

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FIDELITY NATIONAL INFORMATION SERVICES, INC.,  
Petitioner,

v.

CHECKFREE CORPORATION,  
Patent Owner.

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Case CBM2013-00030  
Patent 7,853,524 B2

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Before BRIAN J. McNAMARA, BARRY L. GROSSMAN, and  
LYNNE E. PETTIGREW , *Administrative Patent Judges*.

McNAMARA, *Administrative Patent Judge*.

FINAL WRITTEN DECISION  
*37 C.F.R. § 42.73*

## BACKGROUND

On December 23, 2013, we entered a Decision to Institute a covered business method patent review, Paper 16 (“Dec. to Inst.”), of U.S. Patent No. 7,853,524 B2 (“the ’524 Patent”) on the grounds that claims 1–21 do not recite patent-eligible subject matter under 35 U.S.C. § 101.

In this final Written Decision, we hold that claims 1–21 are unpatentable.

### THE ’524 PATENT (EXHIBIT 1001)

The ’524 Patent describes a system and method in which a payment service provider uses a computer to select a form for crediting a payee based on either comparing the payer account number, which is associated with the payer and the payee, to a merchant account scheme associated with the payee, or comparing the payment amount, which is associated with a payment request, to the merchant credit limit, which is associated with the payee. Ex. 1001, Abstract. Claims 1–10 are drawn to a computer-implemented method, claims 11–20 are drawn to a system with an interface to a network, and claim 21 is drawn to a system with means limitations corresponding to the steps recited in claim 1.

The specification states that the invention is a computerized system for paying bills in which a consumer, using a telephone, computer, or other electronic means from a remote location, may direct a single source to pay the consumer’s bills, instead of the consumer writing a check for each bill. Ex. 1001, col. 1, ll. 21–27. After signing up with a service provider, *id.* at col. 2, l. 57–col. 3, l. 36, and informing the service provider of the identity of merchants to be paid, *id.* at col. 3, ll. 37–55, a consumer can use a telecommunications terminal to initiate payment of bills by accessing his merchant list and inputting the payment date and amount, *id.* at col. 3, ll. 56–60. The service provider then may pay merchants by draft, by check, or by electronic funds transfer. *Id.* at col. 4, ll. 44–45. The service provider

selects the form of payment based on the consumer's payment instructions, cost-effectiveness, risk considerations, the service provider's capabilities, and available networks. *Id.* at col. 4, ll. 54–63; col. 5, ll. 26–32. The service provider also may make consolidated payments to merchants. *Id.* at col. 4, ll. 64–65.

### ILLUSTRATIVE CLAIM

1. A computer-implemented method for directing a payment, comprising:
  - receiving, at a payment service provider, a request to pay a payee on behalf of a payer;
  - selecting, by at least one payment service provider computer prior to a debiting of a financial account of the payer, a form for crediting the payee, wherein the selection is based on at least one of:
    - (i) comparing a payer account number associated with the payer and the payee to a merchant account scheme associated with the payee; or
    - (ii) comparing a payment amount associated with the received request to a merchant credit limit associated with the payee;
  - and
  - directing, by the at least one payment service provider computer, a payment to the payee in accordance with the selected form for crediting.

### CLAIM CONSTRUCTION

#### Electronic bill payment system

In a covered business method patent review, a claim is given its broadest reasonable construction in light of the specification. 37 C.F.R. § 42.200(b). Patent Owner argues that each of the independent claims (claims 1, 11, and 21) requires three operations (data capture, payment form determination, and initiation of payment in the determined form) to be performed by the “claimed electronic bill payment (EBP) process and system.” PO Resp. 18–19. Noting that the ’524 Patent claims do not recite bill payment or an EBP process or system and that the

terms “electronic bill” and “EBP” do not even appear in the specification, Petitioner argues that Patent Owner is attempting to recast abstract ideas recited in the ’524 Patent claims in a manner that requires machines or transformations. Pet. Reply 2, 6. We agree with Petitioner that Patent Owner’s construction arguments attempt to read into the claims features that are not recited in them. For example, although there is no EBP system mentioned in the claims, citing the testimony of its expert, Dr. John Kelly, Patent Owner argues that a payment request is captured through an automated interaction with a user over a telephone or is conveyed by transferring data to the EBP system over a data network from a computer. PO Resp. 21–22. As discussed below, we decline to alter any of the constructions we applied in our Decision to Institute.

The receiving limitation

Patent Owner further reads into its EBP characterization of the independent claims a myriad of unclaimed features discussed in the specification. The first limitation of independent claims 1, 11, and 21 concerns receiving a payment request. Patent Owner argues that this first element in each of claims 1, 11, and 21 is a “programmed computer that performs the functions of the front end processor of the electronic bill payment system being described in the patent.” PO Resp. 26. For example, Patent Owner argues that “the payment request data is **received by a component** of the EBP system (e.g., a ‘front-end processor’ component).” PO Resp. 21 (emphasis in original). Method claims 1–10 recite receiving a request to pay a payee on behalf of a payer, with no further limitations on the apparatus that receives the request. Apparatus claims 11–20 recite “an interface to a network configured to receive a request to make a payment to a payee on behalf of a payer,” with no further limitations on the interface. Although Patent Owner contended in its Preliminary Response that the interface in claim 11 is a specialized computer

within an EBP system that performs front-end tasks, Prelim. Resp. 15, our Decision to Institute construed the term as sufficiently defined in the claim itself. Dec. to Inst. 9. Apparatus claim 21 recites a means for receiving, at a payment service provider, a request to pay a payee on behalf of a payer. As Patent Owner points out, applying 35 U.S.C. § 112 ¶ 6, we construed the structure corresponding to the means for receiving to be processor 40. PO Resp. 26.

Patent Owner argues that our recognition of the front end processor 40 as the structure corresponding to the “means for receiving” in claim 21 indicates that we overlooked the extensive description of the role of the front end processor as the analogous EBP component that performs the receiving step in claim 1 and functions as the interface in claim 11. *Id.* at 25. Patent Owner then expands this assertion stating that “it is difficult to reconcile the Board’s conclusion that the ’524 Patent provides a description of a particular structure of the means for receiving element of claim 21, while at the same time concluding the same disclosure provides no or insufficient guidance about the properties or functions performed by the analogous ‘receiving’/‘interface’ components of claims 1 and 11.” *Id.* at 26. Nevertheless, Patent Owner acknowledges that claims 1 and 11 are not means-plus-function claims and are not limited to the particular exemplified structure in the ’524 disclosure that performs the “means for receiving” function of claim 21. *Id.*

Although the ’524 Patent describes an embodiment with a front end processor that receives, through electronic communications, payment request data from a consumer, claims 1 and 11 are not limited to such a configuration. The ’524 Patent states that the consumer’s files may be received at the service provider on a front end processor that interfaces with a telecommunications network and that the front end processor may be a DEC VAX connected to an IBM main frame

Model 4381. Ex 1001, col. 4, ll. 24–27, 49–51. The '524 Patent further states that an example of the software designed to make several decisions relating to particular transactions is not intended to limit the application to the details described in the example and is only provided to enhance the description of the invention. *Id.* at col. 6, ll. 37–43. Thus, the claims are drawn to a general purpose machine programmed to perform routine tasks as exemplified in the specification. We decline to read into claims 1 and 11 limitations that are not present in the claims.

The payment service provider computer

In a similar manner, Patent Owner argues that the “payment service provider computer” must be construed inherently to perform certain other actions that are not recited explicitly in the claim language in order to perform the functions recited in the claims. PO Resp. 30. Noting that the specification discloses algorithms and source code, Patent Owner argues that the payment service provider computer is programmed specially to perform the payment form determination and payment direction steps recited in claim 1 and to possess the corresponding capabilities specified for the system components in claims 11 and 21. *Id.* at 31. Although the preamble of claim 1 identifies the method as computer implemented, the steps of claim 1 do not recite any structure other than the payment service provider computer. Claim 11 recites only a “processor” that is configured to perform the recited selecting and directing functions. Patent Owner argues that the Merchant Master File, consumer pay table, and consumer database described in the specification are data collections generated, maintained, and/or accessed by various components of the EBP system during its operation, PO Resp. 38, but none of these features is recited in the claims.

Patent Owner also takes inconsistent positions concerning the structure of the payment service provider computer. Similar to the arguments Patent Owner advanced in its discussion of the means for receiving limitation, on page 40 of the Patent Owner Response, Patent Owner criticizes our statement that the claims do not recite any particular structure for the service provider computer. However, on page 56 the Patent Owner Response states that claim 1 is “not restricted to the particular payment service provider computer described in the disclosure.” Patent Owner’s arguments that the payment service provider computer must include incidental functions, such as obtaining the information to be processed or retrieving data evaluations performed by another computer, PO Resp. 34, or that the payment form determination evaluation “implicates actions that must be performed that are not expressly recited in the claim language,” *id.* at 40, do not justify our construing the payment service provider computer more narrowly than the limitations that appear in the claims.

The directing payment limitation

Patent Owner argues that claims 1, 11, and 21 specify that the EBP process and system possess a particular “back end” functionality that makes payments after the payment service provider computer has determined the appropriate form of payment. PO Resp. 46–51. Patent Owner further argues that the EBP system is configured to direct payment by different mechanisms based on the determination of the form of payment resulting from the determination step. *Id.* For example, Patent Owner argues that we overlooked interactions between the payment service computer and components of the EBP, such as a network interface and special printers. *Id.* at 50–51. However, as previously noted, the ’524 Patent does not discuss an EBP system, and none of these features argued by Patent Owner is recited in the claims.

Merchant credit limit associated with a payee

Patent Owner contends that our construction of the “merchant credit limit associated with a payee” as the *maximum amount of credit a merchant extends to a payer* is contrary to the plain language of the claims because the limit is associated with the payee. PO Resp. 51. Our construction is consistent with the limit being associated with the payee, i.e., the party to whom the payment is made. Patent Owner’s proposed construction, “a value reflecting the credit limit used by the EBP system which is associated with a particular payee,” PO Resp. 52, reads into the claim an extrinsic EBP system not discussed in the specification. In addition, the value reflecting the credit limit is the amount of credit a payee, i.e., a merchant, extends to a payer.

Claims 1, 11, and 21 each recite comparing a payment amount associated with the received request, i.e., the request received on behalf of the payer, to a merchant credit limit associated with the payee. The only credit limits described in the specification are limits on the amount of credit extended to a payer. Although the specification describes a merchant credit limit, it does not describe specifically such a limit associated with the payee. The specification describes comparing the payment amount to a merchant credit limit, and making the payment as an electronic payment or a service provider check, if the payment amount is under a specified amount. Ex. 1001, col. 5, l. 65–col. 6, l. 5. Any amount within the merchant’s (i.e., the payee’s) credit limit is added to the consumer’s (i.e., payer’s) monthly ACH balance, and any transaction can be compared to the consumer’s credit limit parameters stored in a database. *Id.* at col. 6, ll. 5–10. The specification also describes releasing the payment as a draft written on the consumer’s account, rather than the service provider’s account, if the payment amount exceeds the consumer’s, i.e., the payer’s, credit limit. *Id.* at col. 6, ll. 10–

16. Because the consumer's credit limit described in the specification protects the service provider, *id.* at col. 5, ll. 35–37, 65–66, it is a limit associated with the service provider rather than the payee. Claims 1, 11, and 21, however, recite the merchant credit limit associated with the payee. Because each merchant may extend a different amount of credit to each customer, the merchant credit limit associated with the payee limitation appears to require the service provider computer to select a payment means based on comparing the requested payment amount to the amount of credit the merchant, i.e., the payee, extends to the payer. That is, the amount of the payment is compared to the payer's credit limit with the payee. In any case, as discussed below, this limitation is not material to our determination of the issues under 35 U.S.C. § 101.

Remittance processing system

Patent Owner contends that the remittance processing system (RPS) credit is limited to a particular system supported by MasterCard. PO Resp. 52. Patent Owner relies on extrinsic evidence, i.e., testimony that one of ordinary skill would recognize distinctions between the terms “electronic credit,” ACH credit, and RPS credit. *Id.* at 52–54. As we noted in our Decision to Institute, while Figs. 5 and 6 of the '524 Patent refer to element 49 as the MasterCard RPS network, there is no further description of the network in the specification. Dec. to Inst. 8. We also noted that the claims refer to “a” remittance processing system, rather than a specific system supported by MasterCard. *Id.* Similarly, the '524 Patent does not refer to the remittance processing system as a proper noun (the term is not capitalized), indicating that the inventor intended to refer to a more generic term. Applying the broadest reasonable construction, we do not limit the claimed remittance processing system to the system supported by MasterCard. However,

as discussed further below, this limitation is not material to our determination of the issues under 35 U.S.C. § 101.

### THE '524 PATENT IS NOT A PATENT FOR A TECHNOLOGICAL INVENTION

A covered business method patent is “a patent that *claims* a method or corresponding apparatus for performing data processing” or other operations used in the practice, administration, or management of a financial product or service. 37 C.F.R. § 42.301(a) (emphasis added). A covered business method patent “does not include patents for technological inventions.” *Id.* A technological invention is determined by considering whether the claimed subject matter as a whole recites a technical feature that is novel and unobvious over the prior art, and solves a technical problem using a technical solution. 37 C.F.R. § 42.301(b).

The '524 Patent is a covered business method patent. Claim 1 of the '524 Patent does not recite a technological invention. Although the preamble of claim 1 states that the claimed method for directing a payment is computer implemented, the claim does not recite a technical feature that is novel and unobvious over the prior art and solves a technical problem using a technical solution. Patent Owner argues that before the invention in the '524 Patent, the problems facing adoption and greater use of electronic bill payment were technological ones. PO Resp. 70. Patent Owner contends that the specially programmed computer systems in the '524 Patent are configured in a way that solves these technological challenges. *Id.* at 72. Although Patent owner contends that the processes and systems defined by the claims use technological solutions to solve technological problems, *id.*, claim 1 does not recite any such technological solutions. Claim 1 recites receiving a payment request, selecting a form of payment, and directing the payment in accordance with the selected form. The service provider recited in claim 1 selects

the form of payment based on comparing the payer account number to the merchant account scheme or the payment amount with the merchant credit limit associated with the payee. Patent Owner emphasizes that the payment service provider computer determines a form of payment and then directs the payment on behalf of a payer. *Id.* at 73. Merely reciting that the process is carried out by a computer does not make the claimed subject matter a technical solution of a technical problem. The limitations of claim 1 concern a service provider making a payment to a payee on behalf of a payer. The limitations of claim 1 do not address any technical problems or recite any technical solutions, other than the use of a computer to perform routine tasks, such as comparing account numbers and payment amounts to established criteria. Thus, we conclude that claim 1 does not recite a technological invention.

#### §101 SUBJECT MATTER ELIGIBILITY

##### Independent claims 1, 11, and 21

In *Alice Corp. v. CLS Bank International*, 134 S. Ct. 2347 (2014), the Supreme Court applied a two-step test for determining whether a claim recites patentable-eligible subject matter. First, we determine whether the claims at issue are directed to one or more patent-ineligible concepts, i.e., laws of nature, natural phenomenon, and abstract ideas. *Id.* at 2355 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1296–97 (2012)). If so, we then consider whether the elements of each claim, both individually and as an ordered combination, transform the nature of the claim into a patent-eligible application to ensure that the patent in practice amounts to significantly more than a patent upon the ineligible concept itself. *Id.*

Thus, the first step in our analysis is to consider whether the claims of the '524 Patent are drawn to an abstract concept. Each of independent claims 1, 11,

and 21 of the '524 Patent recites a method or apparatus in which a service provider receives a request to pay a payee, selects a form of crediting the payee based on comparing the payer's account number to the payee's merchant account scheme and the payment amount to a merchant credit limit associated with the payee, and directs the payment to the payee in the selected form. Thus, each of the independent claims is drawn to a computer-implemented process or apparatus in which a third party intermediary, i.e., the payment service provider, receives a request to make payment, applies certain criteria to determine what form of payment to use, and then directs the payment to the payee in that form.

In *Alice*, the Supreme Court considered claims that, on their face, were drawn to the fundamental economic concept of exchanging financial obligations between two parties using a third-party intermediary to mitigate settlement risk. The Court, concluded that, like the hedging in *Bilski*, the claims were drawn to an "abstract idea" beyond the scope of § 101. *Alice Corp.*, 134 S. Ct. at 2355–57.<sup>1</sup> In the '524 Patent, the service provider intermediates payment between the payer and the payee, acting much like the third party intermediary in *Alice*. The payment service provider mitigates settlement risk by crediting the payee or issuing a check to the payee drawn on the service provider's funds, or in other circumstances, issuing a draft drawn on the payer's funds, i.e., determining the form of payments based on the comparisons recited in the claims. Ex. 1001, col. 5, l. 25–col. 6, l. 15. The computer implementation associated with comparing the account number and

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<sup>1</sup> In *Bilski v. Kappos*, 561 U.S. 593 (2010) the Court found unpatentable, as abstract ideas, claims drawn to hedging against the financial risk of commodity price fluctuations where the claims recited the steps of initiating a series of financial transactions between commodity providers and consumers, identifying market participants with a counterparty for the same commodity and initiating a series of risk balancing transactions between those market participants and the commodity provider.

the credit limit are incidental to the fundamental economic concept of having a third party intermediate a settlement either by crediting the payee from the third party's funds (as in a credit transaction) or from the payer's funds (as when the amounts exceed the payer's credit limit with the service provider). Thus, we conclude that each of independent claims 1, 11, and 21 is directed to an abstract concept.

The second step in the analysis requires us to determine whether the claims do significantly more than simply describe that abstract method. *Ulramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) (citing *Mayo*, 132 S. Ct. at 1297). Whether considered as individual elements or as an ordered combination, Patent Owner's recasting of the computer-implemented method claims as a data capture step, a payment form determination made by a payment service provider computer, and an initiation of payment by the computer, PO Resp. 19, does not alter the abstract nature of the claimed subject matter. The same analysis applies to the apparatus claims. "[A]fter *Alice* there can be no doubt recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible." *DDR Holdings, LLC v. Hotels.com, L.P.*, No. 2013-1505, 2014 WL 6845152, at \*9 (Fed. Cir. Dec. 5, 2014).

As discussed above, Patent Owner improperly reads into the claims limitations from the specification and extrinsic sources. Patent Owner argues that the "particular structure" that corresponds to the first element of each of claims 1, 11, and 21 is a programmed computer that performs the functions of the front-end processor component of the electronic bill system being described in the '524 Patent. PO Resp. 26. There is no 'electronic bill system' mentioned in the '524 Patent, and the function referenced by Patent Owner is simply receiving a request to pay the payee. Noting that the specification does not describe any specialized

programming of a general purpose computer as necessary for the interface to the network, we determined that the disclosed structure corresponding to the “means for receiving” in claim 21 is front end processor 40. Dec. to Inst. 9–10. Citing the declaration of its expert, Dr. Kelly, Patent Owner acknowledges that one of ordinary skill would recognize from the description of the various components in the ’524 Patent that they may be implemented in any suitable computer-based system. PO Resp. 19, n.1. Thus, in this element, the front-end processor is simply programmed to do what computers ordinarily do—receive information. Data gathering steps, such as obtaining information, or in this case, receiving a request for payment, do not make an otherwise non-statutory claim statutory. *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372 (Fed. Cir. 2011).

The payment service provider computer recited in claims 1 and 11 and the means for selecting in claim 21, which we construed to mean a payment service provider computer programmed to execute the steps shown in Figs 4A – 4C, Dec. to Inst. 10–11, are recitations of a general purpose computer that carries out the necessary calculations to perform the recited comparisons. A computer used for its most basic function, the performance of repetitive calculations, does not impose a meaningful claim limitation. *Bancorp Servs., L.L.C. v. Sun Life Assurance Co.*, 687 F.3d 1266, 1278–79 (Fed. Cir. 2012).

Citing the testimony of its expert, Dr. Kelly, Patent Owner further argues that because the payment service provider computer determines the form of payment, the claimed process “**physically transforms** [the] received payment request data into a **physical payment form**, via the actions of the specially programmed payment service provider computer.” PO Resp. 57 (emphasis in original). However, as Petitioner notes, another of Patent Owner’s experts, Dr. Elliott C. McEntee, conceded that selecting an electronic form of payment, rather

than printing a check does not constitute a physical transformation. Pet. Reply 12 (citing Ex. 2028, 426:19–427:6). We agree with Petitioner that, even if the process is construed to mean creating a paper instrument under some circumstances, that instrument is not created by transforming something else. *Id.* We further note that not all transformations or machine implementations infuse an otherwise ineligible claim with an inventive concept, *DDR Holdings*, 2014 WL 6845152, at \*9, and we conclude that the transformation urged by Patent Owner would not result in patent-eligible subject matter.<sup>2</sup> Thus, we conclude that independent claims 1, 11, and 21 do not recite patent-eligible subject matter.

Dependent claims

None of the dependent claims adds patent-eligible subject matter to independent claims 1 and 11, from which they depend. As discussed below, the additional details of how the payment service provider makes payments or decides the form of payment in the dependent claims do not recite any meaningful limitations on the abstract concepts recited in claims 1 and 11.

Dependent claims 2, 3, 6, 7, 12, 13, 16, and 17

Patent Owner argues that each of claims 2, 3, 6, 7, 12, 13, 16, and 17 further limits the back-end processing recited in the corresponding independent claim. PO Resp. 61–65. Noting that our Decision to Institute recognized a paper check as a physical element, Patent Owner argues that this confirms the payment direction steps of claim 1 and 11 perform a physical transformation. *Id.* at 63. Patent Owner makes a similar argument concerning claims drawn to consolidated checks, paper

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<sup>2</sup> In *DDR Holdings*, 2014 WL 6845152, at \*12, the Federal Circuit found patent-eligible claims drawn to retaining website visitors by manipulating interactions with the Internet to yield a desired result that overrides a routine and conventional sequence of events. In contrast, the claims of the '524 Patent recite steps and apparatus that would be implemented as a conventional sequence of events on general purpose computers.

drafts, and particular forms of electronic transfers. *Id.* at 63–65. As discussed above, we agree with Petitioner that paper checks, drafts, and electronic transfers are not transformation of requests for payment. In any case, even if they were construed to be transformations, they do not infuse an otherwise ineligible claim with an inventive concept. Additionally, claims 6 and 7, which are drawn to electronic transfers over the ACH network or a remittance processing system (whether or not the claimed remittance processing system is limited to the MasterCard system) constitute field-of-use limitations that do not confer patent eligibility. *See Bancorp*, 687 F.3d at 1280 (citing *Bilski*, 561 U.S. at 612 (“[*Parker v. Flook*, 437 U.S. 584 (1978)] established that limiting an abstract idea to one field of use or adding token postsolution components did not make the concept patentable.”)). Thus, we conclude that claims 2, 3, 6, 7, 12, 13, 16, and 17 do not recite patent-eligible subject matter.

Claims 4, 5, 14, and 15

Claim 4 and 14 recite receipt of first and second payment requests on behalf of first and second payers and a combined payment in the form of a consolidated check drawn on the service provider’s account. Patent Owner contends that this sequence of transactions confirms the functional interdependence of the steps of claims 1 and 11. PO Resp. 66. Patent Owner also argues that the remittance list associated with the consolidated check, recited in claims 5 and 15, shows a physical transformation that the payment service provider computer directs and a physical document generated by a printer being directed by the payment service computer. *Id.* at 67. We conclude that the claims drawn to a third party intermediary, such as the payment service provider, consolidating payments from multiple payers into a single check to a payee recite an abstract economic concept that alone is not patent-eligible subject matter. In addition, as discussed above,

these limitations do not constitute physical transformations that result in patent-eligible subject matter. Additionally, these limitations recite no significant limitation on the computer limitations to define patent-eligible subject matter.

Claims 9, 10, 19, and 20

Claims 9, 10, 19, and 20 recite the form of payment (electronic credit or paper draft) used depending upon the amount of the payment as compared to the merchant credit limit or whether the payer account number comports with the merchant account scheme. Patent Owner argues that these limitations demonstrate the EBP system is a specially programmed computer and that they are logical operations that are integral to how the computers perform their functions. *Id.* at 68–69. Claims 9, 10, 19, and 20 recite the results of the comparison recited in independent claims 1 and 11, which is an abstract concept. We conclude that these claims do not add any further computer limitations themselves and do not recite patent-eligible subject matter.

Claims 8 and 18

Claims 8 and 18 recite selecting the form of payment based on a settlement code associated with the payee. Although Patent Owner argues that the settlement codes are data elements stored in the EBP, they are simply indicators of the form in which the payee wants to be paid. We conclude that limitations drawn to inspecting the settlement code do not alter the abstract concept of having a service provider act as an intermediary between a payer and payee to make payment in accordance with defined payment form criteria.

### MOTION TO EXCLUDE

Having timely objected, Patent Owner moves to exclude certain paragraphs of the rebuttal testimony of Petitioner’s expert Michael Shamos, Ex. 1018 (“Shamos Decl.”), as beyond the scope of the testimony of Patent Owner’s experts.

Paper 42 (“Mot. to Exclude”). Petitioner identifies subject matter the challenged paragraphs of the Shamos Declaration rebut. Paper 47 (“Opp. to Mot. to Exclude”).

We do not cite or rely on the testimony in the Shamos Declaration in reaching our decisions in this proceeding. Therefore, Patent Owner’s Motion to Exclude is dismissed as moot.

### SUMMARY

For the reasons discussed above, we conclude that Petitioner has shown by a preponderance of the evidence that claims 1–21 do not recite patent-eligible subject matter.

### ORDER

In consideration of the foregoing, it is hereby:

ORDERED that claims 1–21 are unpatentable;

FURTHER ORDERED that Patent Owner’s Motion to Exclude is dismissed; and

FURTHER ORDERED that, because this is a final written decision, the parties to the proceeding seeking judicial review of the decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

CBM2013-00030  
Patent 7,853,524 B2

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