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13/271,111	10/11/2011	Tonya Lin Carroll	013647.00034	8771
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Mr. Christopher John Rourk Jackson Walker LLP 2323 ROSS AVENUE SUITE 600 DALLAS, TX 75201			ULLAH MASUD, MOHAMMAD R	
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* TONYA LIN CARROLL, CHANTAL ADAIR GASPIE,  
GWEN ELLEN MURRAY, and LAKSHMA REDDY EAPUR

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Appeal 2014-001743  
Application 13/271,111  
Technology Center 3600

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Before ANTON W. FETTING, MICHAEL C. ASTORINO, and  
KENNETH G. SCHOPFER, *Administrative Patent Judges*.

FETTING, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE<sup>1</sup>

Tonya Lin Carroll, Chantal Adair Gaspie, Gwen Ellen Murray, and  
Lakshma Reddy Eapur (Appellants) seek review under 35 U.S.C. § 134 of a  
final rejection of claims 21–40, the only claims pending in the application on  
appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

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<sup>1</sup> Our decision will make reference to the Appellants’ Appeal Brief (“App. Br.,” filed April 25, 2013) and Reply Brief (“Reply Br.,” filed November 18, 2013), and the Examiner’s Answer (“Ans.,” mailed September 16, 2013), and Final Action (“Final Act.,” mailed October 24, 2012).

The Appellants invented a way of updating merchant on file payment data that allows a merchant to get updates to the data prior to the occurrence of a payment event. Specification para. 1.

An understanding of the invention can be derived from a reading of exemplary claim 21, which is reproduced below (bracketed matter and some paragraphing added).

21. A system for updating merchant payment data comprising:

[1] a recurring payment system

for processing a plurality of recurring payment transactions

using a plurality of customer recurring payment account records,

wherein the recurring payment transactions are authorized in advance by each customer associated with the customer recurring payment account records;

[2] a merchant processing selection system

operating on a processor

and

configured to receive selection data

from a merchant

for one of two or more types of payment data update processing

for one of a plurality of merchant account records stored in an electronic data memory,

wherein the merchant account record includes the plurality of customer recurring payment account records for that merchant;

and

[3] a merchant account update system  
configured to receive the selection data  
and  
to subsequently process account update data  
for the merchant account record  
based on the selection data  
to automatically modify one or more fields of one  
or more of the customer recurring payment  
account records.

The Examiner relies upon the following prior art:

Hutchings	US 5,940,813	Aug. 17, 1999
Ballard	US 2004/0267673 A1	Dec. 30, 2004
Jamison	US 7,958,049 B2	June 7, 2011
LaRoux	US 8,046,288 B1	Oct. 25, 2011

Claims 31–40 stand rejected under 35 U.S.C. § 101 as directed to non–  
statutory subject matter.

Claims 21–29 stand rejected under 35 U.S.C. § 103(a) as unpatentable  
over Hutchings, LaRoux, and Jamison.

Claim 30 stands rejected under 35 U.S.C. § 103(a) as unpatentable over  
Hutchings, LaRoux, Jamison, and Official Notice.

Claims 31–35 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Hutchings, Ballard, LaRoux, and Jamison.<sup>2</sup>

Claims 36–40 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Hutchings, LaRoux, and Ballard.

## ISSUES

The rejection under statutory subject matter is uncontested. The rejections under obviousness turn primarily on whether the references describe merchant update of recurring payment transactions.

## FACTS PERTINENT TO THE ISSUES

The following enumerated Findings of Fact (FF) are believed to be supported by a preponderance of the evidence.

### *Facts Related to the Prior Art*

#### *Hutchings*

01. Hutchings is directed to a transaction processing system.  
Hutchings 1:18–22.
02. Hutchings describes processing payments from different sources. Hutchings 3:50–59.
03. Hutchings describes batch data from lock-box facilities and from other batch data sources being converted to a transaction

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<sup>2</sup> Although the statutory statement of rejection omits Jamison, the analysis includes it. Final Act. 8–11. This omission was acknowledged in

format. The batch converter reformats the data so that the information for each account includes not only the account number and payment amount but also includes the effective date of the payment. The batch converter transfers the transaction data to temporary pay queues. Hutchings 6:38–60.

*LaRoux*

04. LaRoux is directed to processing payment data that allows transaction data and payment data to be combined in a single report record. LaRoux 1:6–10.
05. LaRoux describes user created report criteria. LaRoux 6:63–7:13.
06. LaRoux describes a recurring bill flag. LaRoux 8:27.

*Jamison*

07. Jamison is directed to electronic bill presentment and payment (“EBPP”) systems. Jamison 1:20–25.
08. Jamison describes an integrated electronic bill presentment and payment system which obtains bills for customers and allows payments including payments by credit card to be processed at the biller websites on behalf of customers. The integrated EBPP system obtains bills for customers from paper billers, electronic billers, and scrape-enabled biller websites. The integrated EBPP system enables customers to automatically set up a user account at biller websites, with customers providing user access information

and user financial account information for accessing biller web sites and for initiating payments at biller websites. Jamison Abstract.

09. Jamison describes advanced credit card payment capabilities in which customers can initiate credit card payments to biller websites through an automatic or recurring payment rule that customers have established. Jamison 6:24–29.
10. Jamison describes customers setting up recurring payment rules. Jamison 40:19–36.

*Ballard*

11. Ballard is directed to processing of credit card payments. Ballard para. 1.
12. Ballard describes a credit card issuer performing its usual operations on a transaction received from a credit card processor, including the routing of the incoming transaction to the appropriate issuing member bank, based upon the transaction information. Once the transaction arrives at the appropriate issuing bank datacenter, the credit card account number is retrieved from the bank's database to determine various aspects of the credit account status and how much available credit is remaining. Assuming there are no problems with the credit account status, and that the remaining credit is sufficient to accept the presented transaction amount, an approval code is generated and rerouted back to the credit card issuer datacenter that originated the credit transaction. The credit card issuer then

communicates the approval of the transaction to IP credit card gateway 34 or to Direct IP credit card processor. Ballard para. 48.

## ANALYSIS

*Claims 31–40 rejected under 35 U.S.C. § 101 as directed to non–statutory subject matter*

We summarily affirm this rejection as Appellants do not contest it.

*Claims 21–40 rejected under 35 U.S.C. § 103(a) as unpatentable over Hutchings, LaRoux, Jamison, Official Notice, and Ballard*

We are persuaded by Appellants’ argument that none of the reference describes the merchant processing of recurring records recited in the claims. Reply Br. 2–7.

All of the claims recite some form of merchant update of recurring payment transactions. Hutchings and Ballard do not mention recurring transactions. LaRoux describes a recurring bill flag, and Jamison describes customer rather than merchant update of recurring payment transactions. The Examiner makes findings as to the claim limitations, but none of the cited references support those findings in regard to merchant update of recurring payment transactions. FF 01–12. The Examiner correctly finds separate descriptions of recurring transactions and of merchant editing of records, but does not show that one of ordinary skill would have applied such record editing to recurring payment transactions in the manner recited. For these reasons, we do not sustain this rejection.



### CONCLUSIONS OF LAW

The rejection of claims 31–40 under 35 U.S.C. § 101 as directed to non–statutory subject matter is summarily affirmed.

The rejection of claims 21–29 under 35 U.S.C. § 103(a) as unpatentable over Hutchings, LaRoux, and Jamison is improper.

The rejection of claim 30 under 35 U.S.C. § 103(a) as unpatentable over Hutchings, LaRoux, Jamison, and Official Notice is improper.

The rejection of claims 31–35 under 35 U.S.C. § 103(a) as unpatentable over Hutchings, Ballard, LaRoux, and Jamison is improper.

The rejection of claims 36–40 under 35 U.S.C. § 103(a) as unpatentable over Hutchings, LaRoux, and Ballard is improper.

### DECISION

The rejection of claims 21–30 is reversed.

The rejection of claims 31–40 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2011).

AFFIRMED–IN–PART