

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

LUPERCAL LLC,

Plaintiff

v.

PLAINS CAPITAL BANK,

Defendant

Case No. 6:19-cv-00202-ADA

**JURY TRIAL DEMANDED**

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Lupercal LLC (“Lupercal” or “Plaintiff”) files this First Amended Complaint for patent infringement against Defendant Plains Capital Bank (“Plains Capital” or “Defendant”), and alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising under 35 U.S.C. § 1 *et seq.*

**PARTIES**

2. Lupercal is a limited liability company organized and existing under the laws of the State of Texas with its principal place of business in Dallas, Texas.

3. Upon information and belief, Defendant, Plains Capital, is a Texas company having a principal place of business in this judicial district at 201 W 5th St Ste 100, Austin, TX 78701.

**JURISDICTION AND VENUE**

4. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Upon information and belief, Defendant is subject to personal jurisdiction of this Court based upon it having regularly conducted business, including the acts complained of herein, within the State of Texas and this judicial district and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this District.

6. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400 because Defendants have committed acts of infringement and have regular and established places of business in this judicial district.

**COUNT I**  
**(Infringement of U.S. Patent No. 9,386,094)**

7. Lupercal incorporates paragraphs 1 through 6 as though fully set forth herein.

8. Plaintiff is the owner, by assignment, of U.S. Patent No. 9,386,094 (the “’094 Patent”), entitled SYSTEM AND METHOD FOR MEDIA SUBMISSION, which issued on July 5, 2016. A copy of the ’094 Patent is attached as Exhibit A.

9. The ’094 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

10. Defendant provides the Plains Capital Mobile Banking App for use with Apple iOS devices and Android devices, which is available for download from Apple’s iTunes App Store and Google Play Apps:

**PlainsCapital Bank** Personal Business About

## MOBILE BANKING

**Access Your Account on the Go**

With Mobile Banking, you can do more than just check your balance. Deposit checks, pay bills, and much more with your iPhone® or Android™ at any time, at no charge while still enjoying our personalized, relationship-based approach to managing your finances.

Simply sign up for Online Banking and then download the PlainsCapital Bank Mobile Banking App to get started!

**New Customers**

**Open an Account**  
Call Us at [866.762.8392](tel:866.762.8392)

Apply in Person at Your Nearest Branch Location or

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**Switch to PlainsCapital**  
Make the switch. [Learn More](#)

[Download the Switch Kit](#)

<https://www.plainscapital.com/mobile-banking/>

- Card Controls**  
Take control of your debit card and reduce the risk of fraud with new Card Controls. [Learn More](#)
- Cardless Cash**  
Enjoy the freedom to withdraw cash using only your smartphone with new Cardless Cash. [Learn More](#)
- Mobile Wallet**  
Connect Apple Pay®, Samsung Pay®, and Google Pay® to your Debit MasterCard®. [Learn More](#)
- People Pay**  
Experience the simple & secure way to send money to friends and family. [Learn More](#)
- Mobile Deposit**  
Deposits checks directly through our mobile app for a quick convenience. [Learn More](#)
- Mobile Bill Pay**  
Pay bills from the comfort of your home or business trip. [Learn More](#)
- Funds Transfers**  
Easily transfer funds between your PlainsCapital Bank accounts. [Learn More](#)
- Account Dashboard**  
View all of your PlainsCapital Bank accounts on one screen. [Learn More](#)
- Secure Messages**  
Stay alert with PlainsCapital's secure messaging system. [Learn More](#)
- Locations**  
If you need cash or want to visit us in person, Mobile Banking can help you find the PlainsCapital ATM or branch location closest to you.

<https://www.plainscapital.com/mobile-banking/>

**Mobile Banking Downloads**

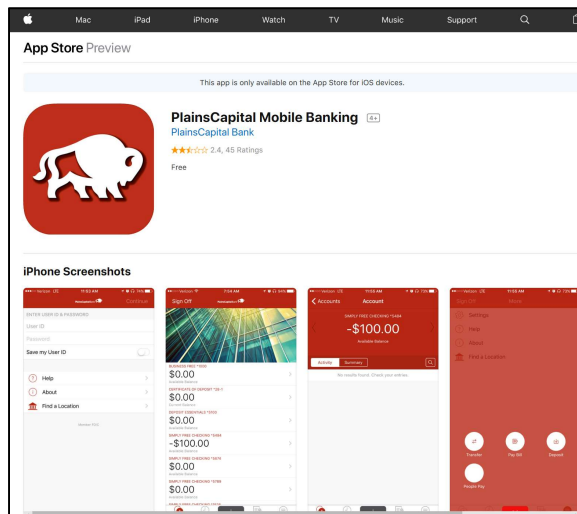
**Personal Mobile Banking**

- iPhone App
- iPad App
- Android Phone App
- Android Tablet App

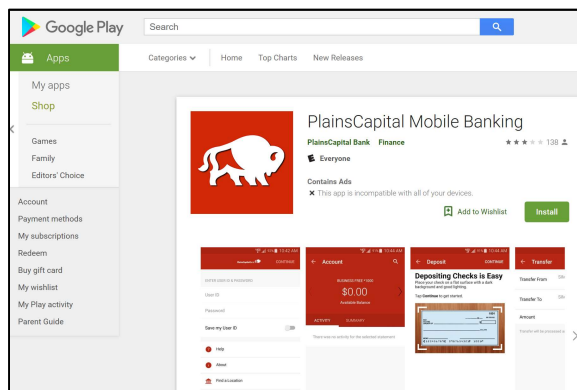
**Business Mobile Banking**

- iPhone App
- iPad App
- Android Phone App
- Android Tablet App

<https://www.plainscapital.com/mobile-banking/>



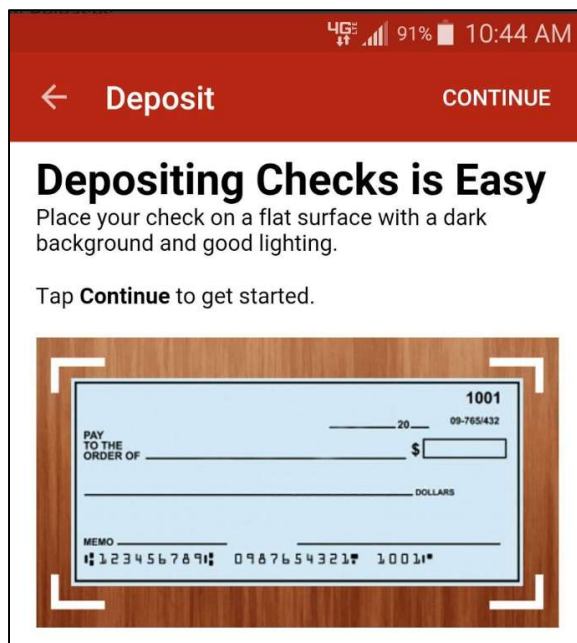
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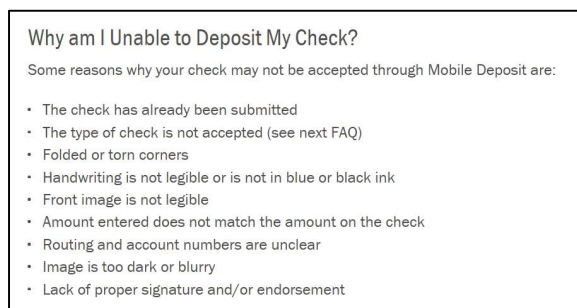
[https://play.google.com/store/apps/details?id=com.mfoundry.mb.android.mb\\_338](https://play.google.com/store/apps/details?id=com.mfoundry.mb.android.mb_338)

**What Is Mobile Deposit?**  
With PlainsCapital Bank's Mobile Deposit, eligible and enrolled customers can deposit checks through our [Mobile Banking](#) app.

<https://www.plainscapital.com/mobile-deposit/>



[https://play.google.com/store/apps/details?id=com.mfoundry.mb.android.mb\\_338](https://play.google.com/store/apps/details?id=com.mfoundry.mb.android.mb_338)



<https://www.plainscapital.com/mobile-deposit/>

11. Defendant controls the operation and use of the Plains Capital Mobile Banking App and encourages its customers to use the Plains Capital Mobile Banking App to deposit checks to the customer's accounts with Defendant. The Defendant's Plains Capital Mobile Banking App is the Accused Instrumentality through which Defendant and its customers infringe the '094 Patent.

12. At least by developing, distributing, operating, promoting, and encouraging the use of the Plains Capital Mobile Banking App, Defendant encourages its customers

to use the Plains Capital Mobile Banking App to practice the claimed methods, which Defendant controls the use of and derives a direct benefit and profit from.

13. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including Claim 42, of the '094 Patent by developing, distributing, operating, promoting, and encouraging the use of the Plains Capital Mobile Banking App in the United States without authority. Defendant has infringed and continues to infringe the '094 Patent either directly or through the acts of inducement in violation of 35 U.S.C. § 271.

14. Defendant has been on notice of the '094 Patent at least as early as February 25, 2019 when it received a notice letter from Defendant, which included a claim chart comparing the '094 Patent claims to the Plains Capital Mobile Banking App.

15. Claim 42 recites:

42. A computer implemented method performed by an image submission tool on a user device, comprising:

causing the image submission tool to generate a visual representation of one or more images, the visual representation enabling a user to determine whether the one or more images should be replaced with one or more replacement images;

causing the image submission tool to enable a user to enter text information for association with the one or more images or the one or more replacement images;

causing the image submission tool to pre-process the one or more images or the one or more replacement images to produce one or more pre-processed images, the pre-processing by the image submission tool controlled by one or more pre-processing parameters received from a device separate from the user device in a conversion of the one or more images or the one or more replacement images as specified for use by a receiving party;

causing the image submission tool to enable a user to submit the one or more pre-processed images; and

causing the image submission tool to transmit the one or more pre-processed images.

16. The Plains Capital Mobile Banking App enables account holders to deposit checks electronically by taking a photo of the front and back of the check. After selecting an account to deposit the check to, the user enters the amount of the check.

17. The photo of the front and back is manually taken by the user—as a result, the images produced may be blurry or otherwise undesirable, and the application enables the user to retake a given photo (front or back). A visual representation of the photos is displayed on the screen.

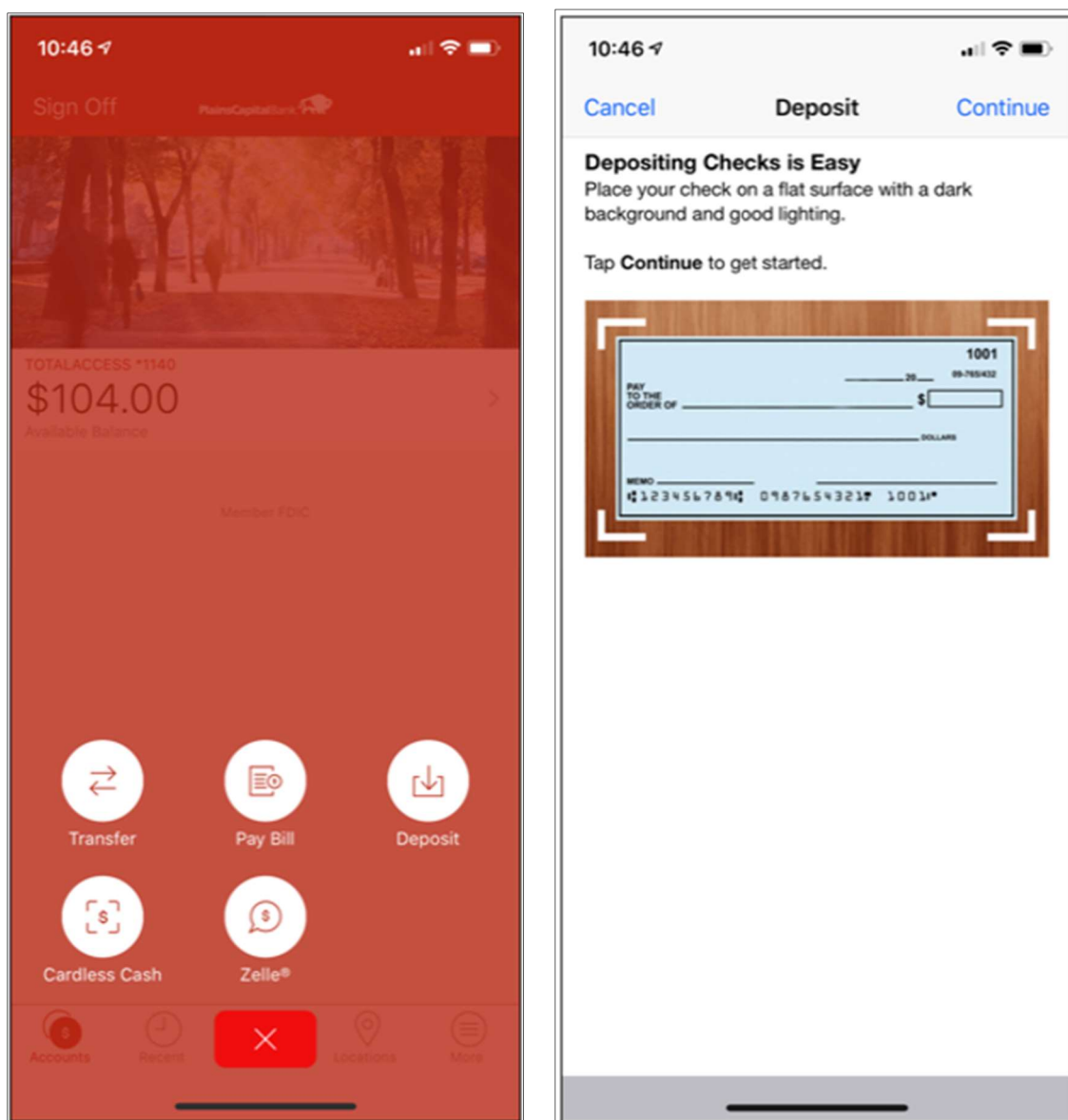
18. After selecting an account to deposit the check to, the user enters the amount of the check.

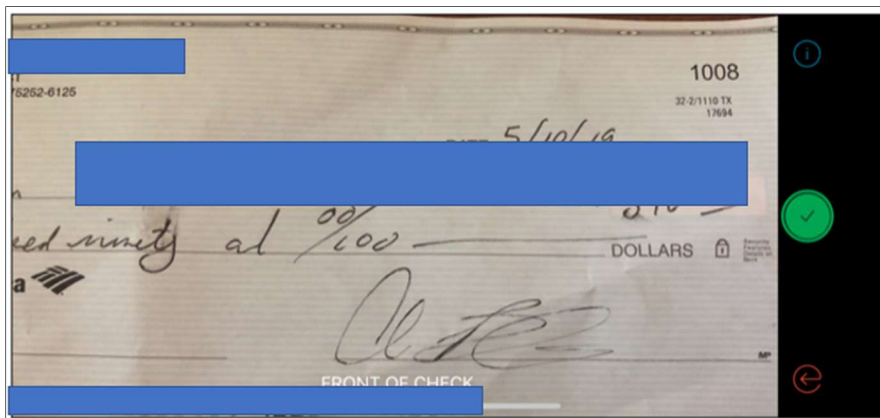
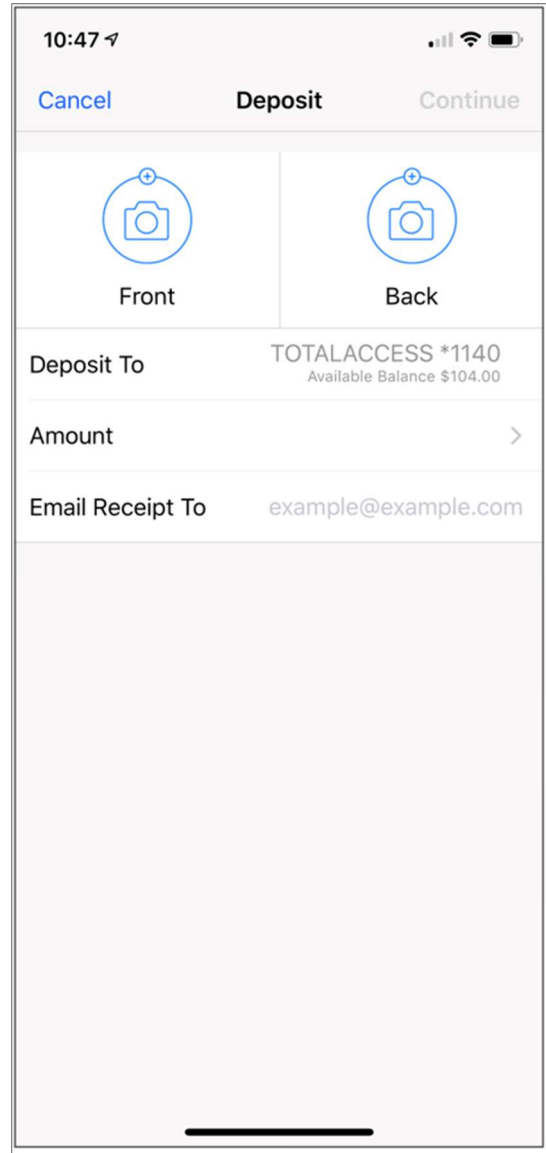
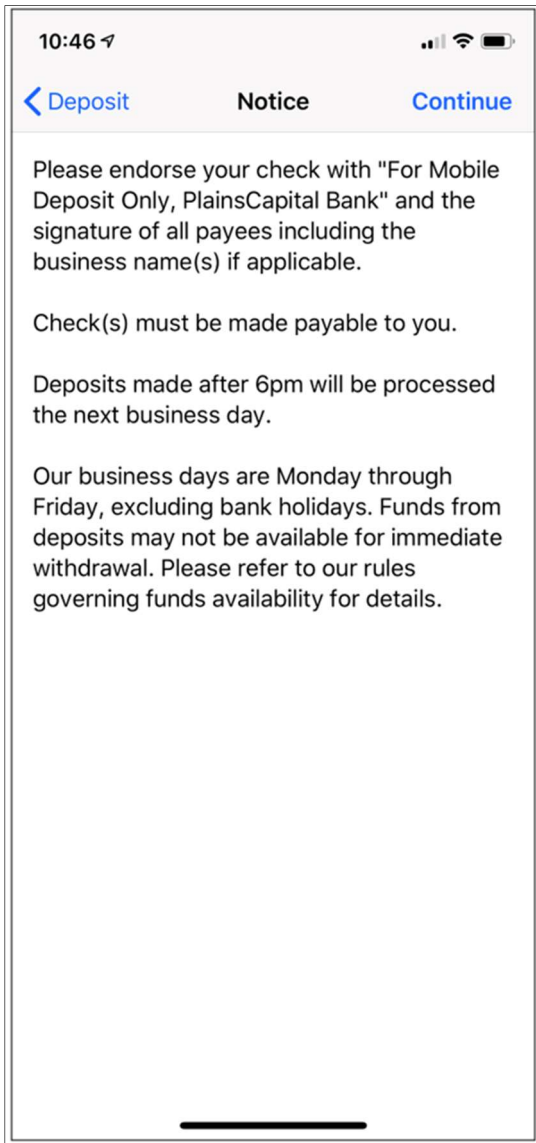
19. Upon being accepted by the user (via the Plains Capital Mobile Banking App), the application pre-processes the front and back images to produce and front and

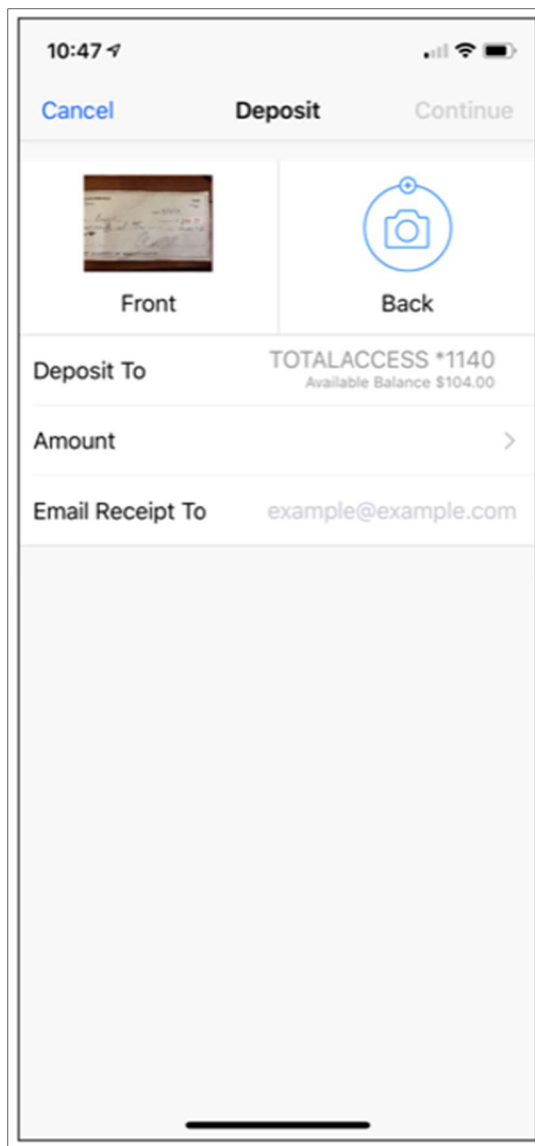


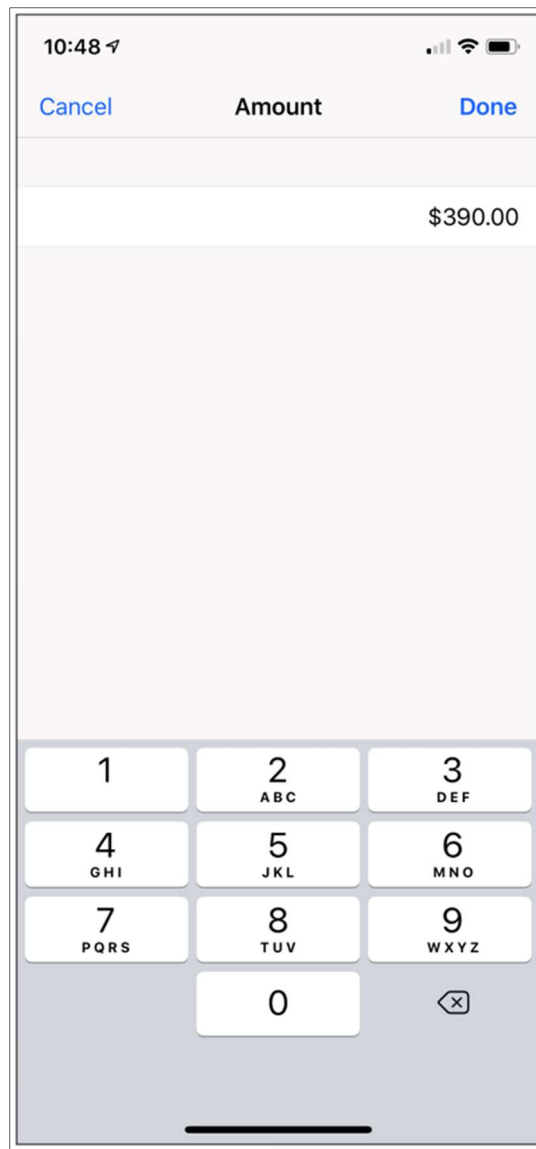
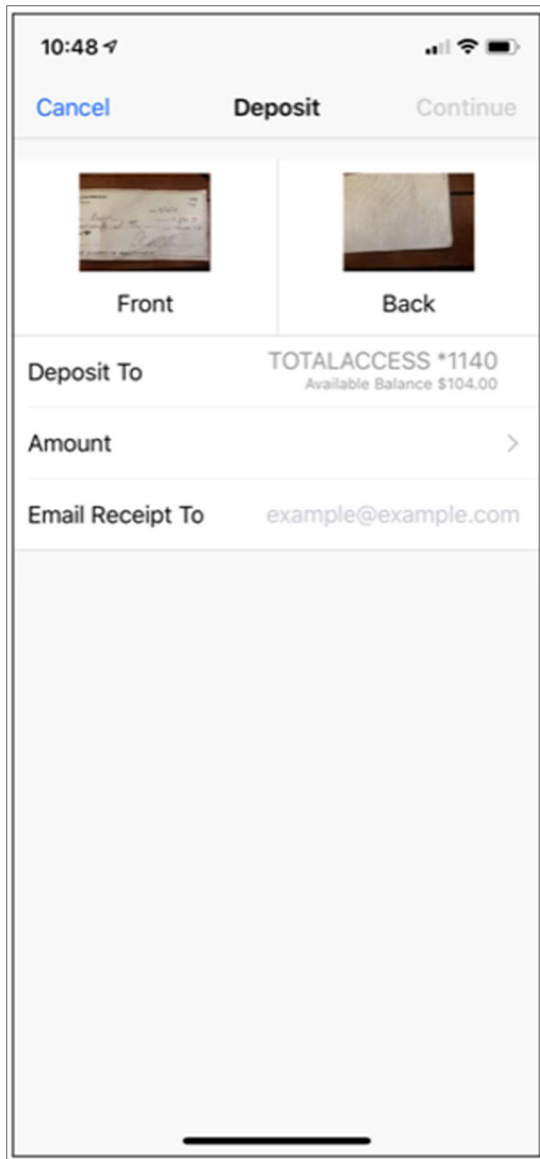
back pre-processed images that is controlled by one or more preprocessing parameters received from a device (e.g., a server used to download the Plains Capital Mobile Banking App) separate from the user device (user's smart phone) in a conversion of the one or more images or the one or more replacement images as specified for use by a receiving party.

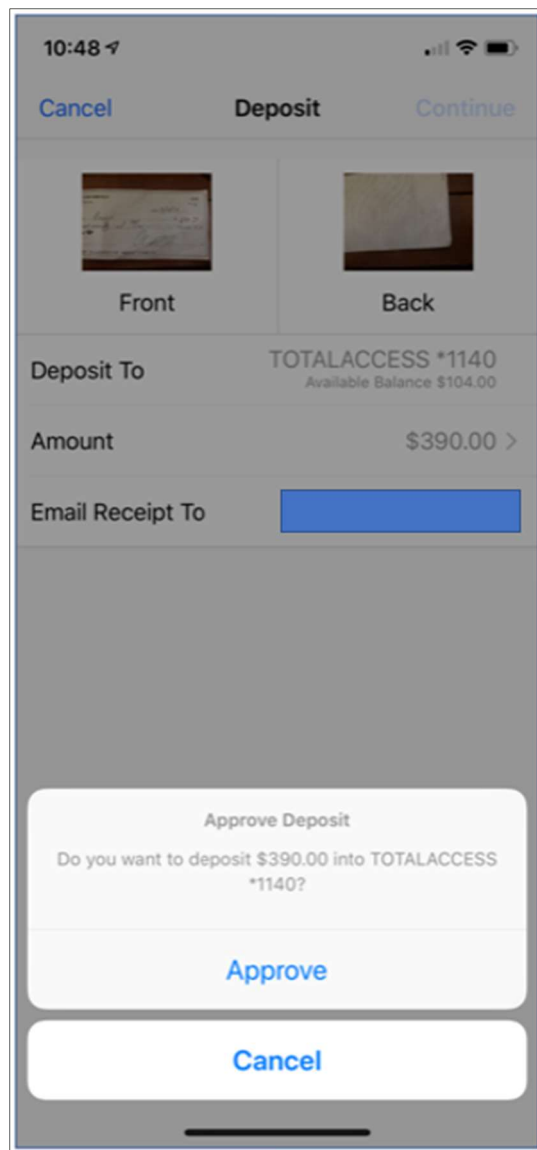
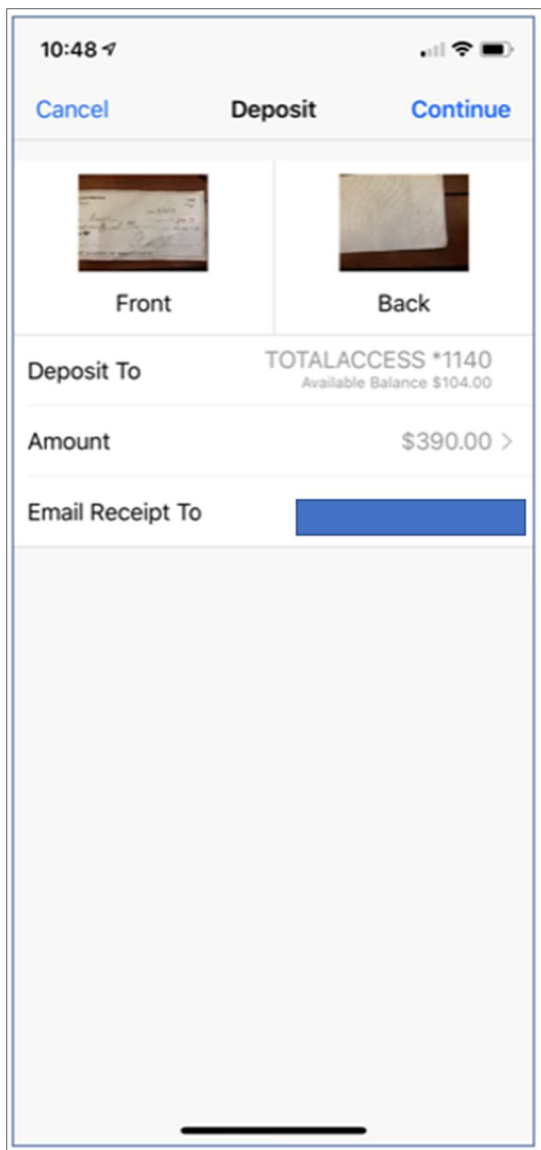
20. The following illustrates an exemplary use of the Plains Capital Mobile Banking App according to the claim limitations as explained above.

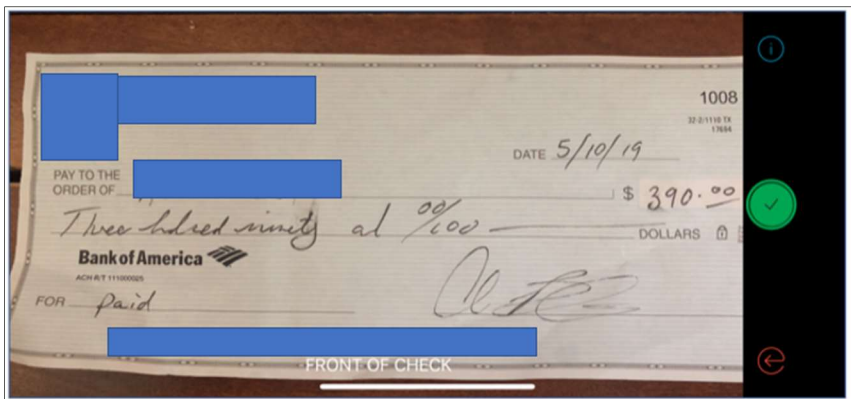
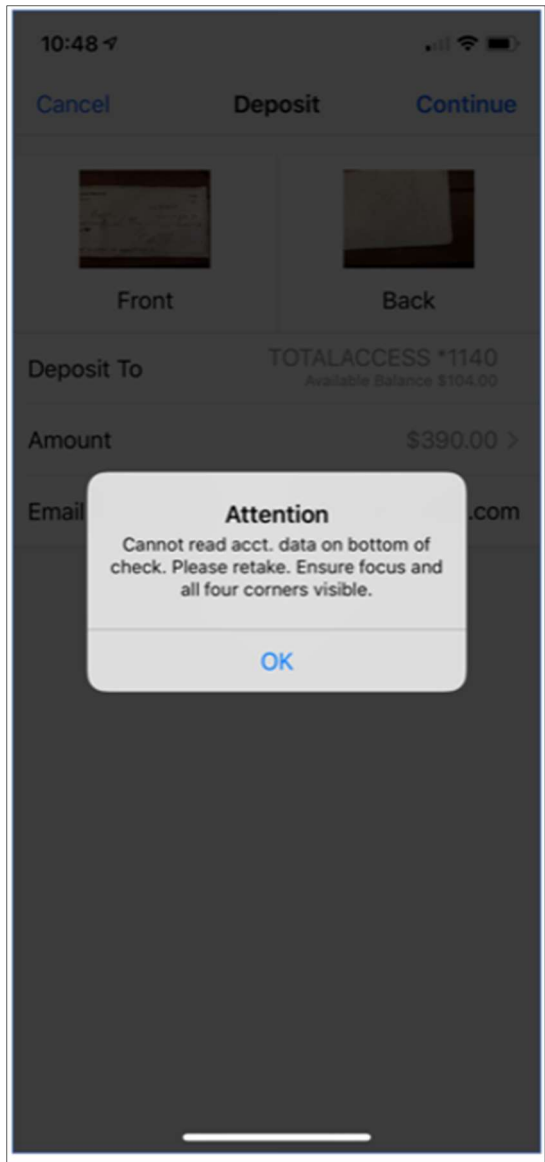


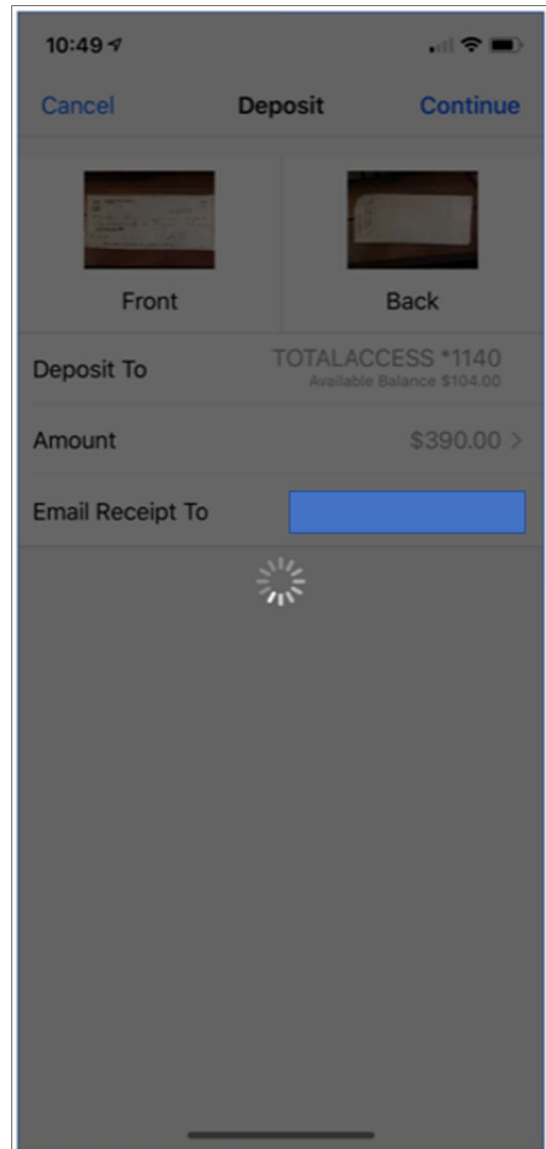
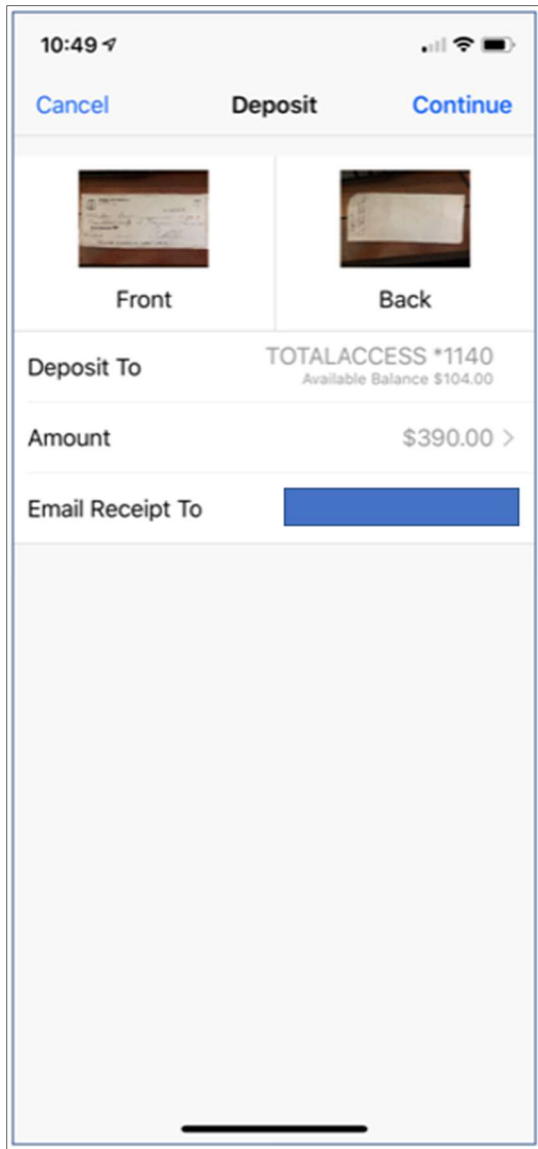


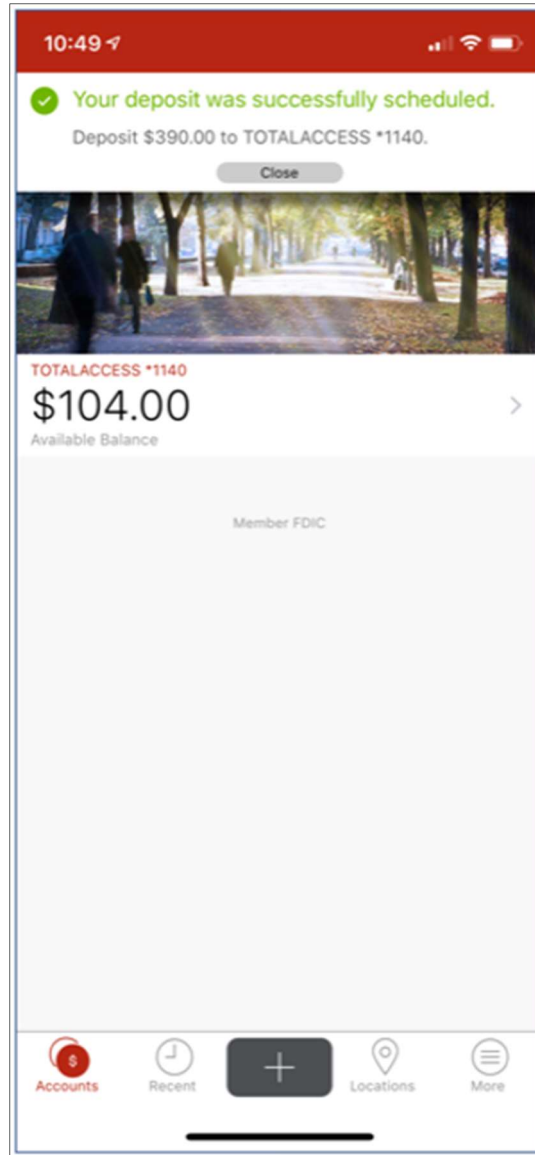












21. Lupercal has been damaged by Defendant's infringing activities.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against Defendant:

1. declaring that the Defendant has infringed the '094 Patent;
2. awarding Plaintiff its damages suffered as a result of Defendant's infringement of the '094 Patent;



3. awarding Plaintiff its costs, attorneys' fees, expenses, and interest; and
4. granting Plaintiff such further relief as the Court finds appropriate.

**JURY DEMAND**

Plaintiff demands trial by jury, Under Fed. R. Civ. P. 38.

Dated: September 16, 2019

Respectfully submitted,

*/s/ Raymond W. Mort, III*

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LUPERCAL LLC**