Receipt is hereby acknowledged for the following in the United States Patent and Trademark Office:

Title: Reexamination of US 4,707,592 - PERSONAL UNIVERSAL IDENTITY CARD SYSTEM FOR FAILSAFE INTERACTIVE FINANCIAL TRANSACTIONS

CONTENTS: An Ex Parte Request for Reexamination of U.S. Patent No. 4,707,592 (16 Pages); Copy of U.S. Patent No. 4,707,592; Exhibits A-D; For 1449 (1 pg); a Return Postcard and Transmittal Sheet.

REEXAM FILING FEE OF $2,520.00 CHARGED TO DEPOSIT ACCT. 19-0743.

Mailed: May _12_, 2005   Docket No.: 2174.001USX
DDZ/cbb   Due Date: None

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Matter of: Reexamination of US 4,707,592, titled "PERSONAL UNIVERSAL IDENTITY CARD SYSTEM FOR FAILSAFE INTERACTIVE FINANCIAL TRANSACTIONS"

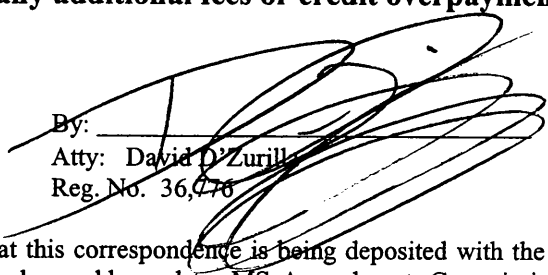|		
Docket No.: 2174.001USX		Due Date: None
Examiner: Unknown		Group Art Unit: Unknown

MS EX PARTE REEXAM
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

We are transmitting herewith the following attached items (as indicated with an "X"):

X   Ex Parte Request for Reexamination of U.S. Patent No. 4,707,592 (16 Pages).
X   Copy of U.S. Patent No. 4,707,592.
X   Form 1449 (1 page).
X   Exhibits A-D.
X   A return postcard.

Please charge the reexamination filing fee of $2,520.00 and any additional fees or credit overpayment to Deposit Account No. 19-0743.

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
Customer Number 21186

By: _____
Atty: David D'Zurilla
Reg. No. 36,076

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this ___12th___ day of May, 2005.

_____CANDIS BUENDING_____
Name

_____
Signature

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
(GENERAL)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT: 4,707,592

DATE OF ISSUE: November 17, 1987

NAME OF PATENTEE: Paul N. WARE

TITLE: PERSONAL UNIVERSAL IDENTITY CARD SYSTEM FOR FAILSAFE INTERACTIVE FINANCIAL TRANSACTIONS

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EX PARTE REQUEST FOR REEXAMINATION

Reexamination of claims 1-4 of United States Patent No. 4,707,592, which issued on November 17, 1987, to Paul N. Ware ("the '592 patent") is respectfully requested. The '592 patent is still enforceable. In connection with the present *Ex Parte* Request for Reexamination of the above noted patent, Requestor respectfully submits a Statement of Concurrent Proceedings, a Statement of Substantial New Question of Patentability, and a Detailed Statement Applying The Prior Art.

STATEMENT OF CONCURRENT PROCEEDINGS

Requestor is not a party to any concurrent proceedings against the patentee. However, Requestor is aware that the '592 patent is the subject of two pending patent litigation proceedings. The '592 patent has been asserted in an action before the United States District Court for the Northern District of Georgia (Rome Division) (*Ware, et al., v. GAP, Inc., et. al.,* Civil Action No. No. 4-04-cv-065 (RLV)) ("Georgia Proceeding"), and in an action before the

United States District Court for the Northern District of Texas (Fort Worth Division) (*Ware, et al., v. Pier 1 Imports, Inc., et. al.*, Civil Action No. No. 4-04-cv-00479) ("Texas Proceeding").

In the Georgia Proceeding (*Ware v. GAP, Inc.*, Civil Action No. 4-04-cv-065 (RLV)), there is one remaining defendant. The parties submitted claim construction briefs in September 2004. The Court in the Georgia Proceeding has not yet ruled on the pending claim construction motions. Copies of the parties' *Markman* Briefs and Responsive Briefs filed in the Georgia Proceeding are attached hereto as Exhibit A.

In the Texas Proceeding (*Ware v. Pier 1 Imports, Inc.*, Civil Action No. No. 4-04-cv-00479), there are three remaining defendants. On December 1, 2004, the Texas Court stayed the case except for written discovery and document productions, pending issuance of a *Markman* ruling or resolution in the Georgia Proceeding. The remaining parties in the Texas Proceeding participated in mediation on February 14-15, 2005.

STATEMENT OF SUBSTANTIAL NEW QUESTION OF PATENTABILITY

Requestor requests reexamination of claims 1-4 of the '592 patent in view of the earlier U.S. Patent No. 4,757,543 ("the '543 patent"), U.S. Patent No. 4,472,626 ("the '626 patent"), and U.S. Patent No. 4,630,200 ("the '200 patent"). Copies of the '543 patent, the '626 patent, and the '200 patent are attached as Exhibits B, C, and D. None of the '543 patent, the '626 patent, or the '200 patent was of record during the prosecution of the '592 patent. The '543 patent, the '626 patent, and the '200 patent raise a substantial new question of patentability with respect to claims 1-4 of the '592 patent.

As explained in detail below, at least claims 1-4 are not patentable over the '543 patent, the '626 patent, and/or the '200 patent. Furthermore, these prior art documents are closer to the

subject matter of the '592 patent than the prior art cited during prosecution and they provide

teachings not presented during prosecution of the '592 patent. Therefore, for at least the above

reasons, Requestor respectfully submits that a substantial new question of patentability exists

with respect to claims 1-4 of the '592 patent.

DETAILED STATEMENT APPLYING THE PRIOR ART

The '543 Patent

At least claims 1-4 are fully anticipated under 35 U.S.C. § 102(e) by the prior art '543

patent. The '543 patent arose out of a divisional application from Application Serial No.

698,876, filed February 6, 1985. Thus, the '543 patent is eligible prior art under 35 U.S.C. §

102(e). The following chart[1] details how each element of claims 1-4 of the '592 patent is

anticipated by the corresponding disclosure in the '543 patent.

'592 Claim Elements	'543 Disclosure
1. A financial and identification card transaction system for protecting transactions between a plurality of cardholders,	The invention disclosed in the '543 patent relates to automatic teller machines (ATMs). Col. 1:9-11. These are commonly known as machines at which cardholders can perform secure, financial transactions.
each having a card, with a machine-readable code imprinted thereon and	The '543 patent discloses "an ID card which records an account number ... [and] comprises a magnetic card or an IC card. Col. 4:12-16. Of course, magnetic cards and IC cards are known to be machine readable.
a card-issuing organization via at least one	The '543 patent discloses a data processing

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[1] In the charts presented herein the convention "col. X:Y-Z" refers to text at column X, lines Y-Z.

'592 Claim Elements	'543 Disclosure
transaction site connected by a data channel with a remote transaction center, the system which comprises:	terminal device that is on-line connected to a host computer at a card issuing bank. Abstract, col. 1:9-25 and Fig. 6.
a card reader disposed at the transaction site for reading the machine-readable code imprinted on the card, the machine readable code including a cardholder code that is unique to each cardholder;	The '543 discloses a terminal comprising a card reader (40). Fig. 6. The card 42 is disclosed as being "an ID card which records an account number [that] is issued to an account owner to check whether the rightful user is using the account. No Transaction can be completed without using the ID card." Col. 4:12-15.
a transaction number that uniquely identifies each transaction;	The host computer creates transaction data representing the updated ledger data. The transaction data is encrypted and sent to the terminal device. Col. 3:16-19. Ledger data inherently comprises a date, time, incremented number or the like to facilitate keeping track of entries. This transaction data is encrypted by the host computer and sent to the terminal device. Col. 3:18-19. Thus, the center (i.e., host) computer generates a transaction number (i.e., the encrypted transaction data representing the updated ledger data) using a transaction number generator (i.e., the encryption module at the host computer (not numbered)). Ultimately, the transaction number (i.e., the encrypted transaction data) is printed on the transaction ticket (i.e., journal paper 30).
a transaction number store included with the card reader for receiving and storing the transaction number from the transaction center;	The CPU 26 [at the terminal device] stores the received encrypted data in the floppy disk 28. Col. 3:19-21.
a transaction data input device connected to the card reader for receiving transaction data;	The user enters transaction request data such as a password, a transferee account number, a transfer amount and the like at the keyboard 12. Col. 2:63-65.

'592 Claim Elements	'543 Disclosure
a printer connected to the card reader for printing a transaction ticket which includes the transaction number;	The CPU 26 ... causes the printer 18 to print the encrypted data and the decrypted transaction data on the journal paper 30. Col. 3:21-24.
a center computer disposed at the transaction center having memory for storing transaction data received from the card reader via the data channel;	The host computer decrypts the encrypted transaction request data ... [w]hen the transaction conditions satisfy the transaction request data, the outstanding balances of the transferer's and transferee's accounts are adjusted, i.e., updating of the general ledger is performed. Col. 3:8-16.
a transaction number generator included with the center computer for generating the transaction number.	The transaction data is encrypted [at the host computer] and sent to the terminal device. Col. 3:18-19.
2. A card transaction system according to claim 1 wherein said card reader further comprises a keyboard for receiving a personal identification number (PIN) that combined with the machine-readable code, uniquely identifies each card-holder.	The user enters transaction request data such as a password ...at the keyboard 12. Col. 2:63-65. [T]he user at the terminal device can perform a transaction when he enters his own account number and the corresponding password. Col. 4:5-8. an ID card which records an account number is issued to an account owner to check whether the rightful user is using the account. Col. 4:11-14.
3. A card transaction system according to claim 1 wherein said transaction ticket has a number printed thereon which consists essentially of the transaction number.	the CPU 26 ... causes the printer 18 to print the encrypted data ... on the journal paper 30. Col. 3:21-24.
4. A card transaction system according to claim 1 wherein said number printed on the transaction ticket further comprises the date of the transaction.	When the transaction conditions satisfy the transaction request data, the outstanding balances of the transferer's and transferee's accounts are adjusted, i.e., updating of the corresponding general ledger is performed. The host computer creates transaction data representing the updated ledger data. Col.

'592 Claim Elements	'543 Disclosure
	3:13-18. The CPU 26 … causes the printer 18 to print the encrypted data and the decrypted transaction data on the journal paper 30. Col. 3:21-24.

As demonstrated in the above claim chart, all of the limitations of '592 claim 1 are explicitly and/or identically disclosed in the '543 patent. For example, '543 patent explicitly discloses a card reader (item 40), a transaction number store (items 16 and 28), a transaction data input device (item 12), a printer (item 18) and a center computer (host computer (not numbered)).

The only two limitations of claim 1 that, arguably, warrant additional discussion are "a transaction number that uniquely identifies each transaction" and "a transaction number generator included with the center computer for generating the transaction number." The '543 patent contains sufficient disclosure to indicate that these limitations, if not explicitly disclosed, are at least inherent in the '543 system and method.[2]

For example, the '543 patent discloses a system and method of operation for an ATM or home banking terminal. The user requests a transaction (e.g., transfer of funds, withdrawal, deposit, etc.) which is sent to the host computer (i.e., a center computer). When conditions are

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[2] To anticipate a claim, a prior art reference must disclose every feature of the claimed invention, either explicitly or inherently. *Hazani v. U.S. Int'l Trade Comm'n*, 126 F.3d 1473, 1477 (Fed. Cir. 1997). Whether a claim feature is inherent in a prior art reference is a factual issue on which extrinsic evidence may be submitted. *Id.* Extrinsic evidence is evidence other than evidence from the prosecution history, the specification, and the claims of the asserted patent. Accordingly, one may rely on extrinsic evidence to demonstrate that a feature not expressly disclosed is, nevertheless, inherent in a prior art reference.

proper (e.g., sufficient account balance to cover transfer amount, etc.), the host computer performs the transaction and updates the general ledger. According to the ordinary and accustomed meaning, a ledger is a means for recording accounts to which debits and credits are posted. Merriam-Webster Collegiate Dictionary. Col. 3:10-16.

The host computer (i.e., the center computer) creates transaction data representing the updated ledger data. Col. 3:16-17. Ledger data inherently comprises a date, time, incremented number or the like to facilitate keeping track of entries. This transaction data is encrypted by the host computer and sent to the terminal device. Col. 3:18-19. Thus, the center (i.e., host) computer generates a transaction number (i.e., the encrypted transaction data representing the updated ledger data) using a transaction number generator (i.e., the encryption module at the host computer (not numbered)). Ultimately, the transaction number (i.e., the encrypted transaction data) is printed on the transaction ticket (i.e., journal paper 30).

As shown in the above chart, the '543 patent discloses each of the additional limitations present in dependent claims 2 and 3. The '543 patent discloses that a user enters a password that corresponds to the user's account number, which is found on the user's machine readable, magnetic or IC (integrated circuit) ID card and read by the terminal device. *Id.* Accordingly, the '543 patent anticipates claim 2 of the '592 patent. The '543 patent also discloses that the terminal prints the encrypted data on the journal paper, thus anticipating claim 3 of the '592 patent, which claims the additional limitation that the "transaction ticket has a number printed thereon which consists essentially of the transaction number."

With respect to claim 4, claim 4 includes the system of claim 1 and the additional limitation that the "number printed on the transaction ticket further comprises the date of the transaction." The '543 patent contains sufficient disclosure to indicate that all of the limitations

of claim 4, if not explicitly disclosed, are at least inherent in the system and method disclosed in the '543 patent. *See* footnote 2 *supra*. The '543 patent discloses that the decrypted transaction data is printed on the journal paper 30 (i.e., the "transaction ticket"). Col. 3:21-24. In the '543 patent the transaction data is disclosed as "representing the updated ledger data." Col. 3:16-18. As discussed, ledger data inherently comprises a date, time, incremented number or the like to facilitate keeping track of entries. Accordingly, the '543 discloses, either explicitly or inherently, that the date of the transaction (i.e., the transaction data representing the ledger data) is printed on a transaction ticket (i.e., journal paper 30).

Accordingly, the '543 patent fully anticipates at least claims 1-4 of the '592 patent.

The '626 Patent (claims 1-3)

The '626 patent was filed on Jan. 12, 1982, claims priority to a Mexican application that was filed on Jan. 16, 1981, and issued on September 18, 1984. The '592 patent was filed on October 7, 1985 and does not claim priority to any earlier-filed applications. Thus, the '626 patent is eligible as prior art to the '592 patent under the provisions of 35 U.S.C. §§ 102(a), 102(b), and 102(e).

At least claims 1-3 are also considered to be fully anticipated under 35 U.S.C. §§ 102(a), 102(b), and 102(e) by the prior art '626 patent. The '626 patent discloses a system for verification of information pertaining to financial instruments and credit transactions, and more specifically to systems using telephonic communications to obtain verification information pertaining to the status of a checking account or a credit account from a central office. In the credit verification embodiment, the user inserts a credit card and a credit card bill into a local console. The console reads the credit card number and a telephone number for connecting to a

remote central computer. The user enters the amount being charged to the credit card. Via modem, the console connects to the remote central computer and transmits the credit card number and the amount being charged.

The remote computer determines whether the account is in good standing and whether the amount is within the credit limit. If the remote computer determines whether the amount is within the credit limit, the remote computer generates a random, special identification number (i.e., the "transaction number that uniquely identifies each transaction" claimed in the '592 patent). The random, special identification number (and other information) is transmitted to the local console and the random, special identification number is printed on the credit card bill.

Below is a chart detailing the '592 claim elements and the corresponding anticipating disclosure in the '626 patent.

'592 Claim Elements	'626 Disclosure
1. A financial and identification card transaction system for protecting transactions between a plurality of cardholders,	This invention relates to systems for verification of information pertaining to financial instruments and credit transactions, and more specifically to systems using telephonic communications to obtain verification information pertaining to the status of a checking account or a credit account from a central office. Col. 1:8-13. [A] system for imprinting transaction records with indicia representing the presence of sufficient credit in a credit account or of sufficient funds in a check account used for the transaction. Col. 1: 45-49.
each having a card, with a machine-readable code imprinted thereon and	Preferably, the storage device on the special identification card is a piece of magnetic tape. Col. 3:11-13. The [credit] card number detected at the card slot is read at step S30 from PIA 14. Col. 6:40-41
a card-issuing organization via at least one	Console 100 further includes thereon an acoustic

'592 Claim Elements	'626 Disclosure
transaction site connected by a data channel with a remote transaction center, the system which comprises:	coupler 25, for communication with a remote computer or other verification system. Col. 3:1-3
a card reader disposed at the transaction site for reading the machine-readable code imprinted on the card, the machine readable code including a cardholder code that is unique to each cardholder;	Console 100 incorporates two slots, 18 and 20, for insertion of a transactional document, such as a check or credit bill to be signed in a credit transaction, and for insertion of an identification card, credit card or the like, respectively. Fig. 1A. The [credit] card number detected at the card slot is read at step S30 from PIA 14. Col. 6:40-41
a transaction number that uniquely identifies each transaction;	The information received from the remote computer includes four numbers ... a number T4, to be printed on the credit card bill, is provided. Col. 6:51-52; 56-57. [A] random number is generated (previously referred to as T4) and transmitted to the requesting local console. Col. 7:43-45.
a transaction number store included with the card reader for receiving and storing the transaction number from the transaction center;	The internal elements of the system illustrated by console 100 include a microprocessor 1, which may, for example, be a Motorola 6800 microprocessor. A ROM (Read Only Memory) chip 2 is connected to the microprocessor. ROM 2 preferably contains the program to be executed by microprocessor 1. One commercially available device which may be used as ROM 2 is a Motorola chip designated by the reference 6830. Col. 3:26-35. The inventive system further includes a RAM (Random Access Memory) chip 3, which may be of the type Mbtorola [sic] 6810, also connected to microprocessor 1. Col. 3:35-37. The number T4 and the amount of the credit are stored in the list of credits which have been checked in accordance with this procedure for the particular credit card. Col. 7:46-50.

'592 Claim Elements	'626 Disclosure
a transaction data input device connected to the card reader for receiving transaction data;	As seen in the figure (Figure 1A), console 100 incorporates two slots, 18 and 20, for insertion of a transactional document, such as a check or credit bill to be signed in a credit transaction, and for insertion of an identification card, credit card or the like, respectively. Also shown on the console 100 is a sixteen button keyboard 22 and a display 21. Keyboard 22 incorporates various keys thereon for input of information to a computer included in the system. Col. 2:32-38.
a printer connected to the card reader for printing a transaction ticket which includes the transaction number;	A line printer 19 is also provided on the inventive console, for writing onto the document placed in slot 18. Col. 2:44-46. A number T4, to be printed on the credit card bill, is provided. Col. 6: 56-57.
a center computer disposed at the transaction center having memory for storing transaction data received from the card reader via the data channel;	In step S11 the microprocessor sends all the information which has thus far been stored in RAM 3 to the remote computer, which, in turn, analyzes and stores the data, as described below with respect to FIG. 4. Col. 5:15-18.
a transaction number generator included with the center computer for generating the transaction number.	Whether or not the optional step is performed, however, at step S22 the receiving computer generates a random number R1. Col. 6:15-17. A random number is generated (previously referred to as T4) and transmitted to the requesting local console. Col. 7:43-45.
2. A card transaction system according to claim 1 wherein said card reader further comprises a keyboard for receiving a personal identification number (PIN) that combined with the machine-readable code, uniquely identifies each card-holder.	Also shown on the console 100 is a sixteen button keyboard 22 and a display 21. Keyboard 22 incorporates various keys thereon for input of information to a computer included in the system. Col. 2:32-38.
3. A card transaction system according to claim 1 wherein said transaction ticket has a number printed thereon which consists essentially of the transaction number.	A number T4, to be printed on the credit card bill, is provided. Col. 6: 56-57.

As demonstrated in the above claim chart, all of the limitations of claims 1-3 of the '592 patent are explicitly and/or identically disclosed in the '626 patent. For example, '626 patent explicitly discloses a card reader (item 20), a transaction site (item 100), a transaction number store (items 1 and 3), a transaction data input device (items 20 and 22), a printer (item 19) and a center computer (remote computer (not numbered)). The '626 patent discloses use of an identification card with machine-readable magnetic tape, entry of transaction data by the user through a keyboard, and the printing of a special identification number (i.e., a transaction number) on a the credit card bill. Accordingly, for reasons set forth above, the '626 patent fully anticipates at least claims 1-3 of the '592 patent.

The '626 Patent In View Of The '200 Patent (claims 2 and 4)

The '200 patent was filed on Feb. 29, 1984 and claims priority to a Japanese application that was filed on Mar. 1, 1983. The '592 patent was filed on October 7, 1985 and does not claim priority to any earlier-filed applications. Thus, the '200 patent is eligible as prior art to the '592 patent under the provisions of 35 U.S.C. § 102(e). As discussed above, the '626 patent is also eligible as prior art to the '592 patent under the provisions of 35 U.S.C. § 102(e).

To the extent claim 2 of the '592 patent is not fully anticipated by the '626 patent, claim 2 is obvious under 35 U.S.C. § 103(a) based on the '626 patent in view of the '200 patent. As discussed, the '626 patent discloses each and every element of claim 1 of the '592 patent. Claim 2 of the '592 patent includes the system of claim 1 and the additional limitation that the "card reader further comprises a keyboard for receiving a personal identification number (PIN) that combined with the machine-readable code, uniquely identifies each card-holder."

The '200 patent is directed to an electronic cash register used to complete financial transactions using a credit card or bank card. The electronic cash register includes a keyboard (item 16), a card reader (19), a central processing unit (CPU) (item 11), RAM memory (item 13), and a printer (item 15). The '626 patent discloses the use of a receipt issued to users of systems for verification of information pertaining to financial instruments and credit transactions. The '200 patent discloses that receipts used in electronic cash registers for completing financial transactions with credit card or bank card include the date of the transaction on the receipt. Accordingly, one skilled in the relevant art would have been motivated to combine the teachings of the '200 patent with the disclosure of the '626 patent.

The '200 patent discloses the use of a secret number (i.e., personal identification number) that is compared to the number included on the bank or credit card and uniquely identifies the user:

> When the secret number is to be checked by reference, the customer enters with the secret number keyboard 20 his secret number, which is read (step 73) and then checked for a match with the secret number included in the card data read from the card (step 74). If a match is obtained, the ECR proceeds to a communication with the center. If otherwise, no cashing service is provided.

Col. 4:47-54.

The '200 patent thus discloses the use of a keyboard for receiving a personal identification number (PIN) that combined with the machine-readable code, uniquely identifies each card-holder, and claim 2 is obvious under 35 U.S.C. § 103(a) based on the '626 patent in view of the '200 patent.
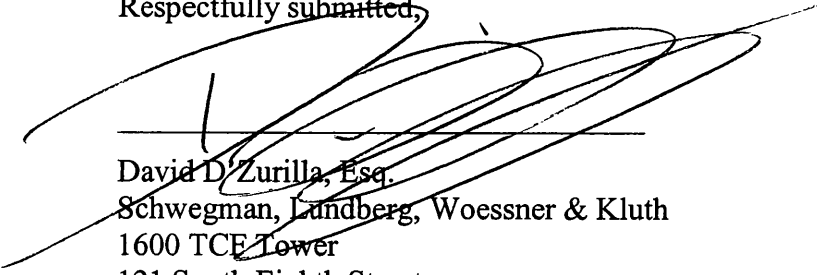
Additionally, at least claim 4 of the '592 patent is obvious under 35 U.S.C. § 103(a) based on the '626 patent in view of the '200 patent. As discussed, the '626 patent discloses each

and every element of claim 1 of the '592 patent. Claim 4 of the '592 patent includes the system of claim 1 and the additional limitation that the "number printed on the transaction ticket further comprises the date of the transaction." The '200 patent discloses printing the date of a transaction on a transaction receipt or "ticket." When a transaction is completed "[t]he card data, cashing sum and date are printed on a journal and a slip (receipt) by the printer 15 (step 59). The journal serves as a record for the ECR, while the receipt is delivered to the customer." Col. 5:40-44. The '200 patent thus discloses printing the date of a transaction on a transaction receipt or "ticket." Accordingly, at least claim 4 of the '592 patent is obvious under 35 U.S.C. § 103(a) based on the '626 patent in view of the '200 patent.

CONCLUSION

As demonstrated above, at least claims 1-4 of the '592 patent are anticipated by the '543 patent and at least claims 1-3 of the '592 patent are anticipated by the '626 patent. In addition, at least claims 2 and 4 of the '592 patent are also obvious under 35 U.S.C. § 103(a) based on the '626 patent in view of the '200 patent. Finally, Requestor respectfully submits that the '543 patent in combination with the '626 patent would also render at least claims 1-4 of the '592 patent obvious under 35 U.S.C. § 103. Accordingly, a substantial new question of patentability exists with respect to claims 1-4 of the '592 patent, and Requestor respectfully requests reexamination of at least these claims.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this $\underline{11}$ day of May, 2005, I caused to be served upon the patent owner an entire copy of this *Ex Parte* Request For Reexamination of U.S. Patent No. 4,707,592, by U.S. mail to the following address of the patent attorney or patent agent of record:

William Flynn (Reg. No. 16423)
John Oltman   (Reg. No. 19481)
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