

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner

v.

RFCYBER CORP.,
Patent Owner

PGR2022-00003
U.S. Patent No. 10,600,046

**PETITION FOR POST-GRANT REVIEW
(§ 112 and § 101)**

TABLE OF CONTENTS

I. INTRODUCTION	1
II. MANDATORY NOTICES	2
A. Real Party-In-Interest.....	2
B. Related Matters.....	2
C. Lead and Back-Up Counsel	3
III. GROUNDS FOR STANDING	3
IV. THE '046 PATENT	4
A. Overview of the '046 Patent	4
B. Prosecution History.....	7
V. THE '046 PATENT IS ELIGIBLE FOR POST-GRANT REVIEW.....	11
A. The '046 Patent's broken priority chain creates PGR eligibility.....	12
B. The '046 Patent's lack of written description for subject matter added by amendment creates PGR eligibility.....	21
VI. CLAIM CONSTRUCTION	22
VII. LEVEL OF ORDINARY SKILL IN THE ART	22
VIII. RELIEF REQUESTED AND THE REASONS FOR THE REQUESTED RELIEF	23
IX. IDENTIFICATION OF CHALLENGES	23
X. THE BOARD SHOULD INSTITUTE POST-GRANT REVIEW.....	23
A. The challenges presented in this petition are not cumulative to prosecution of the '046 Patent.....	23
B. The <i>Fintiv</i> factors favor institution.....	24
XI. IDENTIFICATION OF HOW THE CLAIMS ARE UNPATENTABLE....	26
A. Challenge #1: Claims 1-17 are invalid for failing to satisfy the written description requirement of 35 U.S.C § 112.....	26
B. Challenge #2: Claims 1-17 are invalid under 35 U.S.C § 101.	49
XII. CONCLUSION	92

I. INTRODUCTION

U.S. Patent No. 10,600,046 (“the ’046 Patent,” GOOG-1001) describes methods and systems for mobile payment. In particular, the ’046 Patent attempts to simplify retail transactions by replacing a paper invoice with an electronic invoice presented to a customer in a “tag,” such as a radio-frequency identification (“RFID”) tag. The customer’s mobile device reads the tag and displays the invoice so the customer can add a tip, select a payment method, and settle the invoice.

This method of mobile payment was already well known when the inventors filed the application for the ’046 Patent. As such, the Examiner repeatedly rejected the pending claims, forcing the inventors to heavily amend the claims by adding new limitations to gain allowance. The limitations added by these amendments lacked written description support and divorced the claims from the embodiments described in the specification. This lack of written description support (i) breaks the priority chain to the ’046 Patent’s pre-AIA priority applications, thereby giving rise to post-grant review eligibility, and (ii) renders the claims unpatentable under 35 U.S.C. § 112(a).

The claims are also unpatentable for a second, independent reason—they are directed to the abstract idea of presenting and settling an invoice. The claims do not seek to improve any computer functionalities or resolve a technological problem. Rather, they aim to speed up the traditional retail payment process by reducing the

number of contacts between a consumer and a merchant—and they do so with unimproved, off-the-shelf hardware, such as the aforementioned “tag” and a generic mobile device.

The evidence in this Petition demonstrates that claims 1-17 of the '046 Patent are unpatentable under 35 U.S.C. §§ 101 and 112(a). Accordingly, Apple Inc. (“Petitioner”) respectfully requests that these claims be held unpatentable and cancelled.

II. MANDATORY NOTICES

A. Real Party-In-Interest

The real party-in-interest is Apple Inc.

B. Related Matters

Pursuant to 37 C.F.R. § 42.8(b)(2), to the best knowledge of the Petitioner, the '046 Patent is or was involved in the following cases (“Related Litigation”):

- *RFCyber Corp. v. Apple Inc.*, Case No. 6:21-cv-00916 (W.D. Tex.)
- *Google LLC f/k/a Google Inc. v. RFCyber Corp.*, PGR2021-00028 (PTAB)
- *Google LLC f/k/a Google Inc. v. RFCyber Corp.*, PGR2021-00029 (PTAB)
- *RFCyber Corp. v. Samsung Electronics Co., Ltd.*, Case No. 2:20-cv-00335 (E.D. Tex.)
- *RFCyber Corp. v. Google LLC f/k/a Google Inc.*, Case No. 2:20-cv-00274 (E.D. Tex.)

Petitioner is also concurrently filing a petition for post-grant review of the '046 Patent that challenges claims 1-17 under 35 U.S.C. § 103.

C. Lead and Back-Up Counsel

Petitioner provides the following designation and service information for lead and back-up counsel. 37 C.F.R. § 42.8(b)(3) and (b)(4).

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III. GROUNDS FOR STANDING

Petitioner certifies that the '046 Patent is eligible for post-grant review because it contains at least one claim with an effective filing date after March 16, 2013, as described below in Section V. *See* AIA §§ 3(n)(1), 6(f)(2)(A). Petitioner is not barred or estopped from requesting post-grant review challenging the patent claims on the grounds identified in this Petition. Petitioner has not filed a civil action challenging the validity of any claim of the '046 Patent.

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