JPMorgan's Monopoly Money

Intellectual Property Analysis of US Patent Application 20130317984

December 11, 2013

"BITCOIN is booming.[1]"…?

On August 5, 2013 JPMorgan Chase & Co (JPMorgan) filed an application for an electronic mobile payment system which has eerie similarities to the popular online currency Bitcoin. Unfortunately for JPMorgan, ***all*** of the claims, totaling 175 claims, as of October 18, 2013, for published US patent application 20130317984 (the '984 application) have been either cancelled or rejected.

Analysis

Below is a view of JPMorgan's '984 application.

Document #	Title	Assignee Name	Priority	File
U.S. 20130317984	Method and system for processing internet payments using the electronic funds transfer network.	JPMorgan Chase Bank	03-May-99	05-Aug-13

After the initial 154 claims were abruptly cancelled, JPMorgan's attorney submitted 20 additional claims which the examiner, Jagdish Patel, issued non-final rejections for all 20 of the new claims in October 2013. This makes JPMorgan 0-175 in terms of approved claims. The last 20 claims were rejected for non-patentability and indefiniteness under Title 35 United States Code (U.S.C.) Sections 101 and 112.

However, Mr. Patel might well have rejected the claims because of the 'On Sale Bar' rule under 35 U.S.C. Section 102(b), meaning that if the invention has been on sale for over a year then the invention is no longer patentable. Under the 'On Sale Bar' rule, the application could be invalid because it closely mirrors Bitcoin with features such as making free and anonymous electronic payments and Bitcoin has been in circulation since 2009.

Conclusion

The United States Patent & Trademark Office (USPTO)'s handling of applications like JPMorgan's '984 application highlights the need to fix a broken system. Patent applications of existing inventions need to be finally rejected and not be resurrected as zombies. Part of the problem of a system in which one third of patents are seriously or fatally impaired is that companies are allowed to patent items that their competitors have already invented. Obviously, large financial institutions want in on the online alternative currency action. But they would be well advised to pursue novel and non-obvious approaches that do not duplicate existing commercial options with respect to a virtual medium of exchange.

[1] http://www.economist.com/news/leaders/21590901-it-looks-overvalued-even-if-digital-currency-crashes-others-will-follow-bitcoin

M·CAM's Patent Glossary

Aligned Sector: The business sector in which the product(s) resulting from the patent(s) is currently or intended to be sold.

Applicant: The person or corporation that applies for a patent with the intent to use, manufacture or license the technology of the invention; under U.S. law, except in special situations, the applicant(s) must be the inventor(s).

Application: Complete papers submitted to the U. S. Patent and Trademark Office seeking a patent including oath, specification, claims, and drawings. This usually does not signify a Provisional Patent Application, but only a regular patent application.

Art: The established practice and public knowledge within a given field of technology. This also identifies a process or method used to produce a useful result. A term used in consideration of the problem of patentable novelty encompassing all that is known prior to the filing date of the application in the particular field of the invention.

Assignee: The person(s) or corporate body to whom the law grants or vests a patent right. This refers to the person or corporate entity that is identified as the receiver of an assignment.

Business Method Patent: A patent that controls the way a business process is undertaken. The issuance of these patents by the United States Patent and Trademark Office (USPTO) is new and controversial, since many allege that it is unfair to allow a patent on a way of doing business.

Citation: This may include patents or journal articles that the applicant or examiner deems relevant to a current application. A reference to legal authorities or a prior art documentation are examples of a citation.

Claim: The language in a patent application that defines the legal scope of the patent. Most patents have numerous claims. This is typically the single most important section in the application.

Concurrent Art: Concurrent art occurs when related patent applications are being examined by the USPTO at the same time. It is difficult for any company or inventor to know, at the time they file for a patent, whether a "related" patent application exists.

Filing Date: The date when a properly prepared application reaches the patent office in complete form.

Innovation Cycle: A description of the commercialization timeframe for the intellectual property.

Innovation Space: M·CAM's representation of the innovation(s) that occur before, during, and after the pending period of the subject patent. The innovation space is the first place to look for patents that are closely related to the subject patent and that may impact the defensibility of the subject patent or create opportunities for patent licensing.

Issue Date: Not to be confused with the filing date, which is the date the patent application was physically received by the U.S. Patent and Trademark Office. This is the date on which the patent actually issues.

Non-Aligned Sector: Any sector in which the patent can be used or sold, other than the sector for which the patent or resultant product was invented or intended.

Pod: A group of patents owned by a company that should be treated as a single unit of innovation (e.g., a certain group of patents that comprise a single product or multiple related products).

Prior Art: Any relevant patent that was issued before the patent being analyzed. If this previous patent was specifically mentioned in the new patent's application, the previous patent is referred to as "cited prior art". If it was NOT mentioned, then that previous patent is referred to as "uncited prior art".

Subsequent Art: Any patent that has a filing date with the USPTO that is after the issuance date of the subject patent. This subsequent art patent may or may not have cited (see "Citation" above) the subject patent. As subsequent art represents more recent innovation than the subject patent, it has great potential to shrink the market opportunity for the subject patent.

A Brief Primer on the Patent System

In recent years, the importance of patents and intellectual property rights as an important variable in the marketplace has come to the forefront of the public consciousness as world leaders declare their country's lead in the innovation race. Damaging intellectual property litigation is becoming increasingly common across all industries. This is exacerbated when patent rights are granted for non-novel ideas. A vast amount of precedent innovation is unconsidered by patent-granting authorities in the creation of new IP rights. Patent granting authorities including the United States Patent and Trademark Office (USPTO), European Patent Office (EPO), Japanese Patent Office (JPO), Chinese State Intellectual Property Office (SIPO), Korean Intellectual Property Office (KIPO) and many others are constrained by the use of patent classification systems which are routinely circumvented by patent applicants.

There is a two-way social contract underlying the patent system. In the United States, patent terms are generally limited to 20 years from the date of application. By statutory intention, once a patent has expired, the patent holder loses the right to exclude others from fully utilizing any innovation described in the patent. A large number of patents enter the public domain when they are "abandoned" – when owners discontinue paying patent maintenance fees. Patents also only provide an exclusionary right in the country for which the patent is filed. As demonstrated by the Global Innovation Commons[2] (G.I.C.), using intellectual property available in the public domain eliminates the need to pay licensing fees on those innovations in countries where the patent was never registered, or worldwide, if abandoned.

Patently Obvious® is a weekly report focusing on select groups of patents in order to increase transparency in markets, addressing information asymmetries, and providing a more level playing field for all parties.

[2] http://www.globalinnovationcommons.org/