

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,

Petitioner,

v.

RFCYBER CORP.,

Patent Owner.

Patent No. 9,189,787

Filing Date: May 28, 2013

Issue Date: November 17, 2015

Inventors: Liang Seng Koh, Futong Cho, Hsin Pan, and Fuliang Cho  
Title: METHOD AND APPARATUS FOR CONDUCTING  
E-COMMENCE AND M-COMMENCE

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**PATENT OWNER'S SUR-REPLY**

Case No. IPR2022-00412

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**TABLE OF CONTENTS**

	<b><u>Page(s)</u></b>
I. INTRODUCTION .....	1
II. ARGUMENT.....	2
A. Patent Owner’s Proposal for the Ordinary Level of Skill is Correct, and Patent Owner’s Expert is Qualified.....	2
B. Apple Fails to Show that Philips is Prior Art.....	5
C. A POSITA Would Not Combine Dua with GlobalPlatform and/or Philips.....	6
D. The Asserted References Do Not Disclose or Render Obvious “an emulator [loaded in a smart card module] for storing security values and updated transaction logs” (claims 1 and 11).....	14
E. The Asserted References Do Not Disclose or Render Obvious any “personalized” emulator (claims 1 and 11).....	16
F. The Asserted References Do Not Disclose or Render Obvious Performing M-Commerce “against a fund stored in the emulator” (Claims 1 and 11).....	17
G. The Asserted References Do Not Disclose or Render Obvious a personalization process “built on a first security channel so that . . . the e-purse applet is configured to conduct a transaction with a network server over a second security channel” (claims 1 and 11).....	18
H. The Asserted References Do Not Disclose or Render Obvious security channels between a smart card module “and a security authentication module (SAM) external to the smart card module” (Claims 6 and 16) .....	20
III. CONCLUSION.....	21

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>Cases</b>	
<i>Belden Inc. v. Berk-Tek LLC</i> , 805 F.3d 1064 (Fed. Cir. 2015) .....	14
<i>Chemours Co. FC, LLC v. Daikin Indus., Ltd.</i> , 4 F.4th 1370 (Fed. Cir. 2021) .....	6
<i>Hulu, LLC v. Sound View Innovations, LLC</i> , IPR2018-01039, Paper 29 (P.T.A.B. Dec. 20, 2019) .....	5
<i>Personal Web Techs., LLC v. Apple, Inc.</i> , 848 F.3d 987 (Fed. Cir. 2017) .....	13
<i>Samsung Elecs. Am., Inc. v. RFCyber Corp.</i> , IPR2021-00979, Paper 10 (P.T.A.B. Dec. 14, 2021) .....	20
<i>Sandbox Logistics LLC v. Proppant Express Invs. LLC</i> , 813 Fed. Appx. 548 (Fed. Cir. 2020).....	8
<i>Sanofi-Synthelabo v. Apotex, Inc.</i> , 550 F.3d 1075 (Fed. Cir. 2008) .....	13
<i>Trivascular, Inc. v. Samuels</i> , 812 F.3d 1056 (Fed. Cir. 2016) .....	6
<b>Statutes</b>	
35 U.S.C. 324.....	4
35 U.S.C. § 311 (b) .....	14
<b>Other Authorities</b>	
37 C.F.R. § 42.207 .....	4

## I. INTRODUCTION

Apple Inc. (“Petitioner” or “Apple”) has failed to show that claims 1-19 (“challenged claims”) of the ’787 Patent are invalid and, on Reply, fails to rebut Patent Owner’s arguments. The Board should issue a Final Written Decision finding all of the challenged claims not unpatentable for the reasons set forth below and in Patent Owner’s Response (the “POR”).

First, Apple fails to show that a POSITA would have any reason or motivation to combine Dua with GlobalPlatform. Apple does not substantively address its own expert’s admissions that he lacks expertise in network protocols, a central feature of his alleged motivation to combine, that the field of the invention was unpredictable, and that there were no obvious solutions. Nor does Apple identify any deficiencies in Dua, or any benefit that would supply a reason and/or motivation to replace or modify Dua’s SIP-based protocols with GlobalPlatform. Instead, Apple introduces a supplemental declaration and raises new arguments alleging that it is (somehow) possible to add GlobalPlatform without entirely replacing SIP. This is inconsistent with Apple’s own Petition and does not cure Apple’s failure to provide a justification defeating Dua’s aim of leveraging existing channels (such as SIP) by importing GlobalPlatform. Finally, Apple resorts to baseless mudslinging against the qualifications of Patent Owner’s expert, Mr. Gomez. But as discussed below *infra* Section II.A., Apple’s arguments are premised on an unduly narrow formulation of

the level of ordinary skill in the art and Mr. Gomez is qualified under both parties' proposals. Apple's combination fails on this basis.

Second, despite raising a slew of new arguments, Apple both fails to show disclosure of the claim limitations discussed in detail below and does not substantively address many of the arguments raised in Patent Owner's Response. Apple instead falls back on a supplemental declaration from its expert in an attempt to read missing disclosures into the asserted references on the basis of unsupported conjecture. But as discussed in detail below, Apple fails to remedy these and other deficiencies. The Board should further find that the challenged claims are not unpatentable on this basis.

## **II. ARGUMENT**

### **A. Patent Owner's Proposal for the Ordinary Level of Skill is Correct, and Patent Owner's Expert is Qualified**

Patent Owner's proposed level of ordinary skill in the art is correct, and its expert is qualified, irrespective of which proposed level of skill in the art is applied. Petitioner's Reply argues from the false premise that Patent Owner's expert is somehow unqualified and repeatedly relies on this assertion. To reach this conclusion, Petitioner (1) wrongly suggests that a POSITA need have direct experience with "payments" (without exception) and (2) wrongly asserts that Mr. Gomez does not have relevant experience.

First, Patent Owner's proposed level of ordinary skill is correct. Patent Owner

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