IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants:	MacLean, et al.	Group Art Unit:	3688
Serial No.:	09/818,400	Examiner:	Daniel Lastra
Filed:	March 27, 2001	Confirmation No.:	2793

For: **APPARATUS AND METHOD OF FACILITATING THE EXCHANGE OF POINTS BETWEEN SELECTED ENTITIES**

Mail Stop Appeal Brief – Patents
Commissioner of Patents
P.O. Box 1450
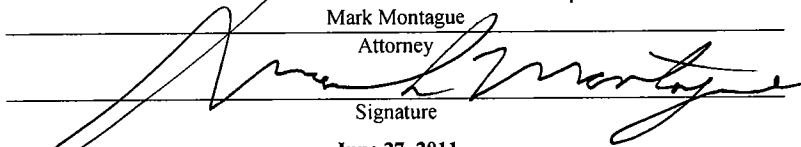Alexandria, VA 2233-1450

REPLY BRIEF

Sir:

This reply brief is submitted in reply to the Examiner's Answer dated April 26, 2011.

The Commissioner is hereby authorized to charge any fees which may be required or credit any overpayment to Account No. 03-3415.

I certify that this correspondence is being transmitted via the Patent Electronic Filing System (EFS) to the United States Patent and Trademark Office on: **June 27, 2011**

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The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No. 03-3415.

Reply to The Examiner's "Response to Argument"

On pages 38 through 42 of the Examiner's Answer, the Examiner sets out a discussion that allegedly addresses the appellants' arguments presented in the Appeal Brief. However, in this section of the Examiner's Answer, rather than specifically address appellants' arguments, the Examiner merely refers to certain teachings in the cited art in connection with various features recited in the claims of the application here under appeal. In connection with such assertions, it is respectfully submitted that the Examiner has misrepresented the teachings of the cited art.

The Postrel Patent

In the Postrel patent or system, users are able to "accumulate" their loyalty program point balances into a common account, referred to by Postrel as the "reward exchange account". Postrel is unclear on the precise nature of the reward exchange account but it appears to be a point based account which contains what one may call "Postrel Points" for lack of a better term. In each case, loyalty points from the loyalty programs are converted into Postrel Points at some exchange or conversion rate agreed to between the loyalty program and the Postrel system operator. For example, 10 loyalty points in loyalty program A might be equivalent to 2 Postrel Points. Likewise, 10 loyalty points in loyalty program B might be equivalent to 5 Postrel Points. The Postrel Points can then be used for goods and services offered by merchants either by redeeming them for value (i.e. cash consideration) or transferring them to the merchant into its own Postrel Points account. However, the Postrel system does not disclose how a user could exchange loyalty points in program A into loyalty points in program B, or loyalty points in program C into program D, or loyalty points in program D into program A, and so on.

The Lee Patent

The Lee patent discloses a system and method for a user to exchange loyalty points in program A into loyalty points in program B. In the Lee system, users trade their loyalty program point balances between themselves at a valuation that they determine. Thus, user A may agree to trade 10 loyalty points in program A to user B for 5 loyalty points in program B held by user B, thereby setting an exchange rate of 2 loyalty points in program A for every 1 point in program B. But, user C may agree to trade 15 loyalty points in program A to user D for 5 loyalty points in program B, thereby setting an exchange rate of 3 to 1. In the Lee system, no trade occurs unless and until two users are able to negotiate a transaction that is acceptable to both of them. The Lee patent does not disclose how a user could exchange loyalty points in program A into loyalty points in program B without having another user present to accept that trade.
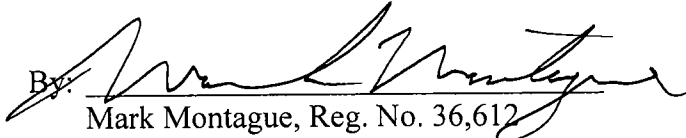
Appellants' Claimed Invention

Appellants' invention is distinct from Postrel and Lee because, among other things, it provides a solution that allows a user to exchange loyalty points in program A into loyalty points in program B, or loyalty points in program C into program D, or loyalty points in program D into program A, and so on. The Appellants' claimed invention includes a withdrawal rate and a deposit rate for each program (i.e., loyalty point program) that reflects the value of the loyalty program's loyalty points. By allowing for two separate rates for each program, an infinite combination of exchanges is possible with Appellants' system. Moreover, all of the currently enabled exchanges are always available to users. There is no need for a user to wait for another user that wants to exchange or trade their loyalty points. This is significant for users precisely because they may desire an award offered by loyalty program B where they do not have a sufficient balance of loyalty points in program B. Through Appellants' system they are able to

exchange their balance from program A, C, D or X into program B and thus obtain the award they desire. It is important to note that loyalty program B may offer awards that are only available from program B and not from a third party merchant.

In view of the foregoing, it is respectfully submitted that the specific assertions set forth in Appellants' Appeal Brief sufficiently establish that neither Postrel nor Lee anticipates any of the claims of the application under appeal. Accordingly, the Examiner's rejections of the claims should be reversed.

Respectfully submitted,

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REMARKS

This Amendment is made in response to the Office Action dated September 05, 2007. A Request for an Extension of Time is submitted herewith to permit the filing of this Amendment in the third month.

The undersigned directs the Examiner's attention to pages 55 to 61 of the Amendment of May 25, 2007, which the undersigned believes to fully respond to the rejections based upon Lee.

1.   Description of Applicants' Points Managing System

Applicants invention relates as shown in Figures 8-12 of the subject application to a method of managing a points withdrawing loyalty program which comprises a plurality of withdrawing points, and a points depositing loyalty program which comprises a plurality of deposit points. The points withdrawing loyalty program independently sets a number of these withdrawing points, while the points withdrawing loyalty program sets a points withdrawing rate. Next, a user or a loyalty program sets a first number of the withdrawing points, before the number of withdrawing points is multiplied times the points withdrawing rate to provide a value of the number of the withdrawing points in terms of their common currency. Next, the depositing loyalty program or user independently sets a points deposit rate, which defines the value of the one point of the deposit rate in terms of its common currency. Finally, the number of withdrawing points is multiplied times the points deposit rate for the depositing loyalty program to output the number of the points to be deposited in the point deposit loyalty program.

2.   Postrel Fails to Disclose Applicants' System

Applicants respectfully traverse and request reconsideration of the rejection of claims 1-4, 13-14 and 21-28 as being anticipated under 35 U.S.C. 102(e) by U.S. Patent No. 6,594,640 of

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