



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
10/172,149 02/27/2002 Andre F. Viljoen ECHG118799 6005

26389 7590 11/23/2016
CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1201 THIRD AVENUE
SUITE 3600
SEATTLE, WA 98101-3029

EXAMINER

OBEID, MAMON A

ART UNIT PAPER NUMBER

3685

NOTIFICATION DATE DELIVERY MODE

11/23/2016

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

efiling@cojk.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* ANDRE F. VILJOEN, ROBIN B. HUTCHISON, and  
ROBERT C. LLEWELLYN

---

Appeal 2014-009488<sup>1</sup>  
Application 10/172,149  
Technology Center 3600

---

Before: MURRIEL E. CRAWFORD, JOSEPH A. FISCHETTI, and  
MICHAEL W. KIM, *Administrative Patent Judges*.

CRAWFORD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants seek our review under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1, 3–8, 37, 42, and 47–49. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

---

<sup>1</sup> Appellants identify eCharge2 Corporation as the real party in interest. Appeal Br. 1.

Appellant's invention is directed to engaging in secure transactions between computers. (Spec. 1, ll. 9–13).

Claim 1 is illustrative below:

1. A method for engaging in a purchase transaction between a consumer device and a merchant server using a secure transaction account associated with the consumer device, the method comprising:

(a) transmitting a double-signed purchase transaction offer digitally signed by both the consumer device and the merchant server from one of the consumer device and the merchant server to a transaction server, the double-signed purchase transaction offer including an offer to purchase an item chosen from the group consisting of a product and a service;

(b) determining at the transaction server whether the digital signatures of both the consumer device and the merchant server that signed the double-signed purchase transaction offer are valid and whether a secure transaction account is associated with the consumer device;

(c) in response to determining that the digital signatures of both the consumer device and the merchant server that signed the double-signed purchase transaction offer are valid and that the consumer device is associated with a secure transaction account, transmitting a response digitally signed by the transaction server to at least one of the consumer device and the merchant server, the response digitally signed by the transaction server including: (i) the double-signed purchase transaction offer digitally signed by both the consumer device and the merchant server; and (ii) a validation notice; and

(d) in response to the at least one of the consumer device and the merchant server receiving the response digitally signed by the transaction server, the receiving one of the consumer device and the merchant server initiating a purchase transaction between the consumer device and the merchant server.

Appellants appeal the following rejections.

Claims 1, 3–8, 37, 42, and 47–49 are rejected under 35 U.S.C. § 103(a) as unpatentable over Linehan (US 6,327,578 B1, iss. Dec. 4, 2001) and Kinnis et al. (US 6,959,382 B1, iss. Oct. 25, 2005).

Claims 6–8 are rejected additionally in the alternative under 35 U.S.C. § 103(a) as unpatentable over Linehan, Kinnis, and Sokol (US 6,173,269 B1, iss. Jan. 9, 2001).<sup>2</sup>

## ANALYSIS

### Claims 1, 37, 42, and 47–49

We begin by construing the meaning of certain claim terms. The term “double-signed purchase transaction offer” in claim 1, is not defined by Appellants’ Specification. However, there are several examples where a signed offer is presented to another party who accepts the offer with a signature. *See* Spec. 5, ll. 11–18; 14, ll. 2–6; 18, ll. 10–13; and 20, ll. 19–27. We, thus, construe a “double-signed purchase transaction offer” as an agreement to purchase something, *i.e.*, an executed contract.

The term “valid” is not defined by Appellants. We rely on the ordinary and customary meaning of “valid,” which is “having legal efficacy or force; especially: executed with the proper legal authority and formalities.” (Last retrieved on Oct. 31, 2016, at <http://www.merriam-webster.com/dictionary/valid>).

The term “secure transaction account” is not defined. We construe a secure transaction account as a financial account that can be used for

---

<sup>2</sup> Inventor’s name changed from Daniel David Solokl to Daniel David Sokol by Certificate of Correction filed May 10, 2005.

purchase transactions with some form of security. This would encompass traditional checking and savings accounts, as well as credit cards, loans, and money market accounts, to name a few, because all can be used for transactions and have some form of security.

The phrase “initiating a purchase transaction” is not defined, but is described as a step following validation where “the merchant device optionally prepares to fulfill the transaction (such as moving product from a warehouse or storage to a waiting facility).” Spec. 18, ll. 26–30. We, thus, construe “initiating a purchase transaction” to be when fulfillment is initiated in a purchase transaction.

The Examiner finds independent claim 1 is obvious over the combination of Linehan and Kinnis. Final Act. 2–5.

Linehan discloses clause (a) of claim 1, where the “consumer’s computer **202** then sends a message **224** over the internet network including some consumer identity and authentication information, such as a user id and user password, plus the merchant message, to an issuer gateway **214**.” Linehan, col. 5, l. 65 to col. 6, l. 3. The user’s identification and authentication information may alternatively include “a consumer’s digital signature and digital certificate,” and is, thus, a customer signature. *Id.* at col. 7, ll. 43–49. The merchant’s initiation message is created after receiving a “start message **220**” from the consumer, and includes the order description and merchant signature. *Id.* at col. 6, ll. 54–63. The message sent to the gateway, therefore, includes the order description that corresponds to the offer to buy the customer made by starting the purchase with a “start message,” and the signatures of the buyer and seller, as claimed, thus, forming an executed purchase contract.

Linehan discloses clause (b) of claim 1. First, Linehan discloses the issuer gateway authenticates the customer, such as with the “consumer’s digital signature and digital certificate,” thus, determining if the consumer device signature is valid. *Id.* at col. 7, ll. 39–48. Next, Linehan discloses the “issuer gateway **214** then verifies that the consumer's account is active and has sufficient funds and/or credit to support the payment amount,” and “verifies the merchant’s signature.” *Id.* at col. 7, ll. 8–15.

Linehan discloses clause (c) of claim 1 in that “the issuer gateway **214** then pre-authorizes payment by sending over the internet network an authorization token **254** over path **226**, an issuer’s digital certificate, the wallet initiation message, and a reference number or value **252** representing the consumer’s credit or debit card number.” *Id.* at col. 6, ll. 15–21. The authorization token serves as the validation notice, and the wallet initiation message includes the signed offer.

Linehan discloses clause (d) of claim 1 by sending a token, in that “issuer gateway **214** signs the authorization token **254** on behalf of the issuing bank **212**. This information can be sent either to the consumer **202** over path **226** as shown in FIG. **2B**, or directly to the merchant **204** over path **402** as shown in Fig. **4**, to fulfill the order description.” *Id.* at col. 6, ll. 34–36.

Because we interpret Linehan as disclosing signatures of both the consumer device and merchant server, the disclosure of Kinnis is cumulative.

We begin with Appellants’ argument that the preamble of claim 1 must be considered because preamble language is “embodied in the body of Claim 1, in a manner that adds to the completeness of Claim 1.” Appeal Br.

12–13. If the body of a claim fully and intrinsically sets forth all of the limitations of the claimed invention, and the preamble merely states, for example, the purpose or intended use of the invention, rather than any distinct definition of any of the claimed invention's limitations, then the preamble is not considered a limitation and is of no significance to claim construction. *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305 (Fed. Cir. 1999). Appellants do not indicate which portion of the preamble is absent from the body of claim 1. Instead, the body of the claim fully and intrinsically sets forth all the limitations of the claimed invention. As a result, the preamble is not considered a limitation.

We are not persuaded by Appellants' argument, set off with the use of bold typeface, that Linehan does not disclose the use of a secure transaction account associated with the consumer device. Appeal Br. 12. Linehan discloses “issuer gateway **214** then verifies that the consumer’s account is active and has sufficient funds and/or credit to support the payment amount.” Linehan, col. 7, ll. 13–15. Because the account is used for payment, it is a transaction account. And because it is associated with a financial institution that is the issuing bank 212 (*Id.* at col. 5, l. 65 to col. 6, l. 3), the ordinary artisan would recognize that it is a “secure” account, according to our claim construction above.

We are not persuaded by Appellants' argument that Linehan fails to disclose the claimed transmitting of a signed offer recited in clause (a), because this is “not the same” as the challenge or other authentication methods disclosed in Linehan. Appeal Br. 14–15. As we explained above, Linehan discloses each element recited in clause (a) of claim 1. In addition, the embodiment, referred to by Appellants, that additionally utilizes a smart

card, with challenge and response steps added to the disclosed method of column 6, but merely adds steps in addition to the other disclosed steps in Linehan. *See* Linehan Fig. 2C; *cf.* Fig. 2A.

We are not persuaded that Linehan’s issuer gateway does not determine whether a secure transaction account is associated with a consumer device, because, according to Appellants, the issuing bank makes the determination, not the gateway. Appeal Br. 15.

In support of how the gateway makes such an association determination, Appellants direct us to their Specification, page 14, lines 2–13. *Id.* at 5. This portion of the Specification, however, does not mention determining if an account is associated with the consumer device. The claims and Specification, thus, do not limit how the determination is made.

Linehan discloses “issuer gateway **214** then verifies that the consumer’s account is active and has sufficient funds and/or credit to support the payment amount.” Linehan, col. 7, ll. 13–15. The gateway makes the determination, which could encompass involving the issuing bank for assistance, but in either case is within the scope of the claimed method.

Appellants next present considerable argument in support of the assertion that Linehan does not disclose a “purchase transaction offer.” Appeal Br. 16–21. As we pointed out above, Linehan’s forwarded “wallet initiation message” includes an offer and acceptance and the signatures of the buying and selling parties, thus, forming an executed purchase contract, which meets the claim language of a “double-signed purchase transaction offer.”

We are not persuaded by Appellants’ argument that, according to Appellants, Linehan’s token pre-authorizes payment but does not initiate a

purchase transaction, as claimed. Appeal Br. 22. As we set forth above, the token begins the process of purchase fulfillment, which meets the claim language of initiating a purchase transaction, as we construe it to mean. Linehan, col. 6, ll. 34–36.

We have also considered Appellants arguments set forth at pages 1–9 of the Reply Brief, but are unpersuaded by them for the reasons set forth above.

For these reasons, we sustain the rejection of claim 1. We also sustain the rejection of dependent claims 37, 42, and 47–49 that are not argued separately. Appeal Br. 27–28.

### Claim 3

Dependent claim 3 recites “wherein determining at said transaction server whether a secure transaction account is associated with said consumer device further comprises determining at said transaction server whether said secure transaction account is valid.”

We are not persuaded by Appellants’ essentially-repeated argument that, according to Appellants, Linehan fails to disclose the issuing gateway determining if an account is valid, because Linehan also discloses that the gateway communicates with the issuing bank, which makes the determination instead of the gateway/transaction server. Appeal Br. 25–26; *see also* Reply Br. 9–10.

Linehan discloses the “issuer gateway **214** then verifies that the consumer's account is active and has sufficient funds and/or credit to support the payment amount.” Linehan, col. 7, ll. 8–15. The ordinary artisan would recognize that determining that an account is active and has sufficient funds

corresponds to “having legal efficacy or force” and is, thus, valid. Additionally, as we noted above, the claims and Specification do not exclude from the claim scope the gateway making a determination by asking another system, such as the issuing bank, for its determination on the same issue, thus, meeting the claim language.

Claim 4

Dependent claim 4 recites “wherein the response digitally signed by the transaction server includes a digital certificate.”

We are not persuaded by Appellants’ argument that the Examiner failed to address claim 4. Appeal Br. 26. The Examiner cites Linehan, column 14, lines 46–53 at disclosing the use of a digital certificate by the issuing gateway/transaction server. Ans. 15. Appellants respond that the claimed “response” of limitation (c) of claim 1, to which the digital certificate applies, has “nothing whatsoever to do with an authorization token” in Linehan. Reply Br. 10. We disagree with Appellants, as we advanced above in our analysis of claim 1. The message sent with the digital certificate at column 14 of Linehan is sent by the transaction server/issuer gateway after determining the signatures and account are valid, thus, meeting the claim language. Therefore, we sustain the rejection of claim 4.

Claim 5

Dependent claim 5, which depends from claim 4, recites “wherein the transaction server includes a memory and further comprising retrieving said digital certificate from the transaction server memory.”

We are not persuaded by Appellants' arguments that Linehan does not disclose a certificate associated with a signature by a transaction server that uses memory. Appeal Br. 26–27; *see also* Reply Br. 11. Linehan discloses the use of a certificate by an issuing gateway that signs the token it uses to respond to the consumer and merchant. Linehan, col. 14, ll. 46–53. The ordinary artisan would understand that modern digital computers rely on memory for operation, thus, meeting the claim language.

Claims 6–8

Dependent claim 6 recites “wherein said secure transaction account comprises a main account and at least one sub-account.” Dependent claims 7 and 8 depend from claim 6, and recite “wherein said sub-account is operative only to accept charges from a predetermined list of merchant servers,” and “wherein an authority limit may be set by said consumer for said sub-account,” respectively.

The term “sub-account” is not defined by Appellants. We rely on the ordinary and customary meaning of “a subordinate or secondary account (as in a business record).” (Last retrieved on November 1, 2016, from <http://www.merriam-webster.com/dictionary/subaccount>).

Appellants first assert, without evidence, there is “no basis” for the combination with Sokol. Appeal Br. 28–29. We disagree, because the Examiner sets forth a reasoned explanation with rational underpinning for the combination, with the motivation “to enable teens to purchase products using their parent’s account thereby increasing sales and revenues ([*See* Sokol,] column 1, lines 49–59).” Final Act. 7. Appellants do not dispute this motivation.

We are not persuaded by Appellants' argument that Sokol fails to disclose a "sub-account," because, according to Appellants, the teen accounts in Sokol are "main accounts, not sub-accounts." Reply Br. 11–12; *see also* Appeal Br. 29. Sokol discloses the teen's transaction account at the service is setup by "a legally responsible party, for example the teen's parent." Sokol, col. 5, ll. 33–38. The teen's financial account is, thus, subordinate to the parent's account, because it relies on the parent to establish the account, and is, thus, a sub-account.

For this reason, we sustain the rejection of claim 6, as well as of dependent claims 7 and 8 that were not argued separately. Appeal Br. 29. Because we sustain the rejection over Sokol, we need not address the alternative rejection that does not rely on Sokol.

#### DECISION

We affirm the rejection of claims 1, 3–5, 37, 42, and 47–49 under 35 U.S.C. § 103(a) over Linehan and Kinnis.

We affirm the rejection of claims 6–8 under 35 U.S.C. § 103(a) over Linehan, Kinnis, and Sokol.

We do not reach the rejection of claims 6–8 under 35 U.S.C. § 103(a) over Linehan and Kinnis.

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

AFFIRMED