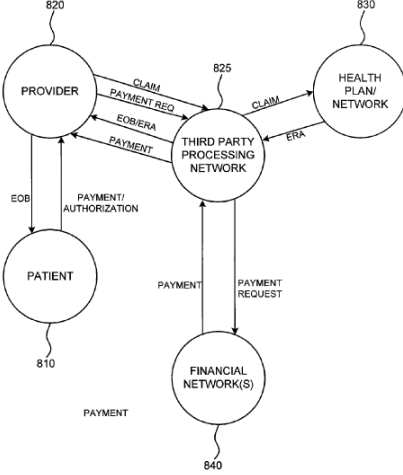
U.S. Patent No. RE43,904 - Claim 2	Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products
	[0041], [0042], [0043], [0044], [0046], [0047], [0048], [0050], [0051], [0052], [0055], [0059], [0060], [0065], [0072], [0073], [0074], [0075], [0078], [0081], [0082], [0083], [0084], [0086], [0091], [0092], [0096], [0097], [0098].
[d] intercepting the explanation of benefits and payment information transmitted from the administrator to the health care provider;	<p>Kennedy discloses limitation [d] of claim 2.</p> <p><i>See, e.g.,</i> Kennedy at [0071]: “FIG. 8 illustrates... the flow of information and payment between the parties... in the claim adjudication process (patient 810, provider 820, health plan /network 830, and financial networks 840)... provider submits a claim to the health plan and receives back EOB information in the form of an ERA (electronic remittance advice).”</p> <p><i>See, e.g.,</i> Kennedy at [0072]: “FIG. 9 illustrates another embodiment... where... a third party processing entity /intermediary/network 825 is used for processing claims and payments. Such a third party could operate a web host/server that runs applications using POS terminals 102 for generating claims from the provider, submitting those claims to the health plan, receiving back the ERA message and forwarding the ERA message to the provider. . .”</p> <p><i>See, e.g.,</i> Kennedy at [0057]: “Fig. 6 illustrates the EOB message sent from the DBMS 120 to the provider host 106, for purposes of creating the displayed EOB statement. The message is a data packet-also referred to as an electronic remittance advice (ERA) message-formatted in accordance with ANSI Accredited Standards</p>



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<b>U.S. Patent No. RE43,904 - Claim 2</b>	<b>Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products</b>
	<p>Committee X12N, "Health Care Claim Payment/Advice 835 Implementation Guide (ASC X12N 835), currently published by Washington Publishing Company (www.wpc-edi.com). As seen in Fig. 6, the data packet or message includes data transmitted in three overall levels (Header, Detail and Summary). The Header level includes Transaction Information (to indicate the start of a transaction), Payer Identification, and Payee Identification. The Detail level includes the data needed for generating and displaying the EOB statement, including Claim Payment (amount of claim submitted, treatment/service codes, etc.), Claim Adjustment (agreed to payment, adjustments to claimed amount, patient responsibility, etc.), Patient Information (patient name and other identification) and Insured Information (insured name and other information). The Summary level includes Provider Adjustment (adjustments not specific to a claim, but due to provider circumstances, such as interest, penalties, capture of previous overpayments, etc.), and finally Transaction Trailer (to indicate the end of the transaction). As mentioned earlier, the EOB or ERA message is used at the provider host 106 to create an EOB statement at the POS terminal 102.”</p> <p><i>See, e.g., Fig. 9.</i></p>

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	 <p><i>See also, e.g.,</i> Kennedy at [0007], [0008], [0029], [0031], [0041], [0073], [0078], [0080], [0081], [0082], [0083], [0084], [0096], [0097], and [0098].</p>
[e] acquiring a single-use, stored-value card account number and loading it with funds equal to the authorized amount;	<p>Kennedy in combination with Watson and vPayment Interview discloses limitation [e] of claim 2.</p> <p><i>See, e.g.,</i> evidence set forth above with respect to limitation [a] of claim 1.</p>
[f] merging the stored-value card account number, the authorized amount, a card	<p>Kennedy in combination with Watson, vPayment Interview, and Image Statement Products discloses limitation [f] of claim 2.</p>

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<b>U.S. Patent No. RE43,904 - Claim 2</b>	<b>Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products</b>
verification value code, and an expiration date with the explanation of benefits into a computer-generated image file; and	<i>See, e.g.</i> , evidence set forth above with respect to limitation [c] of claim 1.
[g] transmitting the image file to the health care provider via a computer-implemented transmission.	<p>Kennedy in combination with Watson, vPayment Interview, and Image Statement Products discloses limitation [g] of claim 2. [Expert Dec].</p> <p><i>See, e.g.</i>, evidence set forth above with respect to limitations [c] and [d] of claim 1.</p> <p><i>See, e.g.</i>, Kennedy at [0071]: “FIG. 8 illustrates... the flow of information and payment between the parties... in the claim adjudication process (patient 810, provider 820, health plan /network 830, and financial networks 840)... provider submits a claim to the health plan and receives back EOB information in the form of an ERA (electronic remittance advice).”</p> <p><i>See, e.g.</i>, Kennedy at Fig. 9 and [0072]: “FIG. 9 illustrates another embodiment... where... a third party processing entity /intermediary/network 825 is used for processing claims and payments. Such a third party could operate a web host/server that runs applications using POS terminals 102 for generating claims from the provider, submitting those claims to the health plan, receiving back the ERA message and forwarding the ERA message to the provider. . .”</p>

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	<pre> graph TD     820((PROVIDER 820)) -- CLAIM --&gt; 825((THIRD PARTY PROCESSING NETWORK 825))     820 -- PAYMENT REQ --&gt; 825     825 -- EOB/ERA --&gt; 820     825 -- PAYMENT --&gt; 820     825 -- CLAIM --&gt; 830((HEALTH PLAN/NETWORK 830))     830 -- ERA --&gt; 825     810((PATIENT 810)) -- EOB --&gt; 820     810 -- PAYMENT/AUTHORIZATION --&gt; 825     825 -- PAYMENT --&gt; 840((FINANCIAL NETWORK(S) 840))     840 -- PAYMENT REQUEST --&gt; 825     840 -- PAYMENT --&gt; 810     </pre> <p><i>See, e.g., Kennedy at [0074] and Fig. 10: “FIG. 10 is a further, graphical representation of the embodiment of FIG. 9, illustrating the patient 810, provider 820, third party network 825 and health plan networks or payers 830. There is associated with the third party network 825 an application or system 1010 for processing eligibility inquiries from the provider (i.e., confirmation that the patient 810 is currently enrolled or covered under the identified health plan) as well as an application or system 1020 for processing claims and payments to/from the payers 830 (as described earlier).”</i></p>

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	<p style="text-align: center;">FIG. 10</p> <p>See e.g., Kennedy at [0034]: “Turning now to FIG. 1, a system 100 includes a plurality of POS terminals 102. The terminals 102 communicate through a provider network 104 to a provider host 106. In one embodiment, the network 104 is operated by the provider in a single office and used by both healthcare professionals (e.g., to retrieve patient medical records) and by administrative and billing staff (to submit claims and arrange for payment). In other embodiments, the network 104 may be used by individual providers that are geographically dispersed but rely on the network 104 to implement a single source of automated claims processing at the provider host 106. While the POS terminals 102, network 104 and host 106 may perform a variety of processing, retrieval and display functions, the description herein will be directed to those functions as they relate to healthcare claims processing and payment.”</p>

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U.S. Patent No. RE43,904 - Claim 2	Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products
	<p><i>See e.g.</i>, Kennedy at [0035]: “In order to process a claim for payment (based on services rendered by the provider), at least one of the terminals 102 is capable of entering data to identify the patient and to enter treatment codes required to identify the services rendered. The terminal 102 may be a terminal of the type described in U.S. patent application Ser. No. 11/153,218, filed Jun. 14, 2005, entitled "Healthcare Eligibility Verification and Settlement Systems and Methods (TTC Docket 020375-061200), which terminal has an integrated display, card reader and keyboard to facilitate electronic entry of a patient ID from a card presented by the patient, as well as entry of treatment codes and other data at the keyboard. Such application is hereby incorporated by reference. Alternatively, the POS terminal 102 may be a personal computer having a connected display screen, card reader, keyboard (e.g., for entering data manually if a patient does not have a machine readable card or the card is not present), or other devices for entering and displaying data, and programmed to perform the functions described herein. For example, the personal computer may have an internet browser program to facilitate entering, displaying and using data in accordance with a web application resident at the provider host 106 or resident at a host within a third party network or system (not shown in FIG. 1). Furthermore, the terminal 102 may be integrated with a provider's desktop management practice system--applications providing scheduling, electronic patient records, clinical information, patient billing, and so forth--so that data from real time claim processing (to be described in greater detail later) can be incorporated and used as necessary in those applications (e.g., updating accounts receivables). Alternatively, those applications may reside at the provider host 106.”</p>

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U.S. Patent No. RE43,904 - Claim 2	Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products
	<p><i>See e.g.</i>, Kennedy at [0037]: “The provider host 106 may maintain data (such as financial and insurance information) for each patient, and manage the flow of data between the terminals 102, and through the network 104 to a banking or financial network 110 and to one or more external health networks 116. The financial network 110 is for handling conventional credit card, debit card and similar financial transactions. Each health network 116 may be operated by a different third party payer (insurer, HMO, etc.) and links systems, terminals and databases operated by the third party payer. In many cases, the third party payer will have an agreement with a provider to treat consumers covered by that third party's plan at specified or "permitted" charges. The health networks 116 each have an associated database management system (DBMS) 120, which manages a database 122, and terminals 126. The database 122 stores data such as claims history, pending claims, permitted charges (e.g., flat fees or a discount off the provider's normal charges), deductibles, co-pays and other information used for processing claims and generating electronic EOBs (to be describe in greater detail later). The DBMS 120 and database 122 may include any one of numerous forms of storage devices and storage media, such as solid state memory (RAM, ROM, PROM, and the like), magnetic memory, such as disc drives, tape storage, and the like, and/or optical memory, such as DVD. The database 122 may be co-located with the DBMS 120, it may be integral with the DBMS 120, or it may represent (with DBMS 120) distributed data systems located remotely in various different systems and locations. The terminals 126 are workstations used, for example, by administrative staff when accessing the DBMS 120 and other systems connected to the network 116.”</p>

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U.S. Patent No. RE43,904 - Claim 2	Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products
	<p><i>See e.g.</i>, Kennedy at [0038]: “The networks 104, 110 and 116 may be implemented using the Internet, an intranet, a wide area network (WAN), a local area network (LAN), a virtual private network, or any combination of the foregoing. The networks may include both wired and wireless connections, including optical links. For example, the POS terminals may include portable wireless terminals (stationary or mobile) linked to the provider network 104 by wireless communications channels. In some cases in a single office, the terminals 102 may include portable wireless terminals to be conveniently carried by an individual provider for use in displaying medical records and entering treatment information, and stationary terminals used by billing or administrative staff to process claims and payments.”</p> <p><i>See also, e.g.</i>, Kennedy at Abstract, [0033], [0036], [0039], [0041], [0055], [0057], [0059], [0060], [0071], [0072], [0074], and Figs. 1, 9, and 10.</p>



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**Appendix C – Claim Chart for Claim 6**

**Claim 6 - Method**

<b>U.S. Patent No. RE43,904 - Claim 6</b>	<b>Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products</b>
6. A method of facilitating payment of adjudicated health care benefits to a health care provider on behalf of a payer comprising the steps of:	Kennedy discloses the preamble of claim 6.  The preamble of claim 6 is substantially identical to the preamble of claim 1. <i>See</i> exemplary evidence set forth above for the preamble of claim 1.
[a] loading a unique, single-use, stored-value card account with an amount equal to a single, authorized benefit payment, the card account only chargeable through a medical services terminal;	Kennedy in combination with Watson and vPayment Interview discloses limitation [a] of claim 6.  Limitation [a] of claim 6 is substantially identical to limitation [a] of claim 1. <i>See</i> exemplary evidence set forth above for limitation [a] of claim 1.
[b] generating an explanation of benefits associated with the payment;	Kennedy discloses limitation [b] of claim 6.  Limitation [b] of claim 6 is substantially identical to limitation [b] of claim 1. <i>See</i> exemplary evidence set forth above for limitation [a] of claim 1.
[c]creating a computer-	Kennedy in combination with Watson, vPayment Interview, and Image Statement

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<b>U.S. Patent No. RE43,904 - Claim 6</b>	<b>Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products</b>
generated image file containing the stored-value card account number, the amount, a card verification value code, an expiration date, and the explanation of benefits;	<p>Products discloses limitation [c] of claim 6.</p> <p>Limitation [c] of claim 6 is substantially identical to limitation [c] of claim 1. <i>See</i> exemplary evidence set forth above with respect to limitation [c] of claim 1.</p>
[d] transmitting the image file by a computer-implemented electronic transmission medium selected from the group consisting of fax, SMTP, SMS, MMS, HTTP, HTTPS, and FTP to the health care provider wherein the electronic transmission includes a computer-generated image of a physical card; and	<p>Kennedy in combination with Watson, vPayment Interview, Image Statement Products and Knowledge discloses limitation [d] of claim 6.</p> <p>Limitation [d] of claim 6 is largely similar to limitation [d] of claim 1. There are two substantive differences. The first substantive difference is that limitation [d] of claim 1 specifies that transmission of the image file is to be by fax whereas limitation [d] of claim 6 specifies that transmission of the image file is to be over a computer-implemented medium selected from a group that includes by fax. The second substantive difference is that the electronic transmission includes a computer-generated image of a physical card.</p> <p><i>See</i> exemplary evidence set forth above with respect to limitations [c] and [d] of claim 1.</p> <p>Also, while limitation [g] of claim 2 is broader than the portion of limitation [d] of</p>

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<b>U.S. Patent No. RE43,904 - Claim 6</b>	<b>Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products</b>
	claim 6 that requires the use of one of several types of computer-implemented transmission media in that it only requires transmitting the image file to the healthcare provider “via a computer-implemented transmission,” the evidence set forth above with respect to limitation [g] of claim 2 is also relevant here.
[e] reconciling the charged card account to confirm that the health care provider has received payment.	Kennedy in combination with Watson and vPayment Interview discloses limitation [e] of claim 6.  Limitation [e] of claim 6 is substantially identical to limitation [e] of claim 1. <i>See</i> exemplary evidence set forth above for limitation [e] of claim 1.

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**Appendix D – Claim Chart for Claim 7**

**Claim 7 - Method**

<b>U.S. Patent No. RE43,904 - Claim 7</b>	<b>Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products</b>
7. A method of facilitating payment of adjudicated health care benefits to a health care provider on behalf of a payer comprising the steps of:	To the extent that the preamble is construed as a limitation, Kennedy discloses the preamble of claim 7.  <i>See, e.g.,</i> the evidence cited above regarding the preamble of claim 1.
[a] loading a unique, single-use stored-value card account by one or more computers with an amount equal to a single, adjudicated benefit payment, generating an explanation of benefits associated with the payment;	Kennedy in combination with Watson and vPayment Interview discloses limitation [a] of claim 7.  Limitation [a] of claim 7 is substantially similar to limitations [a] and [b] of claim 1 with the further requirement that that the loading of the stored-value card account is “by one or more computers.”  <i>See</i> the evidence set forth above regarding limitations [a] and [b] of claim 1.  <i>See, e.g.,</i> Watson at 8:9-15: “In the present invention, once an account is established with a card issuer, account manager 202 may perform pre-authorization of transactions with card issuer 214 directly. In the preferred embodiment, account manager 202 using a personal computer may routinely generate preauthorization requests by transferring pre-authorization parameters to card issuer 214 via the INTERNET.”

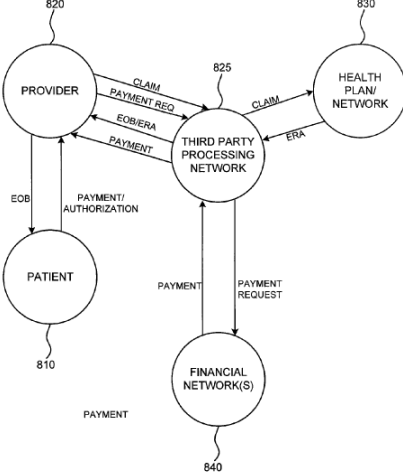
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U.S. Patent No. RE43,904 - Claim 7	Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products
	<p><i>See, e.g.,</i> Watson at 8:65-9:6: “Referring to FIG. 2, card issuer 214 employs its established relationship with authorizing agent 212 to forward a pre-authorization request 226 comprised of the account number and other transaction parameters which may optionally include a transaction identifier. Authorizing agent 212 retains and stores the pre-authorization transaction parameters in a pre-authorization table 318 (FIG. 3) for subsequent authorization when a transaction presents an SIC corresponding to one designated as a pre-authorization SIC.”</p> <p><i>See, e.g.,</i> vPyament Interview at 3: “Here’s how it works. Let’s say I want to pay a subscription invoice for Cool Tools. I log into the website and request a payment number, cap the value, and set a date that you have to process it by. In the user-defined field I enter, ‘Cool Tools, invoice number XYZ,’ or whatever accounting string I want. That information appends to the transaction. I hit submit, and then ‘boop boop beep,’ a card number, an expiration date, and a CVC (credit card verification code) number comes back.”</p>
[b] creating a computer-generated file containing the stored-value card account number, the adjudicated benefit payment amount, a card verification value code, an expiration date, and the explanation of benefits by one or more computers; and	<p>Kennedy in combination with Watson, vPayment Interview discloses, and Image Statement Products limitation [b] of claim 7.</p> <p>Limitation [b] of claim 7 is substantially similar to limitation [c] of claim 1. <i>See</i> the evidence set forth above regarding limitation [c] of claim 1.</p> <p><i>See also, e.g.,</i> Kennedy at [0034]-[0038], Watson at 8:9-15, vPayment Interview at 3, Image Statement Products at 2.</p>

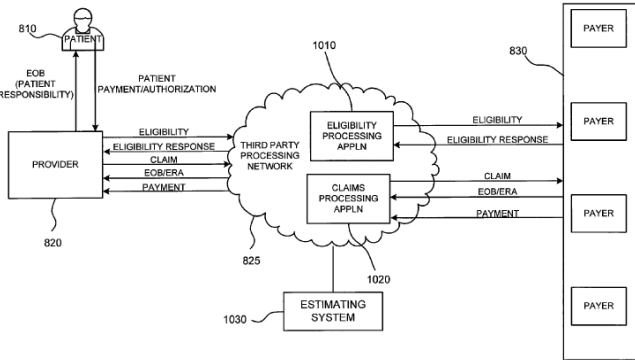
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<b>U.S. Patent No. RE43,904 - Claim 7</b>	<b>Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products</b>
<p>[c] transmitting the file by one or more computers to the health care provider.</p>	<p>Kennedy in combination with Watson, vPayment Interview, and Image Statement Products discloses limitation [c] of claim 7.</p> <p>Limitation [c] of claim 7 is similar to, but even broader than, limitation [d] of claim 1. <i>See</i> the evidence set forth above regarding limitations [c] and [d] of claim 1.</p> <p><i>See, e.g.,</i> Kennedy at [0071]: “FIG. 8 illustrates... the flow of information and payment between the parties... in the claim adjudication process (patient 810, provider 820, health plan /network 830, and financial networks 840)... provider submits a claim to the health plan and receives back EOB information in the form of an ERA (electronic remittance advice).”</p> <p><i>See, e.g.,</i> Kennedy at Fig. 9 and [0072]: “FIG. 9 illustrates another embodiment... where... a third party processing entity /intermediary/network 825 is used for processing claims and payments. Such a third party could operate a web host/server that runs applications using POS terminals 102 for generating claims from the provider, submitting those claims to the health plan, receiving back the ERA message and forwarding the ERA message to the provider. . .”</p>

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U.S. Patent No. RE43,904 - Claim 7	Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products
	 <p><i>See, e.g., Kennedy at [0074] and Fig. 10: “FIG. 10 is a further, graphical representation of the embodiment of FIG. 9, illustrating the patient 810, provider 820, third party network 825 and health plan networks or payers 830. There is associated with the third party network 825 an application or system 1010 for processing eligibility inquires from the provider (i.e., confirmation that the patient 810 is currently enrolled or covered under the identified health plan) as well as an application or system 1020 for processing claims and payments to/from the payers 830 (as described earlier).”</i></p>

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U.S. Patent No. RE43,904 - Claim 7	Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products
	 <p style="text-align: center;">FIG. 10</p> <p>See e.g., Kennedy at [0034]: “Turning now to FIG. 1, a system 100 includes a plurality of POS terminals 102. The terminals 102 communicate through a provider network 104 to a provider host 106. In one embodiment, the network 104 is operated by the provider in a single office and used by both healthcare professionals (e.g., to retrieve patient medical records) and by administrative and billing staff (to submit claims and arrange for payment). In other embodiments, the network 104 may be used by individual providers that are geographically dispersed but rely on the network 104 to implement a single source of automated claims processing at the provider host 106. While the POS terminals 102, network 104 and host 106 may perform a variety of processing, retrieval and display functions, the description herein will be directed to those functions as they relate to healthcare claims processing and payment.”</p>



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U.S. Patent No. RE43,904 - Claim 7	Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products
	<p><i>See e.g.</i>, Kennedy at [0035]: “In order to process a claim for payment (based on services rendered by the provider), at least one of the terminals 102 is capable of entering data to identify the patient and to enter treatment codes required to identify the services rendered. The terminal 102 may be a terminal of the type described in U.S. patent application Ser. No. 11/153,218, filed Jun. 14, 2005, entitled "Healthcare Eligibility Verification and Settlement Systems and Methods (TTC Docket 020375-061200), which terminal has an integrated display, card reader and keyboard to facilitate electronic entry of a patient ID from a card presented by the patient, as well as entry of treatment codes and other data at the keyboard. Such application is hereby incorporated by reference. Alternatively, the POS terminal 102 may be a personal computer having a connected display screen, card reader, keyboard (e.g., for entering data manually if a patient does not have a machine readable card or the card is not present), or other devices for entering and displaying data, and programmed to perform the functions described herein. For example, the personal computer may have an internet browser program to facilitate entering, displaying and using data in accordance with a web application resident at the provider host 106 or resident at a host within a third party network or system (not shown in FIG. 1). Furthermore, the terminal 102 may be integrated with a provider's desktop management practice system--applications providing scheduling, electronic patient records, clinical information, patient billing, and so forth--so that data from real time claim processing (to be described in greater detail later) can be incorporated and used as necessary in those applications (e.g., updating accounts receivables). Alternatively, those applications may reside at the provider host 106.”</p>

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U.S. Patent No. RE43,904 - Claim 7	Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products
	<p><i>See e.g.</i>, Kennedy at [0037]: “The provider host 106 may maintain data (such as financial and insurance information) for each patient, and manage the flow of data between the terminals 102, and through the network 104 to a banking or financial network 110 and to one or more external health networks 116. The financial network 110 is for handling conventional credit card, debit card and similar financial transactions. Each health network 116 may be operated by a different third party payer (insurer, HMO, etc.) and links systems, terminals and databases operated by the third party payer. In many cases, the third party payer will have an agreement with a provider to treat consumers covered by that third party's plan at specified or "permitted" charges. The health networks 116 each have an associated database management system (DBMS) 120, which manages a database 122, and terminals 126. The database 122 stores data such as claims history, pending claims, permitted charges (e.g., flat fees or a discount off the provider's normal charges), deductibles, co-pays and other information used for processing claims and generating electronic EOBs (to be describe in greater detail later). The DBMS 120 and database 122 may include any one of numerous forms of storage devices and storage media, such as solid state memory (RAM, ROM, PROM, and the like), magnetic memory, such as disc drives, tape storage, and the like, and/or optical memory, such as DVD. The database 122 may be co-located with the DBMS 120, it may be integral with the DBMS 120, or it may represent (with DBMS 120) distributed data systems located remotely in various different systems and locations. The terminals 126 are workstations used, for example, by administrative staff when accessing the DBMS 120 and other systems connected to the network 116.”</p>

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<b>U.S. Patent No. RE43,904 - Claim 7</b>	<b>Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products</b>
	<p><i>See e.g.</i>, Kennedy at [0038]: “The networks 104, 110 and 116 may be implemented using the Internet, an intranet, a wide area network (WAN), a local area network (LAN), a virtual private network, or any combination of the foregoing. The networks may include both wired and wireless connections, including optical links. For example, the POS terminals may include portable wireless terminals (stationary or mobile) linked to the provider network 104 by wireless communications channels. In some cases in a single office, the terminals 102 may include portable wireless terminals to be conveniently carried by an individual provider for use in displaying medical records and entering treatment information, and stationary terminals used by billing or administrative staff to process claims and payments.”</p> <p><i>See also, e.g.</i>, Kennedy at Abstract, [0033], [0036], [0039], [0041], [0055], [0057], [0059], [0060], [0071], [0072], [0074], and Figs. 1, 9, and 10.</p>

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**Appendix E – Claim Chart for Claim 12**

**Claim 12 - System**

<b>U.S. Patent No. RE43,904 - Claim 12</b>	<b>Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products</b>
12. A system for payment of adjudicated health care benefits combining payment terms and an explanation of benefits, the system comprising:	To the extent that the preamble is construed as a limitation, Kennedy in combination with Watson and vPayment Interview discloses the preamble of claim 12.  <i>See, e.g.</i> , the evidence set forth below regarding limitations [a]-[c] of claim 2.
[a] an explanation of benefits describing medical services provided to a patient by a health care provider, an amount billed by the health care provider and an amount paid by the patient's insurance company; and	Kennedy discloses limitation [a] of claim 12.  <i>See</i> the evidence set forth above with respect to limitation [b] of claim 1.  <i>See, e.g.</i> , Kennedy at [0057]: “FIG. 6 illustrates the EOB message sent from the DBMS 120 to the provider host 106, for purposes of creating the displayed EOB statement. The message is a data packet--also referred to as an electronic remittance advice (ERA) message--formatted in accordance with ANSI Accredited Standards Committee X12N, "Health Care Claim Payment/Advice 835 Implementation Guide (ASC X12N 835), currently published by Washington Publishing Company (www.wpc-edl.com). As seen in FIG. 6, the data packet or message includes data transmitted in three overall levels (Header, Detail and Summary). The Header level includes Transaction Information (to indicate the start of a transaction), Payer Identification, and Payee Identification. The Detail level includes the data needed for generating and displaying the EOB statement,

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<b>U.S. Patent No. RE43,904 - Claim 12</b>	<b>Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products</b>
	including Claim Payment (amount of claim submitted, treatment/service codes, etc.), Claim Adjustment (agreed to payment, adjustments to claimed amount, patient responsibility, etc.), Patient Information (patient name and other identification) and Insured Information (insured name and other information). The Summary level includes Provider Adjustment (adjustments not specific to a claim, but due to provider circumstances, such as interest, penalties, capture of previous overpayments, etc.), and finally Transaction Trailer (to indicate the end of the transaction). As mentioned earlier, the EOB or ERA message is used at the provider host 106 to create an EOB statement at the POS terminal 102.”
[b] a payment mechanism associated with the explanation of benefits, the payment mechanism merging a stored-value card account number, an adjudicated benefit payment amount, a card verification value code, and an expiration date with the explanation of benefits into a document by one or more computers;	Kennedy in combination with Watson, vPayment Interview, and Image Statement Products discloses limitation [b] of claim 12.  Limitation [b] of claim 12 is substantially similar to limitation [b] of claim 7. <i>See</i> the evidence set forth above with respect to limitation [b] of claim 7.
[c] wherein the stored-value card account number is linked to a unique, single-use stored-	Kennedy in combination with Watson, vPayment Interview, and Image Statement Products discloses limitation [c] of claim 12.

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<b>U.S. Patent No. RE43,904 - Claim 12</b>	<b>Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products</b>
value card account prefunded with an amount equal to a single, adjudicated benefit payment, and wherein the document is electronically transmitted to the health care provider as payment for the medical services by said one or more computers.	Limitation [c] of claim 12 is substantially similar to the combination of limitation [a] of claim 1 and limitation [c] of claim 7. <i>See</i> the evidence set forth above with respect to limitation [a] of claim 1 and limitation [c] of claim 7.

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**Appendix F – Claim Chart for Claim 17**

**Claim 17 - Method**

<b>U.S. Patent No. RE43,904 - Claim 17</b>	<b>Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products</b>
17. A computer implemented method for combining payment of adjudicated health care benefits with an associated explanation of benefits, the method comprising:	To the extent that the preamble is construed as a limitation, Kennedy in combination with Watson and vPayment Interview discloses the preamble of claim 17.  <i>See, e.g.</i> , the evidence set forth below with respect to limitations [a]-[e] of claim 17.
[a] receiving an explanation of benefits related to medical services provided by a health care provider	Kennedy discloses limitation [a] of claim 17.  Limitation [a] of claim 17 is substantially similar to limitation [d] of claim 2. <i>See</i> the evidence set forth above with respect to limitation [d] of claim 2.
[b] receiving authorization to pay at least a portion of submitted charges associated with the explanation of benefits and the associated funds for payment;	Kennedy discloses limitation [b] of claim 17.  <i>See, e.g.</i> , Kennedy at [0064]: “[T]he system 100 may expedite an automatic payment to the provider (by the health network), further reducing administrative costs and eliminating delays in settling accounts. Thus, as illustrated in FIG. 5, the financial network 110 may process payments (using a conventional ACH banking network) from the health network 116 to the provider, by electronically processing a bank transaction that debits a health network bank account (for the amount of any insurance payment for the treatment of the patient) and that credits such

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U.S. Patent No. RE43,904 - Claim 17	Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products
	<p>amount to a bank account of the provider (step 534).”</p> <p><i>See also, e.g.,</i> evidence set forth above with respect to limitation [c] of claim 2.</p>
[c] funding a unique, single-use stored-value card account with an amount equal to the adjudicated benefit payment by one or more computers;	<p>Kennedy in combination with Watson and vPayment Interview discloses limitation [c] of claim 17.</p> <p>Limitation [c] of claim 17 is substantially similar to limitation [a] of claim 7. <i>See</i> the evidence set forth above with respect to limitation [a] of claim 7.</p>
[d] merging the explanation of benefits with the stored-value card account number, the adjudicated benefit amount of payment, a card verification value code, and an expiration date in an electronic file by said one or more computers; and	<p>Kennedy in combination with Watson, vPayment Interview, and Image Statement Products discloses limitation [d] of claim 17.</p> <p>Limitation [d] of claim 17 is substantially similar to limitation [b] of claim 7. <i>See</i> the evidence set forth above with respect to limitation [b] of claim 7.</p>
[e] electronically sending the merged file to the health care provider as payment for the services by said one or more computers.	<p>Kennedy in combination with Watson, vPayment Interview, and Image Statement Products discloses limitation [e] of claim 17.</p> <p>Limitation [e] of claim 17 is substantially similar to limitation [c] of claim 7. <i>See</i> the evidence set forth above with respect to limitation [c] of claim 7.</p>



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**Appendix G – Claim Chart for Claim 22**

**Claim 22 - Method**

<b>U.S. Patent No. RE43,904 - Claim 22</b>	<b>Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products</b>
22. A system for payment of adjudicated health care benefits to a health care provider, the system comprising:	To the extent that the preamble is construed as a limitation, Kennedy discloses the preamble of claim 22.  <i>See, e.g.</i> , the evidence cited above regarding the preamble of claim 1.
[a] an administration system operable to receive a benefit claim from the health care provider and to generate an explanation of benefits for the benefit claim along with an approved payment; and	Kennedy discloses limitation [a] of claim 22.  Limitation [a] of claim 22 is substantially similar to limitation [c] of claim 2. <i>See</i> the evidence set forth above with respect to limitation [c] of claim 2.
[b] a card processing system operable to fund a single-use stored-value card account with an amount equal to the approved payment by one or more computers, the card processing system also	Kennedy in combination with Watson, vPayment Interview, and Image Statement Products discloses limitation [b] of claim 22.  Limitation [b] of claim 22 is substantially similar to limitations [a], [b], and [c] of claim 7. <i>See</i> the evidence set forth above with respect to limitations [a], [b], and [c] of claim 7.

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<b>U.S. Patent No. RE43,904 - Claim 22</b>	<b>Evidence within Kennedy, Watson, vPayment Interview, and/or Image Statement Products</b>
<p>operable to merge the explanation of benefits with the stored-value card account number by one or more computers, the adjudicated amount of payment, a card verification value code, and an expiration date in an electronic file and to send the electronic file to the health care provider as payment for the benefit claim by one or more computers.</p>	

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**Appendix H – Curriculum Vitae –Thomas N. Turi**

**EXECUTIVE to the HEALTHCARE / FINANCIAL SERVICES INDUSTRIES**

9803 Colonnades Place

502-500-0611

Louisville, KY 40299

thomas.n.turi@gmail.com

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Insightful toward real world understanding of marketplace dynamics for investment firms and corporations. Successful at leading and transforming business opportunities and market insights into commercial successes. Skilled at building new and/or accelerating existing services to drive sustaining revenue streams for mature and start-up companies. Known as a pioneer with the ability to ‘see what comes next’, turning strategy into action, executing for success, having lead the development and launch of five multisided platforms over the past 20 years. Passionate innovator with an insatiable curiosity. An authentic leader with integrity; builder of high energy mission oriented Teams. Nationally recognized speaker and authority in Financial Services and Healthcare.

- |                       |                                   |                         |
|-----------------------|-----------------------------------|-------------------------|
| • Strategy & Planning | • Business Development            | • Alliances/Channels    |
| • Marketing and Sales | • Mergers & Acquisitions          | • Product Management    |
| • P/L Ownership       | • Collaborative/Matrix Leadership | • Operational Execution |
- 

**PROFESSIONAL EXPERIENCE**

RIVENDELL CONSULTANCY, Louisville, KY

**2013-Current**

**Founder/Principal**

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***Specializing in the Acceleration of Business***, Louisville, KY

With an executive leadership perspective, consultant to investment firms and companies in the Healthcare and/or Financial Services Industries to understand and/or accelerate opportunities and business models through Strategic Planning, Business Development, Marketing, Sales, Product Management and Development, structuring Strategic Alliances, Pricing, Contract Development, Staff Recruitment, and Service Delivery. Seeing what's next while putting those insights into strategic action. Skilled at defining opportunities, developing the road-maps to commercial success and execution of the plan.

COMDATA CORPORATION, Nashville, TN

**2012-2013**

*Comdata, a wholly owned subsidiary of Ceridian Corporation, is a \$600 million leader in the corporate payments industry, helping clients manage data, pay employees, process transactions and control spending. Comdata Health was formed in 2012 dedicated specifically to healthcare's electronic payment challenges.*

***Executive Vice President***, Comdata

Recruited by the President, reporting to the Chairman/CEO as member of the Executive Team and Board Participant to build a financial services business unit serving the healthcare industry. The solution transforms payment distribution from a cost center to a revenue generator, doubling to \$15 million in its 2<sup>nd</sup> year, tripling to \$38 million in 3<sup>rd</sup> year, with a market potential exceeding \$100 million.

- Created and executed the strategy to chart the course for this new initiative.
- Negotiated and contracted alliances with the nation's largest healthcare companies.
- Recruited and established one of the country's strongest Healthcare management teams, covering Sales, Marketing, Product Development, Technology, Implementation, Operations, and Relationship Management.
- With no presence in Healthcare, in less than 12 months became the market leader.

EMDEON, INC., Nashville, TN

**2008-2012**

*A leading provider of services to the Payer, Provider and Pharmacy markets with revenue cycle management and clinical information exchange solutions, connected to more Payers, Providers, Pharmacies, and vendors than any other healthcare business in the marketplace, with over \$1.1billion in revenue.*

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***Senior Vice President***

Recruited by the CEO reporting both to the CEO and the Chairman, member of the Senior Management Team and Board Meeting participant, as the company went from private equity through an IPO and back to private equity.

- Created and executed the strategy that positioned the company as the leader in electronic healthcare payment and remittance data exchange, with over \$100 billion of transactions.
- Led the due diligence to expand the firm's solution offering via acquisition through to successful integration. The acquired business doubled its revenue in the 1st year.
- Negotiated strategic partnerships to launch the largest network of trading partners for healthcare financial transaction processing.
- Co-Chaired the National CAQH Operating Group establishing Federal ACA Mandate EFT/ERA rules.

**THOMAS N. TURI**

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IBM CORPORATION, GLOBAL BUSINESS SERVICES Louisville, KY

**2007-2008**

*IBM's Global Business Services consults with organizations to achieve greater efficiency within their operations.*

***Associate Partner***

Served as the client relationship / business development manager to the nation's top Healthcare Payers.

- Effectively developed C-Suite and other executive relationships with the largest U.S. Healthcare Payers.
- Worked with the IBM Research Labs creating a data analytics solution for the Healthcare Industry.

RIVENDELL CONSULTANCY, Louisville, KY

**2006-2007 Founder/Principal**

***Principal Consultant***

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Contracted by a BlueCross BlueShield Plan to provide strategic insight and focus to a multi-business unit deliverable. Successfully enabled the client to achieve a 66% reduction in internal resource requirements.

PAYSPAN, Jacksonville, FL

**2003-2006**

*PaySpan provides innovative healthcare reimbursement solutions for 700,000 healthcare providers nationwide, managing \$50 billion of reimbursement.*

***Senior Vice President***

Recruited by the President to develop solutions for the healthcare industry of this venture capital backed high growth technology and service company. Member of the Executive management Team.

- The company had no prior presence in healthcare, led it to become a leading competitor for e-commerce services within the first year, including preferred vendor to the national BlueCross BlueShield Association.
- Designed, marketed, and sold to the C-Suite within BCBS plans, major commercial plans, TPAs, government programs, EDI Networks/clearinghouses, and other healthcare eco-system stakeholders.

NATIONAL PROCESSING COMPANY, Louisville, KY

**1996-2002**

*NPC was one of the nation's largest financial transaction processors; the company has since experienced multiple acquisitions and mergers with other nationally based companies, and no longer exists.*

***Senior Vice President***

Recruited to develop new B2B revenue streams through the creation of innovative e-commerce product and service offerings that produced after tax margins exceeding 40%.

- Developed, managed, and sold the 1st third party healthcare industry e-commerce service.
- Constructed a low cost global travel industry e-commerce network alternative for most major currencies.
- Keynote speaker for Deutsche Bank, at Global Cash Management Forum in London, England.

FIRST DATA RESOURCES, Omaha, NE

**1994-1996**

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*A \$10 billion Fortune 250 transaction processing company.*

***Vice President***

Recruited by the President to function as an internal consultant to product owners to increase revenue while controlling expenses. Served as a member of the team that launched one of the industry's most innovative technologically advanced one-to-one marketing programs.

- Coached and developed over 400 middle and upper-middle level managers on becoming more productive and effective leaders.

TRAVEL AND TRANSPORT, INC., Omaha, NE

**1989-1994**

*\$500 million travel management company\*

***Vice President***

Held full P&L responsibilities for over 70% of the company (300+ people, including multi-state call centers), realized triple digit increases in both revenue and bottom line profits. Member of the Executive Management Team and Board participant that took the company from a privately held position to one of the largest ESOP owned companies in the country.

**EDUCATION**

**B.S., Biology major, Philosophy minor,** LeMoyne College, Syracuse, NY