UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MASTERCARD INTERNATIONAL INCORPORATED

Petitioner

v.

JOHN D'AGOSTINO

Patent Owner

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Case IPR2014-00544

Patent 7,840,486

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DECLARATION OF EDWARD L. GUSSIN

I. INTRODUCTION

1. My name is Edward L. Gussin, and I have been retained by the Patent Owner to provide my opinions as they relate to U.S. Patent 7,840,486 (hereinafter "the '486 patent"), which is the subject of the present Inter Partes Review, and U.S. Patent 8,036,988 (hereinafter "the '988 patent"), which is the subject of IPR2014-00543.

2. My curriculum vitae is included herewith as Appendix A, and a list of my prior engagements is included herewith as Appendix B. As shown in Appendix A, I received a B.S. in Electrical Engineering from the Illinois Institute of Technology in 1975, and an M.S. in Electrical Engineering from the University of Southern California in 1979.

3. From May, 1975 through August, 1976, I was a computer hardware designer and software programmer at GTE Automatic Electric in Northlake, Illinois.

4. From August, 1976 through April, 2011, I was an electrical engineer developing signal and data processing electronics, with progressively expanding responsibility in program management and technical leadership positions at Raytheon Company, formerly Hughes Aircraft Company in El Segundo, California.

II. SUMMARY OF MY REVIEW

5. In developing my opinions relating to the '988 patent, I have reviewed the following:

Ex. 1001	U.S. Patent No. 7,840,486
Ex. 1002	File History for U.S. Patent No. 7,840,486
Ex. 1003	File History for U.S. Reexamination No. 90/012,517
Ex. 1004	U.S. Patent No. 6,422,462 ("Cohen")
Ex. 1006	U.S. Patent No. 5,826,243 ("Musmanno")
Ex. 1008	Declaration of Jack D. Grimes
Ex. 1009	Excerpts from Random House Webster's Unabridged Dictionary, Second Edition
Ex. 1012	ISO 8583
Ex. 1013	File History for U.S. Patent No. 8,036,988
Ex. 1021	Notice of Intent to Issue Ex Parte Reexamination Certificate
Ex. 2002	CRU Statement (Reexamination No. 90/012,517)
Ex. 2003	Appeal Brief in U.S. Reexamination No. 90/012,517
Ex. 2004	U.S. Patent No. 5,621,201
Ex. 2005	Excerpts from Oxford Dictionary, Eighth Edition

Ex. 2006	Excerpts from Random House Webster's College Dictionary

III.   CLAIM CONSTRUCTION

6.   I understand, in an *inter partes* review proceeding before the Patent Trial and Appeal Board, that claims of a patent are interpreted according to their broadest reasonable construction in view of the specification of the patent. I further understand that terms of the claim are given their ordinary and customary meaning as would be understood by one of ordinary skill in light of the specification of the patent. Following these principles, I believe that my interpretation of the claim terms given below are the broadest reasonable interpretation of those terms within the context of the '486 patent and its file history.

7.   The claim limitation "generating a transaction code" should be construed, under the broadest reasonable interpretation, to mean "creating or producing a code that is usable as a substitute for a credit card number in a purchase transaction, the transaction code is pre-coded to be indicative of a customer account and a payment category, where the customer account is either a credit card account or a debit card account." This interpretation is consistent with, and is supported by the '486 patent. *See* Ex. 1001, 3:12-17; 3:30-35; 6:35-43.

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8.   I understand that the Board in its Decision has adopted the meaning of "generating a transaction code" to be "creating or producing a code that is usable as a substitute for a credit card number in a purchase transaction, the transaction code is pre-coded to be indicative of a specific credit card account." This definition incorrectly limits the transaction code to be indicative of a credit card account. The claims are directed toward performing secure credit card purchases with a customer's account that is capable of performing secure credit purchases. The '486 patent explains that the account could be a credit card account or a debit card account. Ex. 1001, 3:12-17. The '486 patent also describes "the transaction code is to be used in substitution for the credit card number…and will accomplish payment for the goods or services desired in the formal fashion normally associated with a credit or debit card transaction…." Ex. 1001, 3:35-43. And, the '486 patent discloses a user identifying either a credit card or debit card account in the process of obtaining a transaction code. Ex. 1001, 3:30-35.

9.   The adopted definition also incorrectly excludes the transaction code being indicated of a payment category. The '486 patent makes clear that the transaction code indicates the payment category. Ex. 1001, 3:43-45, 6:28-32. And the claims expressly include the transaction code being indicative of the payment category. For example, claim 1 includes "said transaction code reflecting at least the limits of the designated payment category to make a purchase within said

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