



Financial Services Patent Holding Company Update

This is the March 2011 installment of Sutherland's "Financial Patent Holding Company Update." These updates are intended to provide our readers general information about the activities of patent holding companies (or non-practicing entities) in the financial services and e-commerce industries. If articles provided herein are of interest, or if additional information is desired, please contact us.

DataTreasury Strikes Again

On February 23, 2011, DataTreasury Corporation filed a patent infringement lawsuit against several financial institutions and subsidiaries, including Capital One, Regions Bank, North American Bancshares, American Bank of Texas, Legacy Texas Bank, Patriot Bancshares Inc., and Prosperity Bancshares Inc. The lawsuit alleges that the various defendants infringed U.S. Patent Nos. 5,910,988 and 6,032,137, covering systems and methods for capturing and storing data from paper transactions. The lawsuit was filed in the U.S. District Court for the Eastern District of Texas.

For several years, DataTreasury has been an active litigant enforcing its portfolio against financial services companies, filing more than 15 suits against dozens of financial institutions. Notably, prior patent law reform legislation introduced in the U.S. Senate proposed granting immunity from patent damages to banks if check imaging patents were infringed. However, the most recent patent law reform legislation, approved by the U.S. Senate on March 8, 2011 (see article further below), omitted the proposed immunity.

(Source: [RFC Express](#), [The Washington Post](#))

Automated Transaction LLC's ATM Patents Not Infringed by 7-Eleven

In a win for the financial services community, a U.S. District Court in Delaware has granted summary judgment of non-infringement to defendants IYG Holding Co. (the majority shareholder of convenience store chain, 7-Eleven Inc.), Vcom Financial Services Inc., and Cardtronics USA Inc. The court also held invalid for indefiniteness certain claims of one of the five patents in suit.

A turning point in the litigation appeared to be the court's interpretation of the term "Internet" used in the patent claims. The court held that the defendants' ATMs did not connect to the Internet, but instead relied on a private frame relay network to communicate. The plaintiff is likely to appeal the court's grant of summary judgment and claim construction.

The patents in suit are U.S. Patent Nos. 6,945,457; 7,571,850; 7,591,420; 7,575,158; and 7,600,677.

(Sources: [RFC Express](#), [Law 360](#))



Halfway There: The U.S. Senate Passes Patent Reform Legislation

On March 8, 2011, the U.S. Senate approved, by a vote of 95-5, long awaited patent reform legislation. The legislation, known as S.23 “The America Invents Act,” now heads to the U.S. House of Representatives, where further revisions by the U.S. House Judiciary Committee are expected. Major changes to the U.S. patent law sought by the legislation are conversion of the U.S. from a “first-to-invent” system to a “first-to-file” system, consistent with most other countries’ patent laws, new requirements for false patent marking lawsuits, and new proceedings to challenge a patent’s validity. A coalition of relatively large corporations, including at least one financial services company, supported passage of the legislation. However, many smaller entities opposed the legislation, indicating that larger companies could take advantage of a “first-to-file” system due to their larger economic resources.

(Source: [S.23](#))

If you have any questions about any of these developments, please contact any of the following Sutherland attorneys or the Sutherland attorney with whom you regularly work.

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