

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

CPC PATENT TECHNOLOGIES PTY, LTD,
Patent Owner.

IPR2022-00600
Patent 8,620,039 B2

Before SCOTT A. DANIELS, AMBER L. HAGY and
FREDERICK C. LANEY, *Administrative Patent Judges*.

DANIELS, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining All Challenged Claims Unpatentable
35 U.S.C. § 318(a)

I. INTRODUCTION

Apple Inc., (“Apple” or “Petitioner”) filed a Petition requesting *inter partes* review (“IPR”) of claims 1, 2, 19, and 20 of U.S. Patent No. 8,620,039 B2 (Ex. 1001, “the ’039 patent”). Paper 1 (“Pet”). CPC Patent Technologies PTY, Ltd., (“CPC” or “Patent Owner”) filed a Preliminary Response to the Petition. Paper 7 (“Prelim. Resp.”).

On October 17, 2022, we instituted trial for claims 1, 2, 19, and 20 of the ’039 patent on all grounds of unpatentability alleged in the Petition. Paper 8 (“Decision to Institute” or “Inst. Dec.”). After institution of trial, Patent Owner filed a Patent Owner Response. Paper 12 (“PO Resp.”). Petitioner timely filed a Reply. Paper 13 (“Pet. Reply”). Subsequently, Patent Owner filed a Sur-Reply to address certain arguments raised in Petitioner’s Reply. Paper 15 (“PO Sur-Reply”).

A hearing for this proceeding was held on July 18, 2023. The transcript of the hearing has been entered into the record. Paper 21 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6(c). This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a).

For the reasons that follow, we determine that Petitioner has met its burden of showing by a preponderance of the evidence that claims 1, 2, 19, and 20 are unpatentable.

A. Real Parties in Interest

Petitioner states that Apple Inc. is the real party in interest. Pet. 57. Patent Owner states that CPC Patent Technologies PTY, Ltd., is the real party in interest. Paper 3.

B. Related Matters

The parties indicate that the ’039 patent has been asserted against Petitioner in *CPC Patent Technologies PTY Ltd. v. Apple Inc.*, Case No.

IPR2022-00600
Patent 8,620,039 B2

6:21-cv-00165, in the U.S. District Court for the Western District of Texas.
Pet. 57; Paper 3.

Petitioner indicates that it has filed additional petitions for *inter partes* review challenging two other patents held by Patent Owner, IPR2022-00601 for U.S. Patent No. 9,269,208, and IPR2022-00602 for U.S. Patent No. 9,665,705. Pet. 57. Final Written Decisions in these IPRs were entered on September 27, 2023.

C. The '039 Patent (Ex. 1001)

The '039 patent, titled “Card Device Security Using Biometrics,” describes a biometric card pointer (BCP) system intended to more efficiently and securely permit a user to store biometric information during an enrollment process, and in future verification processes access their account using an identification (ID) card and biometric information such as a fingerprint. Ex. 1001, 2:51–3:11.

The '039 patent explains that in the enrollment phase “[t]he card user’s biometric signature is automatically stored the first time the card user uses the verification station in question (this being referred to as the enrollment phase).” *Id.* at 2:62–64. The '039 patent explains further that “[t]he biometric signature is stored at a memory address defined by the (‘unique’) card information on the user’s card as read by the card reader of the verification station.” *Id.* at 2:64–67. Following the enrollment phase, the '039 patent describes that

[a]ll future uses (referred to as uses in the verification phase) of the particular verification station by someone submitting the aforementioned card requires the card user to submit both the card to the card reader and a biometric signature to the biometric reader, which is verified against the signature stored at the memory address defined by the card information thereby

determining if the person submitting the card is authorised to do so.

Id. at 3:4–11.¹ For both enrollment and future verification, the use of the ID card at a verification station “is identical from the card user’s perspective, requiring merely input of the card to the card reader, and provision of the biometric signature ([e.g.] thumb print or retinal scan etc.) to the biometric reader.” *Id.* at 3:12–15.

Figure 4 of the ’039 patent is reproduced below.

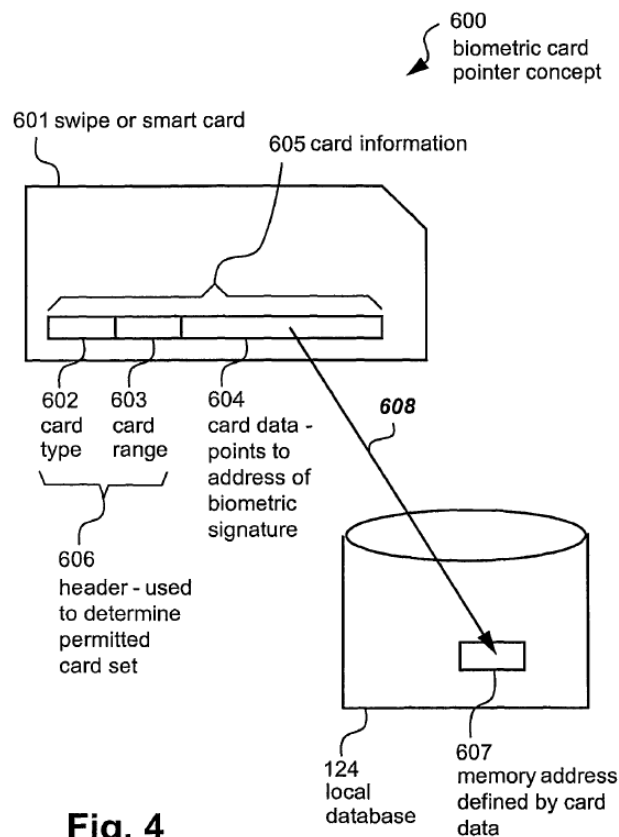


Fig. 4

¹ The words “enrolment,” “authorise,” and “authorisation” are the British spellings of “enrollment,” “authorize,” and “authorization.” *See, e.g.*, <https://www.merriam-webster.com/dictionary/authorisation>, last visited Sept. 23, 2022. We will use the American spelling of these words except when quoted from the ’039 patent.

Figure 4 of the '039 patent illustrates swipe or smart card 601 including card information 605 encompassing fields for card type 602, card range 603, and card data 604. The '039 patent describes that “the card data 604 acts as the memory reference which points, as depicted by an arrow 608, to a particular memory location at an address 607 in the local database 124.” *Id.* at 7:31–35. Information 605 can be encoded on a magnetic strip on the card, for example. *Id.* at 7:28–29. The '039 patent explains that for a specific user “[i]n an initial enrolment phase, . . . [t]he card data 604 defines the location 607 in the memory 124 where their unique biometric signature is stored.” *Id.* at 7:43–49. And the '039 patent explains further that “in later verification phases, . . . [t]his signature is compared to the signature stored at the memory location 607 in the memory 124, the memory location 607 being defined by the card data 604 read from their card 601 by the card reader 112.” *Id.* at 7:50–56.

Figures 6 and 7, reproduced below, depict the differences between enrollment process 207 shown in Figure 7 and verification process 205 shown in Figure 6.

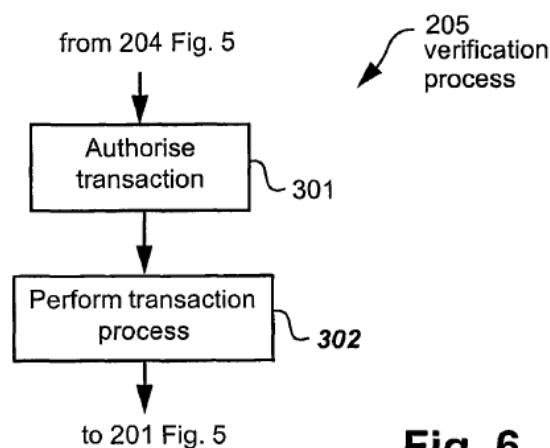


Fig. 6

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.