

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

RFCYBER CORP.,
Patent Owner.

IPR2022-00412
Patent 9,189,787 B1

Before KEVIN F. TURNER, PATRICK R. SCANLON, and
KEVIN W. CHERRY, *Administrative Patent Judges*.

SCANLON, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining No Challenged Claims Unpatentable
35 U.S.C. § 318(a)

I. INTRODUCTION

Apple Inc. (“Petitioner”) challenges claims 1–19 of U.S. Patent No. 9,189,787 B1 (Ex. 1001, “the ’787 patent”). We have jurisdiction under 35 U.S.C. § 6, and this Final Written Decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons that follow, we determine that Petitioner has not shown by a preponderance of the evidence that claims 1–19 of the ’787 patent are unpatentable.

A. Procedural History

Apple Inc. filed a Petition (Paper 1, “Pet.”) requesting an *inter partes* review of the challenged claims. Petitioner also filed a Motion for Joinder to IPR2021-00980. Paper 3. Petitioner indicated that its Petition is substantially identical to the petition in IPR2021-00980.¹ Pet. 5. RFCyber Corp. (“Patent Owner”) filed a Preliminary Response. Paper 9.

We instituted a trial as to all challenged claims. Paper 11 (“Decision on Institution” or “Dec. Inst.”). Because IPR2021-00980 had been terminated prior to our Decision on Institution, we dismissed Petitioner’s motion to join that proceeding as moot. Dec. Inst. 2 n.1.

After institution, Patent Owner filed a Patent Owner Response (Paper 15, “PO Resp.”), Petitioner filed a Reply (Paper 18, “Reply”), and Patent Owner filed a Sur-reply (Paper 23, “Sur-reply”).

Petitioner relies on the Declaration of Gerald W. Smith (Ex. 1003) and the Supplemental Declaration of Gerald W. Smith (Ex. 1042) in support of its contentions. Patent Owner relies on the Declaration of Miguel Gomez (Ex. 2007) in support of its contentions.

¹ The Petition actually refers to the petition in IPR2021-00981, but this appears to be a typographical error.

An oral hearing was held on April 21, 2023. A transcript of the hearing is included in the record. Paper 29 (“Tr.”).

B. Real Parties in Interest

Petitioner identifies itself as the real party in interest. Pet. 2. Patent Owner identifies itself as its real party in interest. Paper 6, 1.

C. Related Matters

The parties identify the following district-court proceedings as related matters involving the ’787 patent: *RF Cyber Corp. v. Apple, Inc.*, No. 6:21-cv-00916 (W.D. Tex.); *RF Cyber Corp. v. Google LLC*, No. 2:20-cv-00274 (EDTX); *RF Cyber Corp. v. LG Electronics, Inc.*, No. 2:20-cv-00336 (EDTX); and *RF Cyber Corp. v. Samsung Electronics Co.*, 2:20-cv-00335 (EDTX). Pet. 3; Paper 6, 1 (Patent Owner’s Mandatory Notices).

Petitioner also identifies the following Board proceeding involving the same parties and a related patent: PGR2022-00003 (U.S. Patent No. 10,600,046 B2 (“the ’046 patent”)) (institution denied March 24, 2022).

Pet. 4. The parties also identify the following Board proceedings involving the ’787 patent or related patents, filed by Samsung Electronics America, Inc. et al.: IPR2021-00978 (U.S. Patent No. 8,448,855 B1 (“the ’855 patent”)) (institution denied December 14, 2021); IPR2021-00979 (U.S. Patent No. 8,118,218 B2 (“the ’218 patent”)) (institution denied December 14, 2021); IPR2021-00980 (the ’787 patent) (terminated April 11, 2022); and IPR2021-00981 (U.S. Patent No. 9,240,009 B2 (“the ’009 patent”)) (terminated April 11, 2022). Pet. 4; Paper 6, 1. Petitioner also identifies the following Board proceedings involving the ’787 patent or related patents, filed by Google LLC: IPR2021-00954 (the ’855 patent) (terminated October 20, 2021); IPR2021-00955 (the ’787 patent) (terminated October 20, 2021); IPR2021-00956 (the ’009 patent) (terminated October

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20, 2021); IPR2021-00957 (the '218 patent) (terminated October 20, 2021); PGR2021-00028 (the '046 patent) (terminated March 25, 2022); and PGR2021-00029 (the '046 patent) (terminated November 16, 2021). Pet. 3.

D. The '787 Patent

The '787 patent relates to commerce over networks, and more specifically, to a method and apparatus for funding an electronic purse (“e-purse”) for use in portable devices configured for both electronic commerce (“e-commerce”) and mobile commerce (“m-commerce”). Ex. 1001, code (57), 1:15–19.

The '787 patent states that there is a “need for a mechanism in devices, especially portable devices, functioning as an electronic purse (e-purse) to be able to conduct transactions over an open network with a payment server without compromising security.” *Id.* at 1:44–48. Although closed systems—such as smart card technology—existed, they were “difficult to be expanded into other areas such as e-commerce and m-commerce” because “stored values and transaction information are stored in data storage of each tag that is protected by a set of keys,” which keys must be “delivered to the card for authentication before data can be accessed during a transaction.” *Id.* at 1:33–39. According to the '787 patent, this required delivery of keys “makes systems using such technology difficult to be expanded to an open environment such as the Internet for e-commerce and cellular networks for m-commerce as the key delivery over a public domain network causes security concerns.” *Id.* at 1:39–43. The '787 patent purports to overcome the limitations of the prior art by providing a system for funding an e-purse stored on a portable device. The e-purse allows for transactions “over an open network with a payment server without compromising security.” *Id.* at 1:60–64.

Figure 2, reproduced below, provides a schematic view of one embodiment of the '787 patent.

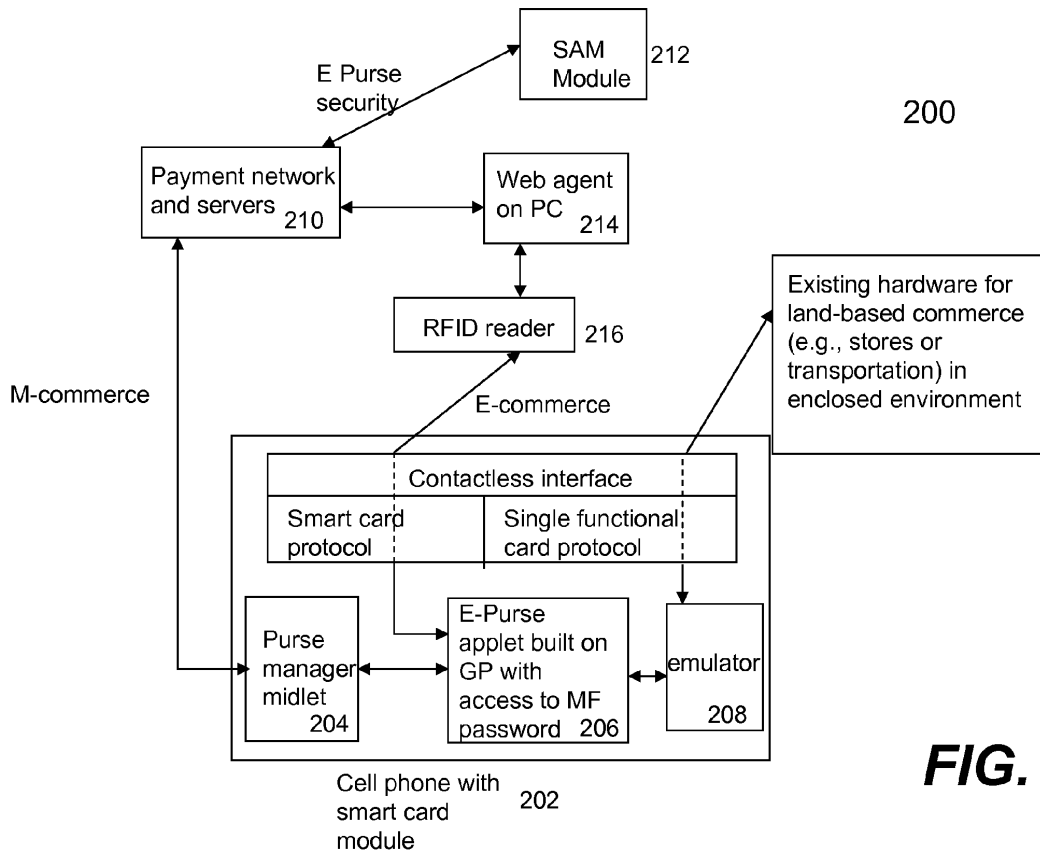


FIG. 2

Figure 2 shows an exemplary architecture diagram 200 according to one embodiment of the '787 patent. Ex. 1001, 3:6–7.

As shown in Figure 2, a portable device is pre-loaded with smart card module 202 comprising emulator 208, e-purse applet 206, and purse manager midlet 204. *Id.* at 5:1–48. The portable device may be a cellphone that is “near field communication (NFC) enabled” and includes an RFID interface “that allows the cellphone to act as a tag.” *Id.* at 5:4–10.

Purse management midlet 204 “is a software component” that “acts as an agent to facilitate communications between an e-purse applet 206 and one or more payment network and servers 210 to conduct transactions.” *Id.* at 5:16–20. E-purse applet 206 is built on a global platform and “acts as a

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