UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FIRST DATA CORPORATION
Petitioner

v.

CARDSOFT INTERNATIONAL PTY LIMITED

Patent Owner

U.S. Patent No. 7,302,683

Filing Date: August 22, 2005

Issue Date: November 27, 2007

Title: METHOD AND APPARATUS FOR

CONTROLLING COMMUNICATIONS

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*Inter Partes* Review No. <u>Unassigned</u>

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**PETITION FOR *INTER PARTES* REVIEW**

**UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. § 42.100 *ET SEQ.***

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EXHIBIT LIST

| Exhibit No. | Description |
|---|---|
| 1001 | Ogilvy U.S. Patent No. 7,302,683 (the "Cardsoft '683 Patent,") |
| 1002 | EMV '96, Integrated Circuit Card Terminal Specification for Payment Systems, Version 3.0, June 30, 1996 (EMV '96) 102(b) prior art |
| 1003 | EUROPAY, MASTERCARD AND VISA COMPLETE FINAL PHASE OF GLOBAL CHIP CARD SPECIFICATIONS - EMV '96 Ready for release - Waterloo/New York/San Francisco, 16 July, 1996 |
| 1004 | OMNI 300 Series Terminal, Programmer's Manual, Volume 1 and Volume 2 ("OMNI 300"), 102(b) prior art) |
| 1005 | Custy US Pat. No. 5,774,879, assigned to First Data ("First Data '879 Patent") 102(e) prior art |
| 1006 | Cardsoft (Assignment for the Benefit of Creditors) v. First Data Corporation Proof of Service |
| 1007 | Complaint for Patent Infringement Against First Data Corporation |
| 1008 | Claim Construction Order in Cardsoft, Inc., et al. v. VeriFone Holdings, Inc., et al., case no. 2:08-CV-98-CE |

1009    Declaration of Stephen Gray.

1010    Europay Open Terminal Architecture – A Forth-based Token

System for Payment Terminals ("OTA") 102(b) prior art

1011    Agreement between VeriFone and First Data re Indemnity.

1012    Articles re sales of OMNI 300 series terminals.

1013    Declaration of Lawrence Forsley re public availability of OTA.

## I. Introduction

Through counsel, real party in interest First Data Corporation ("Petitioner") hereby petitions for initiation of *inter partes* review of U.S. Patent No. 7,302,683, entitled "Method and Apparatus for Controlling Communications" (the "Cardsoft '683 Patent"). Ex. 1001. The Cardsoft '683 Patent issued on November 27, 2007 more than nine months prior to the filing of this petition. The Cardsoft '683 Patent is currently asserted in a co-pending litigation, and this petition is being filed within one year of Petitioner being served with complaint for patent infringement. *See* Exs. 1006 & 1007 (Complaint and Certificate of Service). Thus, the Cardsoft '683 Patent is eligible for *inter partes* review.

## II. Mandatory Notices

### A. Real Party in Interest

The real party in interest is First Data Corporation, which is a limited liability company duly organized and existing under the laws of the state of Delaware with a principal place of business at 5565 Glenridge Connector, N.E., Suite 2000, Atlanta, Georgia 30342. We believe that VeriFone is NOT a real party in interest. VeriFone, per an indemnity with First Data, is providing the funding for this petition. However, the sole and exclusive control over this petition rests entirely with First Data. To the extent that the VeriFone indemnity agreement provided any ability to assume control of any litigation, VeriFone has disclaimed any right

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