WSPLA CLE
January 28, 2015

Recent Developments in Patent Law: Divided Infringement and Inducement

Mike Allen, Assistant General Counsel, Microsoft Corporation

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“The Federal Circuit’s analysis fundamentally misunderstands what it means to infringe a method patent.”

Limelight Networks vs. Akamai, Supreme Court Opinion, June 2, 2014

Agenda

- Direct infringement of process claims (Jessica)
- Direct infringement of system claims (Mike)
- Panel discussion on direct infringement
- Inducement (Bill)
- Panel discussion on inducement
- Q & A

Direct infringement of process claims

35 USC 271 – Infringement of Patent

(a) Except as otherwise provided in this title, whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States or imports into the United States any patented invention during the term of the patent therefor, infringes the patent.

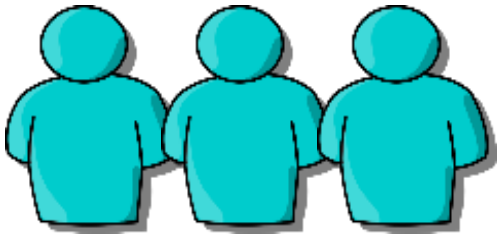
(b) Whoever actively induces infringement of a patent shall be liable as an infringer.

(c) Whoever offers to sell or sells within the United States or imports into the United States a component of a patented machine, manufacture, combination or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use, shall be liable as a contributory infringer.

Direct Infringement Under 35 USC 271(a)

What if no **single party** performs every step of the claim?

If the actions of **multiple parties** combine to perform the steps of the claim, can they be jointly liable for direct infringement?



BMC Resources v. Paymentech

498 F.3d 1373 (Fed. Cir. 2007)

Processing debit transactions without a personal identification number (PIN)

Interface between touch-tone telephone and debit card network

Allows real-time bill payment transactions with only a telephone keypad

Steps performed by service provider, debit card network, and financial institution

United States Patent [19]
Rogers

[11] **Patent Number: 5,870,456**
[45] **Date of Patent: Feb. 9, 1999**

[54] **AUTOMATED INTERACTIVE BILL PAYMENT SYSTEM USING DEBIT CARDS**

[75] Inventor: **Catherine R. Rogers**, Dallas, Tex.

[73] Assignee: **Telepay, Inc.**, Dallas, Tex.

[21] Appl. No.: **946,272**

[22] Filed: **Oct. 7, 1997**

(Under 37 CFR 1.47)

Related U.S. Application Data

[63] Continuation of Ser. No. 787,981, Jan. 22, 1997, Pat. No. 5,715,298.

[51] **Int. Cl.**° **H04M 11/00**
[52] **U.S. Cl.** **379/91.01**; 705/40
[58] **Field of Search** 379/91.01, 91.02, 379/93.02, 93.01, 93.12, 93.13, 93.26, 93.28, 143, 144; 235/375, 379, 380; 705/39, 40

[56] **References Cited**

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5,126,936	6/1992	Champion et al. .
5,220,501	6/1993	Lawlor et al. .
5,283,829	2/1994	Anderson .
5,285,382	2/1994	Muehlberger et al. .
5,383,113	1/1995	Kight et al. .
5,652,786	7/1997	Rogers .
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Blackwell, Gerry; *Computing In Banking; Technology is the Weapon;* Computing Canada, V16, p. 59, Oct. 11, 1990.
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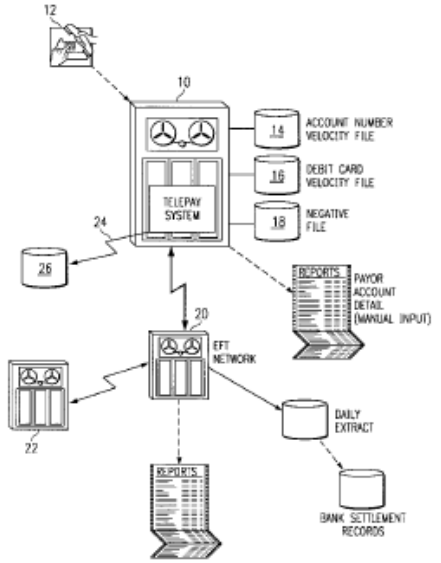
Primary Examiner—Wing F. Chan
Attorney, Agent, or Firm—Haynes and Boone, L.L.P.

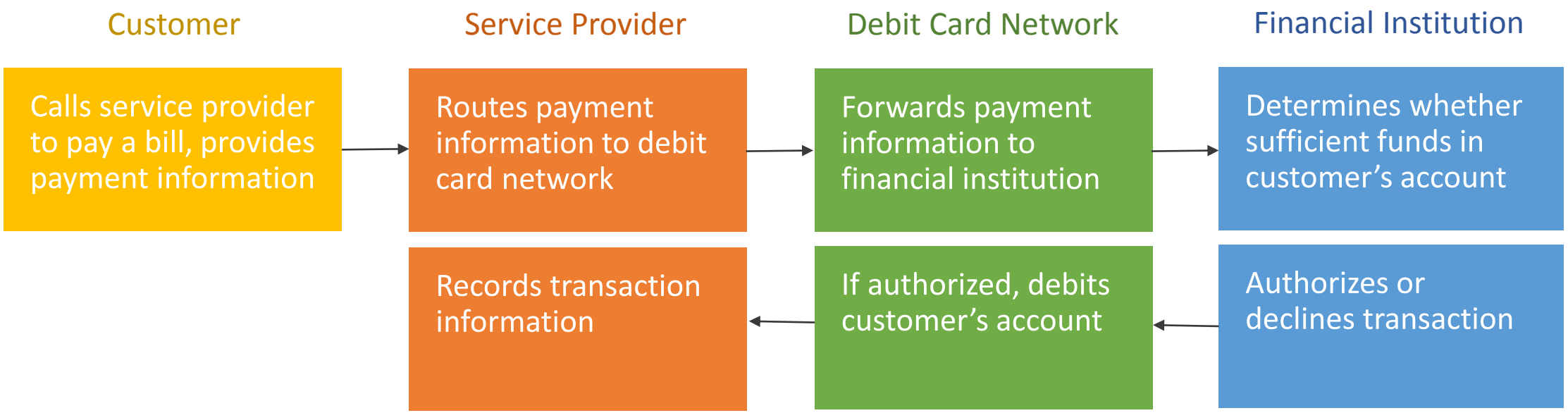
[57] **ABSTRACT**

Method and apparatus for processing payment transactions using debit card numbers without the requirement of a personal identification number (PIN) is disclosed. A telepay system of the present invention provides an interface between a standard touchtone telephone and at least one debit card network such that real-time bill payment transactions may be effected using a keypad of the telephone. The telepay system includes an interactive voice response unit for prompting a payor to enter an access code, account number, debit card number and payment amount and for informing the user of the status of the transaction. Real-time processing of transactions is provided through use of debit card networks, rather than the Automated Clearing House. The telepay system is also capable of performing settlement functions and processing inquiries by payees of the system regarding previously processed transactions.

8 Claims, 9 Drawing Sheets



BMC Resources



BMC Resources

6. A method of paying bills using a telecommunications network line connectable to at least one remote payment card network via a payee's agent's system, wherein a caller begins [a] session using a telecommunications network line to initiate a spontaneous payment transaction to a payee, the method comprising the steps of:

prompting the caller to enter a payment number selected from one or more choices of credit or debit forms of payment;

prompting the caller to enter a payment amount for the payment transaction;

accessing a remote payment network associated with the entered payment number, the accessed remote payment network determining, during the session, whether sufficient available credit or funds exist in an account associated with the entered payment number to complete the payment transaction, and upon a determination that sufficient available credit or funds exist in the associated account, charging the entered payment amount against the account associated with the entered payment number, adding the entered payment amount to an account associated with the entered account number, and storing the account number, payment number and payment amount in a transaction file of the system.

Customer	Service Provider	Debit Card Network	Financial Institution
begin[ning] [a] session using a telecommunications network line to initiate a spontaneous payment transaction to a payee …	prompting the caller to enter a payment number …; prompting the caller to enter a payment amount …; storing the account number, payment number and payment amount in a transaction file of the system.	upon a determination that sufficient available credit or funds exist in the associated account, charging the entered payment amount against the account …,	determining, during the session, whether sufficient available credit or funds exist in an account …,

BMC Resources

Direct Infringement

Infringement requires a showing that a defendant has practiced each and every element of the claimed invention.

> *Warner-Jenkinson*, 520 U.S. 17, 40 (1997) – element-by-element analysis.
>
> 35 USC 271(a) – liability for infringement requires a party to make use, sell, or offer to sell the patented invention, which means **the entire** patented invention.

Direction or Control Standard

Without the **direction or control** of both the debit card networks and the financial institutions, Paymentech did not perform or cause to be performed each and every element of the claims.

Therefore, there is no direct infringement.

BMC Resources

Policy

Expanding the rules governing direct infringement to reach independent conduct of multiple actors would subvert the statutory scheme for indirect infringement.

> Indirect infringement is already covered by the provisions for induced and contributory infringement.

The concerns over a party avoiding infringement by arms-length cooperation can usually be offset by proper claim drafting.

> A patentee can usually structure a claim to capture infringement by a single party.
>
> Here, BMC could have drafted its claims to focus on one entity.

BMC Resources

Policy

Defendant cannot avoid liability for infringement by having someone else carry out one or more of the claim method steps on its behalf.

In such cases, the party in control would be liable for direct infringement.

Muniauction v. Thomson

532 F.3d 1318 (Fed. Cir. 2008)

Conducting auctions of financial instruments (municipal bonds)

Using a conventional web browser without separate software

Allows issuers to monitor progress of auction and bidders to monitor their bids

Steps performed by both bidders and auctioneer

United States Patent [19]
Harrington et al.

[11] **Patent Number: 6,161,099**
[45] **Date of Patent: *Dec. 12, 2000**

[54] **PROCESS AND APPARATUS FOR CONDUCTING AUCTIONS OVER ELECTRONIC NETWORKS**

[75] Inventors: **Myles C. S. Harrington**, Pittsburgh; **Daniel J. Veres**, West View, both of Pa.; **Robert M. Panoff**, Durham, N.C.

[73] Assignee: **MuniAuction, Inc.**, Pittsburgh, Pa.

[*] Notice: This patent issued on a continued prosecution application filed under 37 CFR 1.53(d), and is subject to the twenty year patent term provisions of 35 U.S.C. 154(a)(2).

[21] Appl. No.: **09/087,574**

[22] Filed: **May 29, 1998**

5,774,176	6/1998	Carter	705/36
5,774,880	6/1998	Ginsberg	705/36
5,794,207	8/1998	Walker et al.	705/37
5,802,501	9/1998	Graff .	
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5,857,176	1/1999	Ginsberg	705/36
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5,905,975	5/1999	Ausubel	705/37
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Thomas, Rick, Aug. 28, 1996 Letter with attachment.

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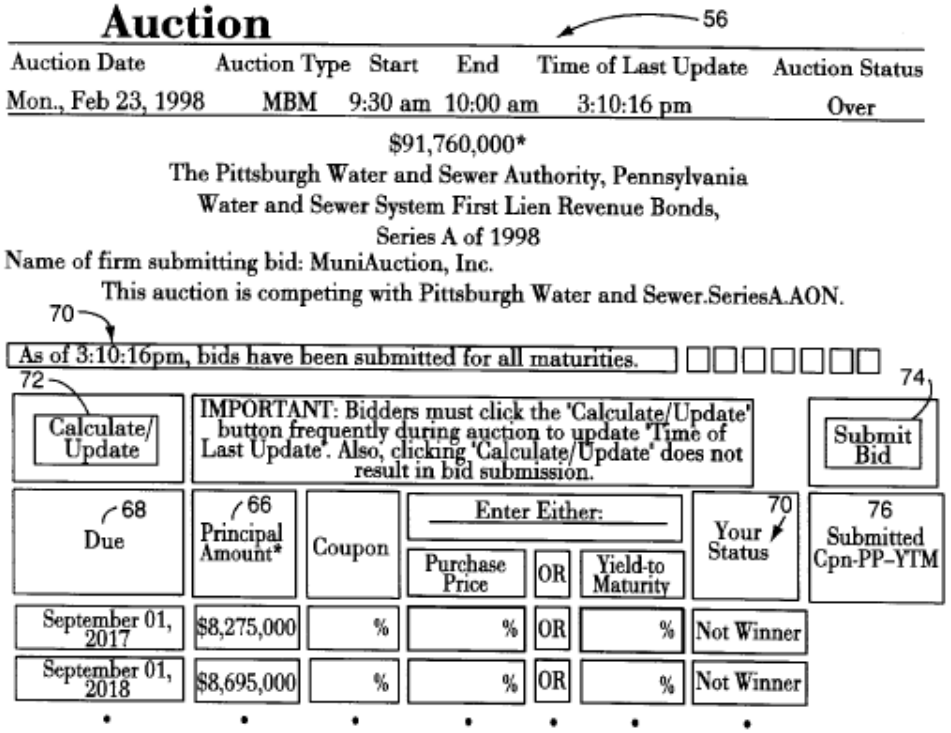
Primary Examiner—Eric W. Stamber
Assistant Examiner—Forest Thompson, Jr.
Attorney, Agent, or Firm—Nixon & Vanderhye P.C.

[57] **ABSTRACT**



Muniauction

1. In an electronic auction system including an issuer's computer … and at least one bidder's computer …, an electronic auctioning process for auctioning fixed income financial instruments comprising:

inputting data associated with at least one bid for at least one fixed income financial instrument **into said bidder's computer** via said input device;

automatically computing at least one interest cost value based at least in part on said inputted data, said automatically computed interest cost value specifying a rate representing borrowing cost associated with said at least one fixed income financial instrument;

submitting said bid by transmitting at least some of said inputted data from said bidder's computer over said at least one electronic network; and

communicating at least one message associated with said submitted bid to said issuer's computer over said at least one electronic network and displaying, on said issuer's computer display, information associated with said bid including said computed interest cost value,

wherein at least one of the inputting step, the automatically computing step, the submitting step, the communicating step and the displaying step is performed using a web browser.

Bidder	Auctioneer		
inputting data associated with at least one bid for at least one fixed income financial instrument into said bidder's computer via said input device;	automatically computing at least one interest cost value based at least in part on said inputted data…;	submitting said bid by transmitting at least some of said inputted data from said bidder's computer over said at least one electronic network;	communicating at least one message associated with said submitted bid to said issuer's computer over said at least one electronic network and displaying, on said issuer's computer display, information associated with said bid…;

Muniauction

Direction or Control Standard

Where the actions of multiple parties combine to perform every step of a claimed method, the claim is directly infringed only if one party exercises ‘control or direction’ over the entire process such that every step is **attributable** to the controlling party. (citing *BMC.*)

This standard is satisfied where the law would traditionally hold the accused direct infringer **vicariously liable** for the act committed by another party.

Controlling access to a system and instructing on its use is not enough to incur liability for direct infringement.

Thomson did not perform every step, nor did it have another party perform steps on its behalf.

Therefore, there is no direct infringement.

McKesson v. Epic

(Fed. Cir. 2011)

Communication between healthcare providers and patients using personalized web pages

Steps performed by both patients and healthcare providers

Providers and patients have doctor-client relationship

(12) **United States Patent**
Ilsen et al.

(10) **Patent No.: US 6,757,898 B1**
(45) **Date of Patent: Jun. 29, 2004**

(54) **ELECTRONIC PROVIDER—PATIENT INTERFACE SYSTEM**

(75) Inventors: **Kevin Ilsen**, Lowell, MA (US); **Michael J. Cataldo**, Hingham, MA (US)

(73) Assignee: **McKesson Information Solutions, Inc.**, Alpharetta, GA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **09/484,550**

(22) Filed: **Jan. 18, 2000**

Primary Examiner—John Follansbee
Assistant Examiner—Kenneth Tang
(74) *Attorney, Agent, or Firm*—Evelyn H. McConathy; Dilworth Paxson LLP

(57) **ABSTRACT**

The present invention provides a communication system for providing automated, electronic communications between at least one health-care provider and a plurality of users of the health-care provider, wherein the communications occur over a communications network through a provider/patient interface, said system comprising:

a central server, comprising one server or a logic unit of multiple servers;

a provider's service computer,

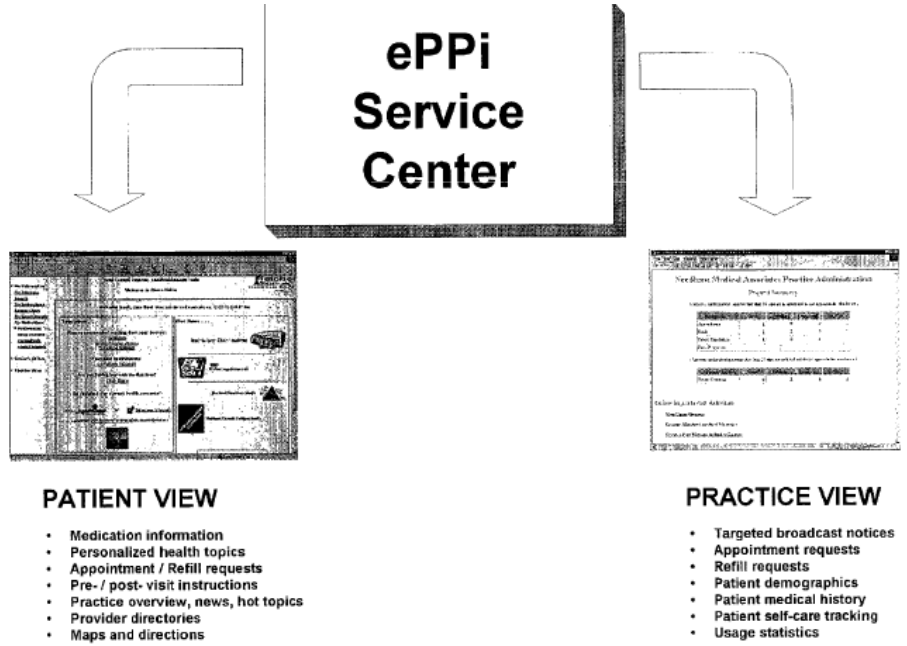


FIG. 3

McKesson

1. A method of automatically and electronically communicating between at least one health-care provider and a plurality of users serviced by the health-care provider, said method comprising the steps of:

initiating a communication by one of the plurality of users to the provider for information, wherein the provider has established a preexisting medical record for each user;

enabling communication by transporting the communication through a provider/patient interface over an electronic communication network to a Web site which is unique to the provider…;

electronically comparing content of the communication with mapped content, which has been previously provided by the provider to the central server, to formulate a response …; and

returning the response to the communication automatically to the user's computer, whereupon the response is read by the user or stored on the user's computers [*sic*][;]

said provider/patient interface providing a fully automated mechanism for generating a personalized page or area within the provider's Web site for each user serviced by the provider; and

said patient-provider interface service center for dynamically assembling and delivering custom content to said user.

MyChart User	MyChart Provider		
initiating a communication by one of the plurality of users to the provider for information…;	enabling communication by transporting the communication through a provider/patient interface over an electronic communication network to a Web site which is unique to the provider…;	electronically comparing content of the communication with mapped content, which has been previously provided by the provider to the central server, to formulate a response …;	returning the response to the communication automatically to the user's computer, whereupon the response is read by the user or stored on the user's computers [*sic*][;]

McKesson

Are the Users' Actions Attributable to the Providers?

MyChart users are not performing any of the claimed method steps as **agents** for the MyChart providers.

MyChart users are not **contractually** obligated to perform any of the claimed steps on behalf of the MyChart providers. The users choose whether or not to initiate communications with their providers and are under no obligation to do so.

As in *Muniauction*, MyChart providers simply control the users' access to MyChart.

MyChart users acted principally for their **own benefit** and under their own control.

Therefore, there is no direct infringement.

McKesson

Doctor-Patient Relationship

A doctor-patient relationship **does not by itself give rise to an agency relationship or** impose on patients a **contractual obligation** such that the voluntary actions of patients can be said to represent the vicarious actions of their doctors.

Policy

In patent law, the patentee specifically defines the boundaries of his or her exclusive rights and provides notice to the public to permit avoidance of infringement.

In contrast, in circumstances surrounding a joint tort, the victim has no ability to define the injurious conduct upfront and, absent joint liability, would stand uncompensated.

Direct infringement of system claims

Centillion vs. Quest

A system for collecting, processing and delivering information from a service provider to customer

Passive processing of information on the back-end

But system allows “on-demand” reports based on user-selected ranges

US005287270A

United States Patent [19]
Hardy et al.

[11] **Patent Number: 5,287,270**
[45] **Date of Patent: Feb. 15, 1994**

[54] **BILLING SYSTEM**

[75] Inventors: **Robert M. Hardy**, Carmel; **John M. Cauffman**; **Lynn S. Cauffman**, both of Indianapolis; **Robert C. Lovell, Jr.**, Greenwood; **Murray B. Frazier**, Indianapolis; **Michael L. Johnson**, Indianapolis; **James W. Dohrenwend, Jr.**, Indianapolis, all of Ind.

[73] Assignee: **Compucom Communications Corp.**, Indianapolis, Ind.

[21] Appl. No.: **984,374**

[22] Filed: **Dec. 2, 1992**

Related U.S. Application Data

[63] Continuation of Ser. No. 393,699, Aug. 14, 1989.

"Carrier Watch": Pacific Bell, *Networld World*, Oct. 1, 1990, 13.
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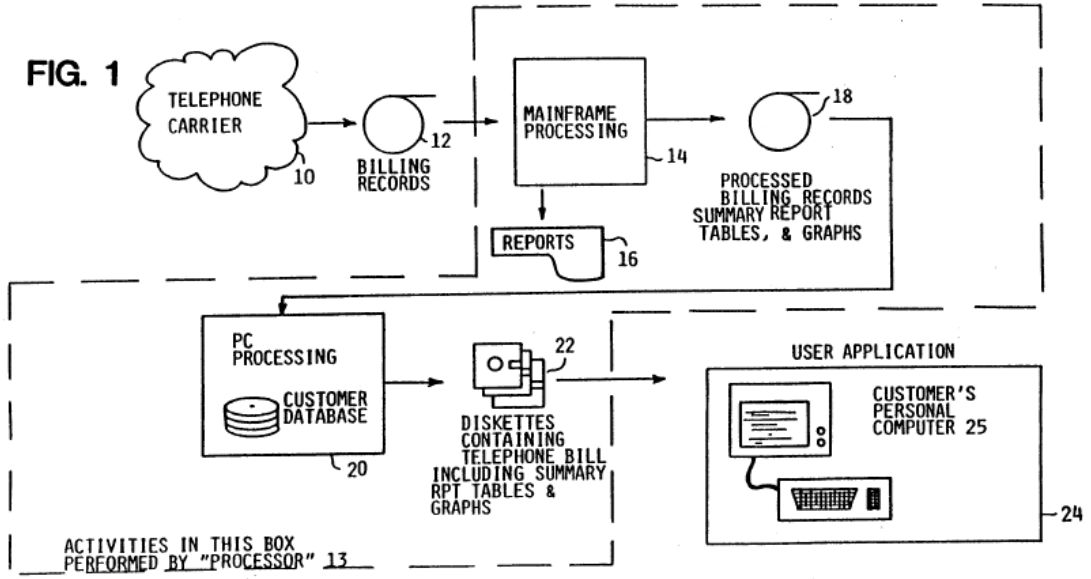
Proceedings of the National Electronics Conference; J. Mazor, vol. 37, 1983, Oak Brook, Ill. pp. 151–152.
Japan Telecommunication Review; T. Sano, vol. 30, No. 2, Apr. 1988, Tokyo, Japan, pp. 46–50.

Primary Examiner—Roy N. Envall, Jr.
Assistant Examiner—Laura Brutman
Attorney, Agent, or Firm—Jones, Day, Reavis & Pogue

[57] **ABSTRACT**

Telecommunications or similar bills are prepared on diskette in an optimal format for further processing,



Centillion vs. Quest

1. A system for presenting information concerning the actual cost of a service provided to a user by a service provider, said system comprising:

storage means for storing individual transaction records prepared by said service provider, said transaction records relating to individual service transactions for one or more service customers including said user, and the exact charges actually billed to said user by said service provider for each said service transaction;

data processing means comprising respective computation hardware means and respective software programming means for directing the activities of said computation hardware means;

means for transferring at least a part of said individual transaction records from said storage means to said data processing means;

said data processing means generating preprocessed summary reports as specified by the user from said individual transaction records transferred from said storage means and organizing said summary reports into a format for storage, manipulation and display on a personal computer data processing means;

means for transferring said individual transaction records including said summary reports from said data processing means to said personal computer data processing means; and

said personal computer data processing means being adapted to perform additional processing on said individual transaction records which have been at least in part preprocessed by said data processing means utilizing said summary reports for expedited retrieval of data, to present a subset of said selected records including said exact charges actually billed to said user.

Blue Spike, LLC v. Soundmouse Ltd.,

2014 U.S. Dist. LEXIS 172489 (S.D.N.Y. Dec. 2, 2014)

U.S. Pat. No. 5,715,314

34. A network-based sales system, comprising:

- **at least one buyer computer** for operation by a user desiring to buy products;
- at least one shopping cart computer; and
- a shopping cart database connected to said shopping cart computer;
- said buyer computer and said shopping cart computer being interconnected by a computer network;
- said buyer computer being programmed to … ;
- said shopping cart computer being programmed to …; and
- **said buyer computer being programmed to receive a request from said user …;**
- said shopping cart being a stored representation of a collection of products, said shopping cart database …

US005715314A

United States Patent [19]

Payne et al.

[11] **Patent Number: 5,715,314**

[45] **Date of Patent: Feb. 3, 1998**

[54] **NETWORK SALES SYSTEM**

[75] Inventors: **Andrew C. Payne**, Lincoln; **Lawrence C. Stewart**, Burlington; **David J. Mackie**, Cambridge, all of Mass.

[73] Assignee: **Open Market, Inc.**, Cambridge, Mass.

[21] Appl. No.: **328,133**

[22] Filed: **Oct. 24, 1994**

[51] **Int. Cl.**[6] **H04L 9/00**

[52] **U.S. Cl.** **380/24**; 380/23; 380/25; 380/49; 380/50

[58] **Field of Search** 380/4, 21, 23, 380/24, 25, 49, 50; 364/401, 406, 408, 284.4; 235/379, 380; 395/200.01, 200.02, 200.09, 925

WO 91/16691 10/1991 WIPO G07F 7/10
WO 95/16971 6/1995 WIPO .

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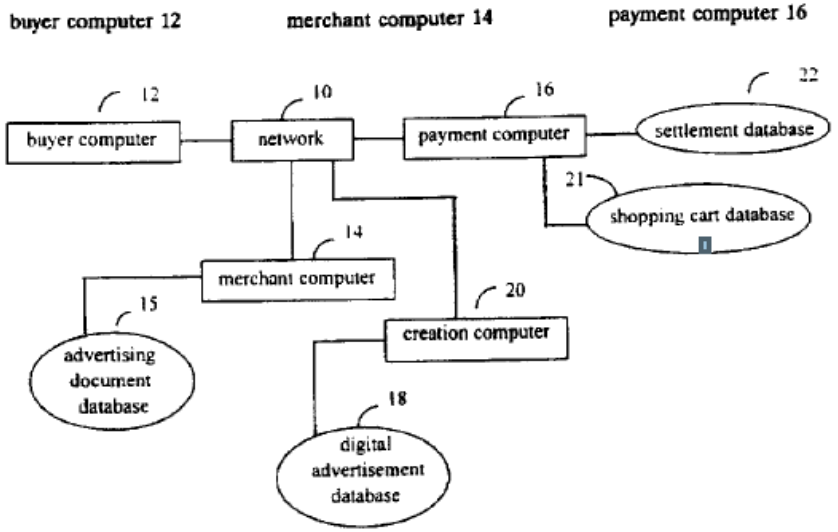
Payment Systems, "United States"; pp. 115–135, no date.
National Westminster Bank Group Brochure; pp. 1–29, no date.

(List continued on next page.)

Primary Examiner—Bernarr E. Gregory
Attorney, Agent, or Firm—Fish & Richardson P.C.

[57] **ABSTRACT**



Blue Spike, LLC v. Soundmouse Ltd., 2014 U.S. Dist. LEXIS 172489 (S.D.N.Y. Dec. 2, 2014)

Held: "[A]t least two of Soundmouse's customers are located in the United States, and that they transmit data to Defendant for processing and receive processed data from Defendant in the United States."

Held: "… unlike Qwest, Defendants do not require their customers to download and install software so that the buyer computer is able to interact with the shopping cart computer as required by the claims. Rather, the delivery of Defendants' web page itself provides the programming required by the claims; the user is not required to install anything. Thus, Defendants' web server, by delivering web pages containing embedded programming, puts the system as a whole into service so that Defendants may benefit from the system. Accordingly, Defendants use the system under § 271(a) by putting the system into service, i.e., controlling the system as a whole and deriving benefit from it."

Lyda v. Fremantle Media N. Am., Inc.,

2012 U.S. Dist. LEXIS 39316 (S.D.N.Y. Mar. 8, 2012)

U.S. Pat. No. 7,434,243

9. A system for receiving and processing responses to a program selected from the group consisting of a radio broadcast, a television broadcast, an internet broadcast, a satellite communication, an audio tape, a video tape, and a live performance, the system comprising:

- providing a program identifier code for the program being presented;
- **providing a user input device other than a personal computer**, the device generating without receiving signals eliciting a response by a user; having an audience member input the program identifier code into the user input device:
- having the audience member input responses into the user input device;
- transmitting the program identifier code and the responses associated with a user identifier …

Held: Motion to dismiss granted since plaintiff did not argue that defenants provided the audience with cell phones (the user input device).

Rembrandt Soc. Media, LP v. Facebook, Inc.,

950 F. Supp. 2d 876, 2013 U.S. Dist. LEXIS 84245 (E.D. Va. 2013)

U.S. Pat. No. 6,289,362

7. A computer system comprising:

- **third party memory** storing a transfer script that generates a request for a transfer applet from server memory;
- server memory storing an AUA database from which personalized web pages are constructed and a transfer applet for establishing a communications link between a client browser and the server memory; and
- **a client browser** coupled to the third party memory and to the server memory for executing the transfer script and the transfer applet to transfer an AUA to an AUA database stored in the server memory, the AUA identifying a location of a content object and including an annotation authored by a content provider for controlling an aspect of a presentation of the object.

Held: the pressing of the 'like' or 'share' button is not alleged to be an element of the Claim 7 system; instead, it is merely an action that precedes the operation of the system. Although defendants' use of the system may be preceded by a Facebook user pressing the 'like' or 'share' button, Rembrandt has adequately alleged that defendants place into use each element of the claimed system.

Motion to dismiss denied based on pleadings of complaint, but issue may ultimately be resolved differently.

Panel Discussion – Direct Infringement

- Drafting tips: how would you avoid divided infringement issue when drafting claims?
- How would you take divided infringement into account when you analyze the strength of a patent?
- What kinds of investigation should you conduct in order to make a case of divided infringement?
- From the policy perspective, do you think the law is what it should be?
- Where do you think the law for divided infringement is going?

Inducement

35 USC 271 – Infringement of Patent

(a) Except as otherwise provided in this title, whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States or imports into the United States any patented invention during the term of the patent therefor, infringes the patent.

(b) Whoever actively induces infringement of a patent shall be liable as an infringer.

(c) Whoever offers to sell or sells within the United States or imports into the United States a component of a patented machine, manufacture, combination or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use, shall be liable as a contributory infringer.

Limelight vs. Akamai

A method of delivering electronic data using a “content delivery network”

The invention enables the designation (“tagging”) of certain components of a content provider’s Website to be stored on and served from Akamai’s servers

Limelight requires its customers to tag content for storing on Limelight’s servers

Limelight provides manuals and technical assistance on how to tag

Federal Circuit: Inducement liability arises when a defendant carries out some steps and encourages others to carry out the remaining steps – even when no one would be liable as a direct infringer

United States Patent [19]
Leighton et al.

[11] **Patent Number: 6,108,703**
[45] **Date of Patent: Aug. 22, 2000**

[54] **GLOBAL HOSTING SYSTEM**

[75] Inventors: **F. Thomson Leighton**, Newtonville; **Daniel M. Lewin**, Cambridge, both of Mass.

[73] Assignee: **Massachusetts Institute of Technology**, Cambridge, Mass.

[21] Appl. No.: **09/314,863**

[22] Filed: **May 19, 1999**

Related U.S. Application Data

[60] Provisional application No. 60/092,710, Jul. 14, 1998.

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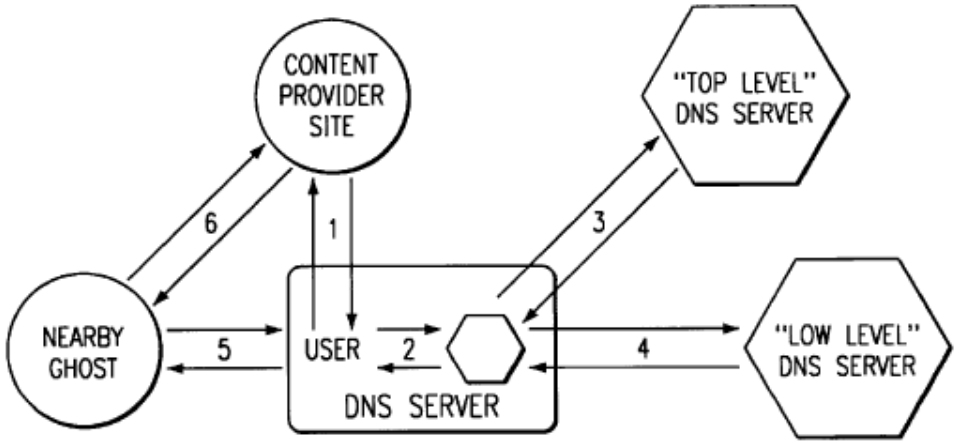


FIG. 5

Limelight vs. Akamai

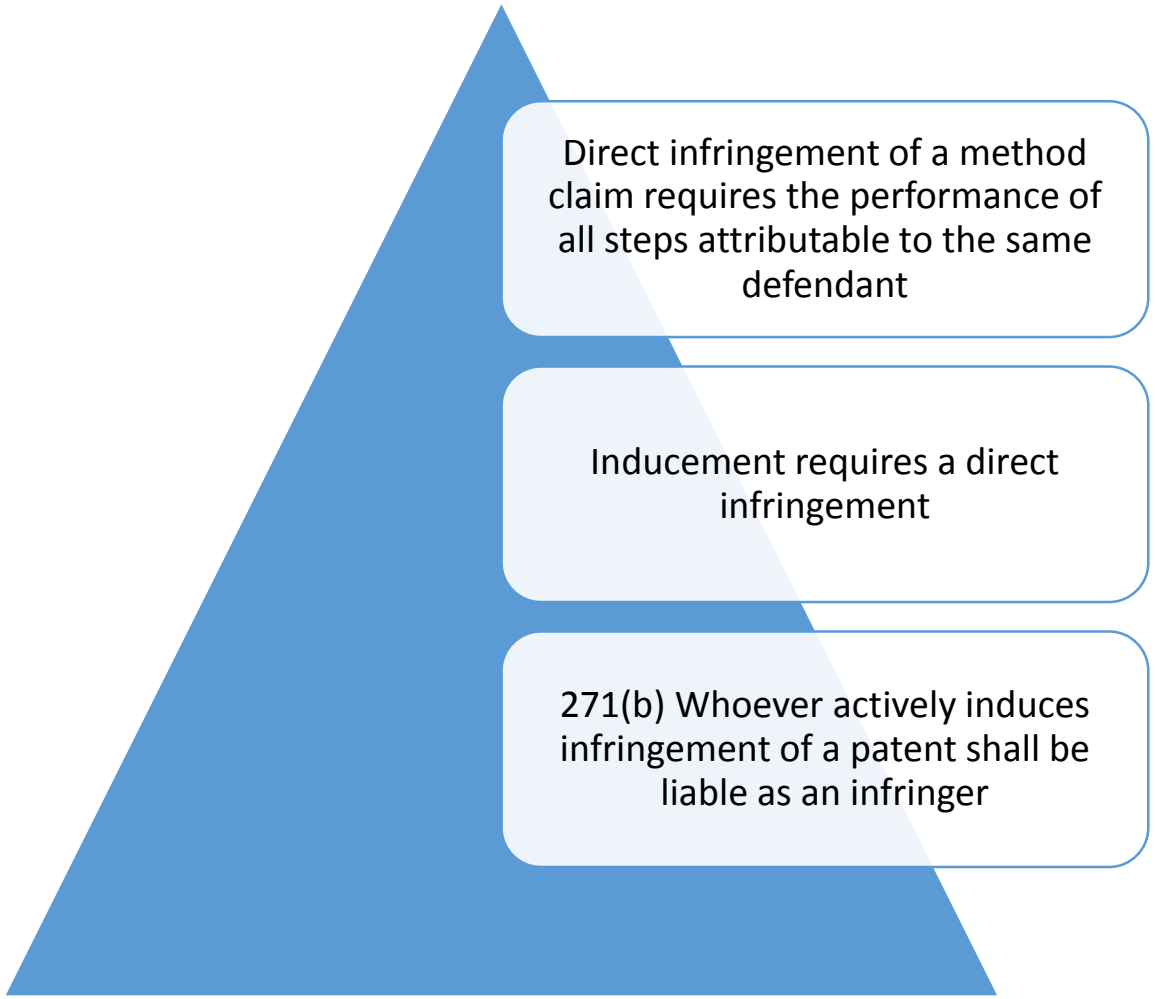
19. A content delivery service, comprising:

replicating a set of page objects across a wide area network of content servers managed by a domain other than a content provider domain;

for a given page normally served from the content provider domain, tagging the embedded objects of the page so that requests for the page objects resolve to the domain instead of the content provider domain;

responsive to a request for the given page received at the content provider domain, serving the given page from the content provider domain; and

serving at least one embedded object of the given page from a given content server in the domain instead of from the content provider domain.



Commil vs. Cisco

Jury Instruction: Cisco actually intended to causes acts that constitute infringement and knew or should have known that its actions would induce actual infringement

Global Tech: Requires knowledge that the induced acts constitute patent infringement – actual knowledge or willful blindness

Motion In Limine: Court excluded evidence of good faith belief of invalidity

Good Faith Belief of Invalidity: "We now hold" a good faith belief of invalidity may negate the requisite intent for induced infringement – axiomatic that one cannot infringe an invalid patent

(12) **United States Patent**
Arazi et al.

(10) **Patent No.: US 6,430,395 B2**
(45) **Date of Patent: Aug. 6, 2002**

(54) **WIRELESS PRIVATE BRANCH EXCHANGE (WPBX) AND COMMUNICATING BETWEEN MOBILE UNITS AND BASE STATIONS**

(75) Inventors: **Nitzan Arazi**, Ramat Hasharon; **Yaron Soffer**, Nes-Ziona; **Haim Barak**, Kfar Saba, all of (IL)

(73) Assignee: **Commil Ltd.**, Ramat Hasharon (IL)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **09/784,109**

(22) Filed: **Feb. 16, 2001**

Related U.S. Application Data

(60) Provisional application No. 60/195,219, filed on Apr. 7, 2000, and provisional application No. 60/208,306, filed on Jun. 1, 2000.

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Primary Examiner—Tracy Legree
(74) *Attorney, Agent, or Firm*—Mark M. Friedman

(57) **ABSTRACT**

Figure 8A

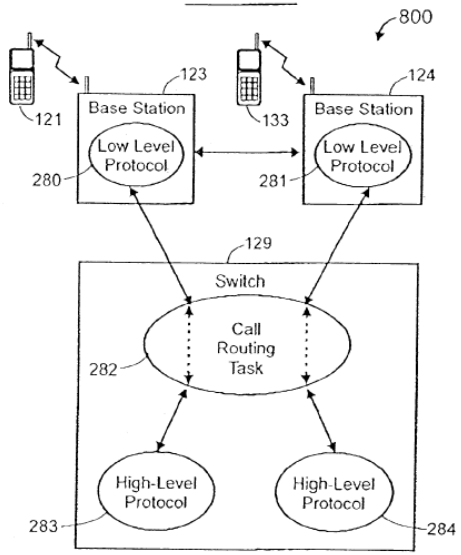
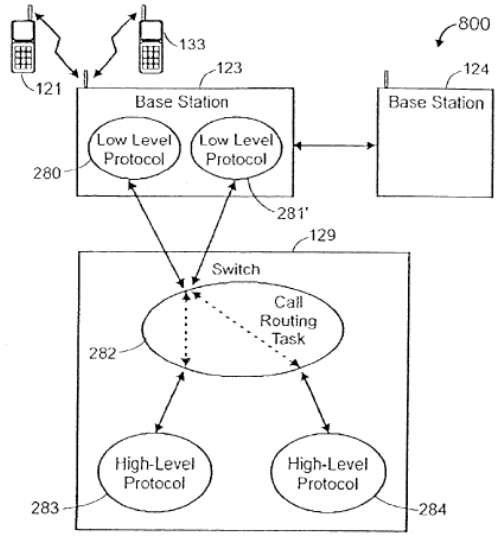


Figure 8B



Panel Discussion – Inducement

- Since inducement requires a direct infringement, should the court revisit the requirements for direct infringement? Is this a question for the legislature?
- Is it “axiomatic” that you can’t induce infringement of an invalid patent? Are there helpful analogies in other areas of the law?
- How does the law of induced patent infringement impact the value of patents in the cloud service and software industry?
- What steps can you take in drafting and prosecuting patents to place yourself in the best position to assert induced infringement ?

Q & A

Abstract Idea Examples, Published by the USPTO on Jan 27, 2015
Example 4, based on *SiRF Technology vs. ITC* (Fed. Cir. 2010)

1. A system for calculating an absolute position of a GPS receiver and an absolute time of reception of satellite signals comprising:

a mobile device comprising a GPS receiver, a display, a microprocessor and a wireless communication transceiver coupled to the GPS receiver, the mobile device programmed to receive PN codes sent by a plurality of GPS satellites, calculate pseudo-ranges to the plurality of GPS satellites by averaging the received PN codes, and transmit the pseudo-ranges, and

a server comprising a central processing unit, a memory, a clock, and a server communication transceiver that receives pseudo-ranges from the wireless communication transceiver of the mobile device, the memory having location data stored therein for a plurality of wireless towers, and the central processing unit programmed to:

estimate a position of the GPS receiver based on location data for a wireless tower from the memory and time data from the clock,

calculate absolute time that the signals were sent from the GPS satellites using the pseudo-ranges from the mobile device and the position estimate,

create a mathematical model to calculate absolute position of the GPS receiver based on the pseudo-ranges and calculated absolute time,

calculate the absolute position of the GPS receiver using the mathematical model, and

transmit the absolute position of the GPS receiver to the mobile device, via the server communication transceiver, for visual representation on the display.