

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

QUEST NETTECH CORPORATION,

Plaintiff,

v.

APPLE INC.,

Defendant.

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Case No. 2:19-cv-00118-JRG

JURY TRIAL DEMANDED

**QUEST NETTECH CORPORATION'S RESPONSE IN
OPPOSITION TO APPLE INC.'S MOTION TO DISMISS UNDER
FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6) (DKT. NO. 19)**

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Plaintiff, Quest NetTech Corporation (“NetTech” or “Plaintiff”), submits this brief in opposition to Defendant Apple Inc.’s (“Apple” or “Defendant”) Motion to Dismiss Under Federal Rule of Civil Procedure 12(b)(6) (Dkt. No. 19).

I. INTRODUCTION

In 1995, Sol Wynn filed a patent application on the first mobile payment device, which he called the “universal financial data card” or “multiple account electronic credit card.” Described in U.S. Patent No. RE38,137 (the “’137 Patent”) as a computerized credit-card-sized device, the invention allows a user to make payments using multiple accounts by wirelessly connecting the credit card to a card reader, authenticating the user’s identity, and selecting an account for payment. When the transaction is complete, the device automatically and securely compiles and stores financial information regarding the transaction. The invention has many significant benefits over the existing credit cards: it reduces the number of cards the user needs to carry, it prevents unauthorized transactions by requiring that the user be authenticated before making a purchase, and it automatically compiles secure and tamper-proof financial transaction records that the user may later reference. Mr. Wynn’s multiple account electronic credit card was so far ahead of its time that nearly 20 years passed after the filing of his patent application before Apple finally released Apple Pay, its service that uses an Apple device as a wireless mobile payment device.

Despite this ground-breaking innovation, Apple now attacks the patent eligibility of the ’137 Patent under 35 U.S.C. § 101. Apple, however, does not argue that a computerized mobile payment device is not patent-eligible subject matter even though the claims are directed to such a device. Rather, Apple argues that the patent is directed to a portable device that merely stores financial transaction records, i.e., “Quicken on a card.” While it is true that the multiple account electronic credit card includes as one of its many features the ability to compile and store

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