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

Milestone IP LLC, Plaintiff, v. **Wells Fargo & Company,** Defendant.	**Case No. W-20-cv-00792-ADA** Patent Case Jury Trial Demanded

SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Milestone IP LLC ("Plaintiff"), through its attorneys, files this Amended Complaint for patent infringement against Wells Fargo & Company ("Defendant"), and alleges as follows:

PARTIES

1. Plaintiff Milestone IP LLC is a corporation organized and existing under the laws of Texas that maintains its principal place of business at 6009 W. Parker Rd., Ste. 149–1124, Plano, TX 75093.

2. Defendant Wells Fargo & Company is a corporation organized and existing under the laws of Delaware that maintains an established place of business at 420 Montgomery Street, San Francisco, CA 94104. Defendant can be served through its registered agent, Corporation Service Company at 2711 Centerville Road, Suite 400, Wilmington, DE 18908.

JURISDICTION

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

4. This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Defendant because it has engaged in systematic and continuous business activities in this District. As described below, Defendant has committed acts of patent infringement giving rise to this action within this District.

VENUE

6. Venue is proper in this District under 28 U.S.C. § 1400(b), because Defendant has committed acts of patent infringement in this District and has an established place of business in this District. In addition, Plaintiff has suffered harm in this district.

PATENTS-IN-SUIT

7. Plaintiff is the assignee of all right, title and interest in United States Patent Nos. 6,236,994 ("the '994 Patent") and 6,473,523 ("the '523 Patent") (collectively the "Patents-in-Suit"), including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patents-in-Suit. Accordingly, Plaintiff possesses the exclusive right and standing to prosecute the present action for Defendant's infringement of the Patents-in-Suit.

The '994 Patent

8. The '994 Patent is entitled "Method and apparatus for the integration of information and knowledge," and issued May 22, 2001. The application leading to the '994 Patent was

filed on June 29, 1998. A true and correct copy of the '994 Patent is attached hereto as Exhibit 1 and incorporated herein by reference.

9. The '994 Patent is valid and enforceable.

10. The '994 Patent is directed to a novel architecture for the integration of data, information and knowledge, and more particularly to a method that manages and utilizes a knowledge repository for the purpose of enabling easy access, manipulation and visualization of synchronized data, information and knowledge contained in different types of software. '994 Patent, 1:10-15.

11. The '994 Patent provides a novel and specific solution for computer-based information integration.

12. Prior to the '994 Patent, knowledge management systems were complex and error prone; had difficulty in locating and working with interrelated documents and data throughout the information generation lifecycle; lacked an efficient mechanism for locating and working with the many different types of information maintained in separate systems; failed to recognize, appreciate and enable the dependencies between data and documents throughout the information generation lifecycle; and inflexible of a process, during the information generation lifecycle, to handle situations where data changes force a series of document changes, which may in turn require modifications of other documents. *Id.* at 1:64-2:2.

13. The '994 Patent solved these problems by using a novel architecture that includes a knowledge repository for the purpose of enabling easy access, manipulation and

visualization of complete and synchronized information contained on a plurality of software. *Id.* at 2:24-29.

14. The novel invention in the '994 Patent represents an architecture, embodied, for example in a Software product Suite, which manages and utilizes a knowledge repository, via knowledge integration middleware (KIMW), for the purpose of enabling easy access, manipulation and visualization of complete and synchronized information contained in different software systems. *Id.* at 4:13-18.

15. The following aspects of the present invention demonstrate that the '994 Patent is novel and not abstract: (1) the use of knowledge integration middleware in conjunction with traditional application integration middleware to build and manage an integration knowledge repository; providing a generic mechanism for bridging structured and unstructured data with uniform access to information; (2) the specification of four integrated knowledge-based software applications (described below) that collectively enable information integration with knowledge linkage, visualization and utilization of structured, unstructured and work practice data and metadata produced by knowledge workers in an enterprise; (3) use of a knowledge repository containing record of integration transactions, context information from users and applications, information metadata catalog, knowledge access control, application activation rules, metadata and rules for knowledge integration, knowledge generation, knowledge visualization, "live" knowledge links, task execution, and case-based data for regulatory review; (4) use of a three dimensional (3D) interface in conjunction with a user-specific conceptual schema providing access to enterprise information wherever it is stored and managed; and

(5) implementation of a rule-based paradigm for filing marketing applications to regulatory agencies that uses hypothesis/proof/assertion structures. *Id.* at 4:14-47.

16. Another novel aspect of the invention is embedding and executing "live" knowledge links stored in documents and associated analysis data allowing users to define and execute multiple tasks to be performed by one or more data or document applications within the information content. *Id.* at 5:13-17.

17. These novel and inventive aspects created an integrated and flexible process for providing integrated document management, image management, workflow management and information retrieval. *Id.* at 4:58-62.

The '523 Patent

18. The '523 Patent is entitled "Portable text capturing method and device therefor," and issued October 29, 2002. The application leading to the '523 Patent was filed on May 4, 1999. A true and correct copy of the '523 Patent is attached hereto as Exhibit 2 and incorporated herein by reference.

19. The '523 Patent is valid and enforceable.

20. The '523 Patent invention relates generally to a digital camera, and more particularly, to a system integral with the digital camera for identifying, translating, and recording text in images.

21. The '523 Patent provides a novel, specific, and non-abstract solution for the computer based problem of converting images of documents to text or structured documents.

22. One problem with the prior art is that digital image cameras generally do not have a high enough resolution to guarantee that the textual and formatting content in the recorded bitmap image will be properly detected by a post-processing application. *Id.* at 1:30-34.

23. The '523 Patent solved this problem by inventing a method to (1) alert a user when it is not likely that the digital camera is capable of recording an image with sufficient resolution to evaluate the recorded image for textual and formatting content and (2) provided a user with the ability to identify and preview those regions of the recorded image that contain textual data. *Id.* at 1:58-67.

24. The specification of the '523 Patent summarizes the invention as follows: "Initially, an image recorded with an imaging unit is displayed on a viewfinder of the portable imaging device. A first user input is received from a shutter release button. The first user input is adjusted using a pointing device for identifying a first position within the displayed image on the viewfinder. In response to the first user input, the image displayed on the viewfinder is recorded in a memory of the portable imaging unit. In addition, a second user input is received from the shutter release button. The second user input is also adjusted using the pointing device for identifying a second position within the displayed image on the viewfinder. Finally, an image segment is extracted from the image stored in the memory using the first position and the second position and examined to identify textual content. *Id.* at 2:1-19.

25. The '523 Patent contains the inventive aspect of identifying an error rate for the textual content in the image and then displaying a warning indicator on a viewfinder when the estimated error rate exceeds a threshold value. *Id.* at 20-27.

26. These novel and inventive aspects created a specific method of improving the method of identifying, translating, and recording text in images.

COUNT 1: DIRECT INFRINGEMENT OF THE '994 PATENT

27. Plaintiff incorporates the above paragraphs herein by reference.

28. At all relevant times herein, including and up to the expiration date of the '994 Patent, Defendant directly infringed, literally or by the doctrine of equivalents, one or more claims of the '994 Patent by practicing the claimed methods of the '994 Patent.

29. Specifically, as set forth in the exemplary clam chart (Exhibit 3) incorporated herein by reference, Defendant practiced a method for providing application interoperability and synchronization by providing integration and synchronization between Quicken and Wells Fargo's online banking services.

30. For example, Wells Fargo's online Business Checking Account platform synchronized and worked in conjunction with Quicken's WebConnect software or application imbedded in Wells Fargo's online platform. The interoperation and synchronization occurred between heterogeneous document and data sources, in that Quicken Financial Exchange (QFX) files disclosing transactions details were updated and synchronized using Wells Fargo Business Checking Account payments/transactions/transfers information.

31. Wells Fargo's online banking platform used a knowledge integration application, namely the Quicken Web Connect application to connect the Quicken application to the Wells Fargo banking platform, which ran on a client/server system (e.g. user computers

connected to Wells Fargo servers) having access to the document and data sources (e.g. Quicken Financial Exchange files and account information from Wells Fargo servers).

32. As to each step of Claim 9, Wells Fargo either directly performed the step or controlled the performance of such step through its direction and control of Quicken.

33. It is Wells Fargo that provided application interoperability and synchronization.

34. It is Wells Fargo that directed or controlled Quicken through its contractual agreement(s) with Quicken, financial incentives, and otherwise. Wells Fargo directly benefited from such agreement(s) by being able to offer its clients certain functionalities (i.e., the claimed interoperability and synchronization features of Claim 9 of the '994 Patent) and charging clients a fee for the use of those services, Quicken's services were dependent upon Quicken receiving payment from Wells Fargo and/or its clients, and Quicken was financially and otherwise incentivized to perform according to Wells Fargo's requirements, specifications, needs, and/or requests.

35. Additionally, as further evidence of direction and control, Wells Fargo specifically directed its clients to utilize Quicken's Web Connect feature in unison with Wells Fargo's own services and provided detailed instructions and on-screen prompts on how to do so.

36. Defendant has also directly infringed, literally or under the doctrine of equivalents, Claim 9 of the '994 Patent by having its employees or other agents test and/or otherwise use Claim 9's interoperability and synchronization functionalities for testing, demonstration, or other purposes. Evidence of such testing and/or representative infringing use appears, for example, on Wells Fargo's website pages relating to the Quicken Web Connect interoperation and synchronizations services, where Wells Fargo

provided screenshots of infringing use in the process of providing detailed instructions on how clients can download the Quicken application and use the Quicken interoperation and synchronization functionalities.

37. At all relevant times herein, Wells Fargo stored data in the form of Wells Fargo Business Checking Account payments/transactions/transfers information in a first database memory located within its servers.

38. It is Wells Fargo that stored or controlled the storage of various account related data, such as payments/transactions/transfers information, which includes account numbers, bank routing numbers, amounts, dates, etc.

39. At all relevant times herein, Wells Fargo's online banking system performed data analysis operations using the data (e.g., Wells Fargo Business Checking Account payment/ transaction information) stored in the first database (e.g., a Wells Fargo server) to generate data and analysis results (e.g., payment history/activity summaries and/or a Wells Fargo Business Checking Account statement).

40. It is Wells Fargo that performed or controlled the performance of such data analysis operations.

41. At all relevant times herein, Wells Fargo, through its online banking system, performed the step of independently storing knowledge, or, to the extent Quicken was involved in this step, Wells Fargo directed and controlled Quicken through contractual agreement(s), financial incentives, requirements, specifications, or otherwise.

42. Specifically, Wells Fargo practiced the step of independently storing knowledge (e.g., transactions information comprising Wells Fargo scheduled payments and/or transfers), in

the form of documents (e.g., Quicken Financial Exchange (QFX) files disclosing transactions details), in a document database (e.g., Wells Fargo Financial Management Software: Quicken), including validating the accuracy of the knowledge (e.g., synchronizing Wells Fargo scheduled payments and/or transfers within the Quicken software) and making the stored knowledge (e.g., transaction details comprising Wells Fargo scheduled payments and/or transfers) available across a network (e.g., a Quicken based network which allows for the movement of transaction data between different Quicken accounts and access to said transaction data across a variety of devices, for example, smartphones, laptops, etc.).

43. As evidence of direction and control, Wells Fargo directed its clients on how to transfer Wells Fargo banking information to the Quicken platform, directed clients on how to use the Quicken Web Connect features, and even charged clients a fee for the use of such features. To be able to do so, Quicken must have had a contractual obligation to allow Wells Fargo user's to make use of the Quicken Web Connect integration.

44. At all relevant times herein, Wells Fargo, through its online banking system, performed the step of managing the flow of information, or to the extent Quicken was involved in this step, Wells Fargo directed and controlled Quicken through contractual agreement(s), financial incentives, requirements, specifications, or otherwise.

45. Specifically, Wells Fargo practiced the step of managing the flow of information between the first database (e.g., Wells Fargo Business Checking Account database) and the document database (e.g., Wells Fargo Financial Management Software: Quicken database) to enable the integration of the data (e.g., Wells Fargo Business Checking

Account payments/transactions/transfers information) and analysis results (e.g., activity summary or Wells Fargo Business Checking Account statement) with the documents (e.g., Quicken Financial Exchange (QFX) files disclosing transactions details) and to automatically update the documents (e.g., Quicken Financial Exchange (QFX) files disclosing transactions details) upon the occurrence of a change in the data (e.g., updates to Wells Fargo Business Checking Account payment/transaction/transfers information) or analysis results (e.g., updates activity summaries or Wells Fargo Business Checking Account statements).

46. As evidence of direction and control, if any new activity occurred on a user's Wells Fargo account, such activities would have been updated within the Quicken platform. In order for transaction information to pass and synchronize between the Wells Fargo platform and the Quicken platform, Quicken must have had a contractual agreement with Wells Fargo to integrate with and collect data from the Wells Fargo platform.

47. Defendant has had knowledge and notice of the '994 Patent, as well as of its own infringement of the '994 Patent, at least since the date of the filing of the original Complaint.

48. Plaintiff is entitled to recover damages adequate to compensate for Defendant's infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendant, together with interest and costs as fixed by the Court.

49. Plaintiff reserves the right to amend its pleadings should discovery show that Defendant's infringement of the '994 Patent has been willful and further reserves the right to request

the Court to deem the case exceptional within the meaning of 35 U.S.C. § 285, for which Plaintiff is entitled to enhanced damages.

COUNT 2: DIRECT INFRINGEMENT OF THE '523 PATENT

50. Plaintiff incorporates the above paragraphs herein by reference.

51. At all relevant times herein, including and up to the expiration date of the '523 Patent, Defendant directly infringed, literally or by the doctrine of equivalents, one or more claims of the '523 Patent by practicing the claimed methods of the '523 Patent.

52. Specifically, as set forth in the exemplary clam chart (Exhibit 4) incorporated herein by reference, Wells Fargo infringed at least Claim 1 of the '523 Patent, in that Defendant and users of the Wells Fargo online banking mobile application using the mobile deposit functionality, under the direction and control of Wells Fargo and/or its online banking mobile application, which was created, defined, and/or controlled by Wells Fargo and/or its agents, practiced a method for capturing text with a portable imaging device (e.g., a smartphone, equipped with a camera, that has installed the Wells Fargo Mobile application).

53. To the extent that a user or his or her device was involved at all in practicing Claim 1, it was only as a result of the user first installing the Wells Fargo online banking mobile application, which performed or controlled the performance of every step of Claim 1 through source code within the mobile application and through detailed instructions and on-screen prompts that required the user to perform certain actions to complete the mobile check deposit process.

54. At all relevant times herein, Wells Fargo, through its online banking mobile application, performed, or directed or controlled the performance of, the step of displaying an image (e.g., photo of a check) recorded with an imaging unit (e.g., the camera of the smartphone) on a viewfinder (e.g., the display of the smartphone which renders the images to be captured).

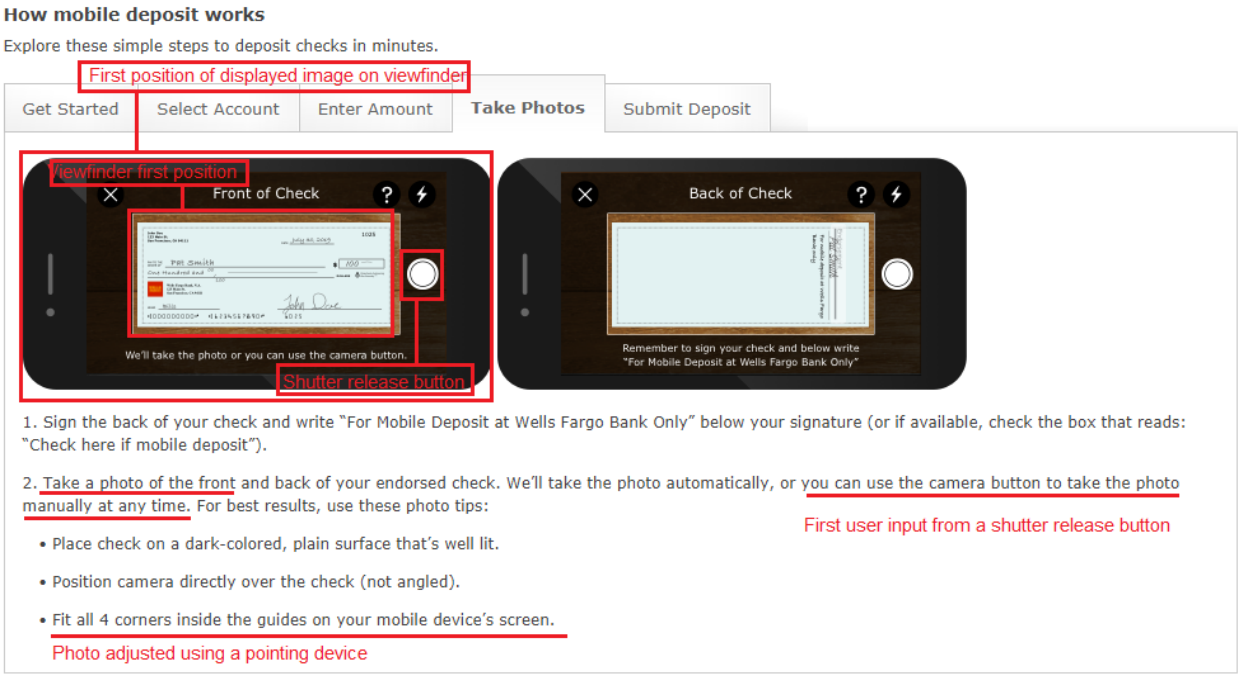
55. To the extent that a user or his or her device was involved in this step at all, it was under the specific direction or control of Wells Fargo, which required users to first install the Wells Fargo online banking mobile application to use Wells Fargo's mobile check deposit functionality. Wells Fargo's online banking mobile application, through source code, displayed or controlled the process of displaying the recorded image. In addition, the Wells Fargo online banking mobile application directed and controlled its users through detailed instructions and on-screen prompts that required the user to perform certain actions to complete the mobile check deposit process, including on screen prompts for capturing and displaying the image of the check. As further evidence of direction and control, Wells Fargo directed users of the mobile check deposit functionality through detailed online tutorials and instructions that outlined the mobile check deposit process, including the step of displaying a recorded image. Thus, it is Wells Fargo and/or its online banking mobile application that displays or controls the displaying of a recorded image.

56. At all relevant times herein, Wells Fargo, through its online banking mobile application, performed or directed or controlled the performance of the step of receiving a first user input (e.g., image capture input corresponding to the front of the check) from a shutter

release button (e.g., camera button), the first user input (e.g., first time user manually pressing) being adjusted using a pointing device (e.g., a 4-corners guide displayed by the mobile application) for identifying a first position (e.g., front of check) within the displayed image (e.g., photo) on the viewfinder (e.g., the display of the smartphone which renders the images to be captured).

57. To the extent that a user or his or her device was involved in this step at all, it was under the specific direction or control of Wells Fargo, which required users to first install the Wells Fargo online banking mobile application to use Wells Fargo's mobile check deposit functionality. Wells Fargo's online banking mobile application, through source code, received or controlled the process of receiving a first user input by, for example, providing a 4-corners guide displayed on the user's mobile device that directs and controls the adjustment and alignment of the image capture to ensure a satisfactory image capture. In addition, the Wells Fargo online banking mobile application directed and controlled its users through detailed instructions and on-screen prompts that required the user to perform certain actions to complete the mobile check deposit process, including on screen prompts for receiving a first user input. As further evidence of direction and control, Wells Fargo directed users of the mobile check deposit functionality through detailed online tutorials and instructions that outlined the mobile check deposit process, which includes the process of receiving a first user input. Thus, it is Wells Fargo and/or its online banking mobile application that received or controlled the receiving of a first user input.

58. As shown below, in addition to requiring users to install the Wells Fargo online banking mobile application to use the mobile check deposit functionality, Wells Fargo provided specific direction to its users by providing on screen prompts and online tutorials and instructions, that outlined the mobile check deposit process, including the process of receiving a user's input. Furthermore, Wells Fargo's own online tutorials and instructions shown below provide direct evidence of Wells Fargo itself directly infringing Claim 1 of the '523 Patent, without third party users (who are not employees or agents of Wells Fargo) involved in the process.

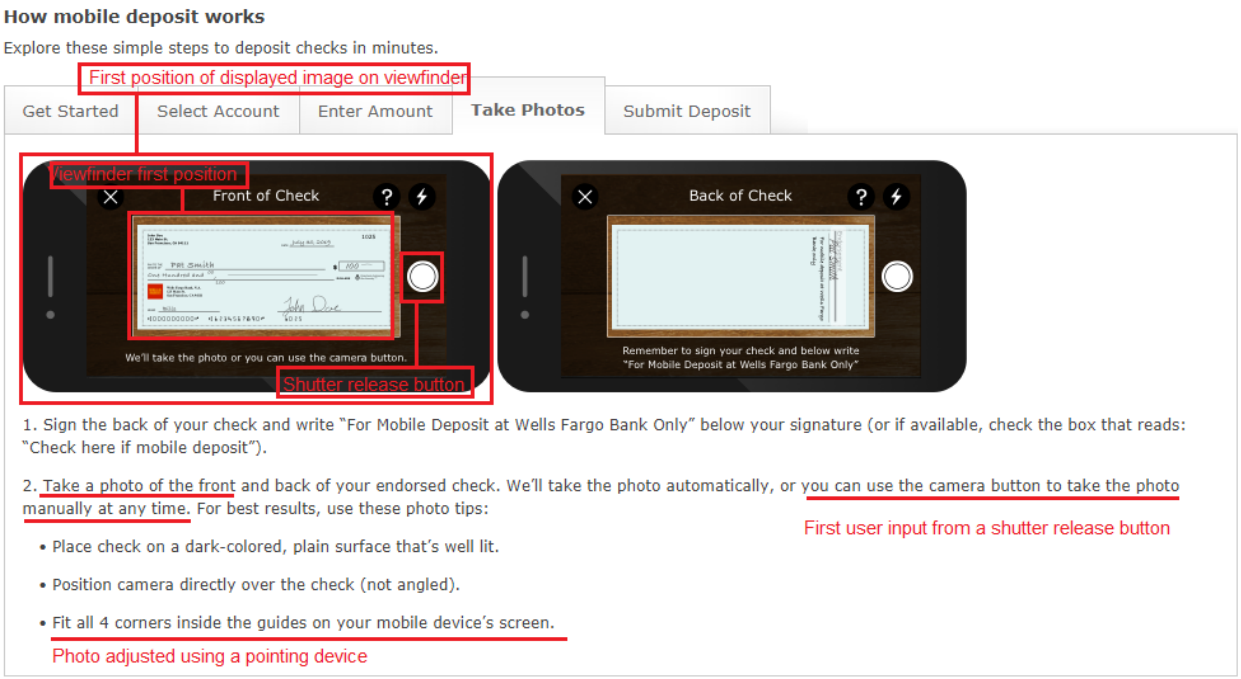


59. At all relevant times herein, Wells Fargo, through its online banking mobile application, performed or controlled the performance of the step of recording the displayed image (e.g., photo) in a memory (e.g., such as cache memory associated with the smartphone's camera) of the portable imaging unit (e.g., the camera of the smartphone) or controlled the performance of this step.

60. To the extent that a user or his or her device was involved in this step at all, it was under the specific direction or control of Wells Fargo, which required users to first install the Wells Fargo online banking mobile application to use Wells Fargo's mobile check deposit functionality. Wells Fargo's online banking mobile application, through source code, controlled the recording of the displayed image by causing the user's device to record the displayed image in the memory (e.g., cache) of the user's device. In addition, the Wells Fargo online banking mobile application directed and controlled its users through detailed instructions and on-screen prompts that required the user to perform certain actions to complete the mobile check deposit process, including on screen prompts that would cause the displayed image to be recorded.

61. As further evidence of direction and control, Wells Fargo directed users of the mobile check deposit functionality through detailed online tutorials and instructions that outlined the mobile check deposit process, which included the process of recording the displayed image. Thus, it is Wells Fargo and/or its online banking mobile application that recorded or controlled the recording of the displayed image.

62. As shown below, it is Wells Fargo, through its online banking mobile application, that causes the user of the Wells Fargo mobile deposit functionality to click the shutter release button (e.g., camera button) of the portable imaging unit (e.g., the camera of the smartphone). Through source code in Wells Fargo's mobile banking online application, the displayed image is then recorded or saved in the memory (e.g., cache) of the user's device.



63. As further shown above, Wells Fargo provided direction to its users by providing on screen prompts and online tutorials and instructions, that outline the mobile check deposit process, including this step of recording the displayed images, and, in doing so, provided evidence of Wells Fargo itself directly infringing Claim 1 of the '523 Patent, without third party users (who are not employees or agents of Wells Fargo) involved in the process.

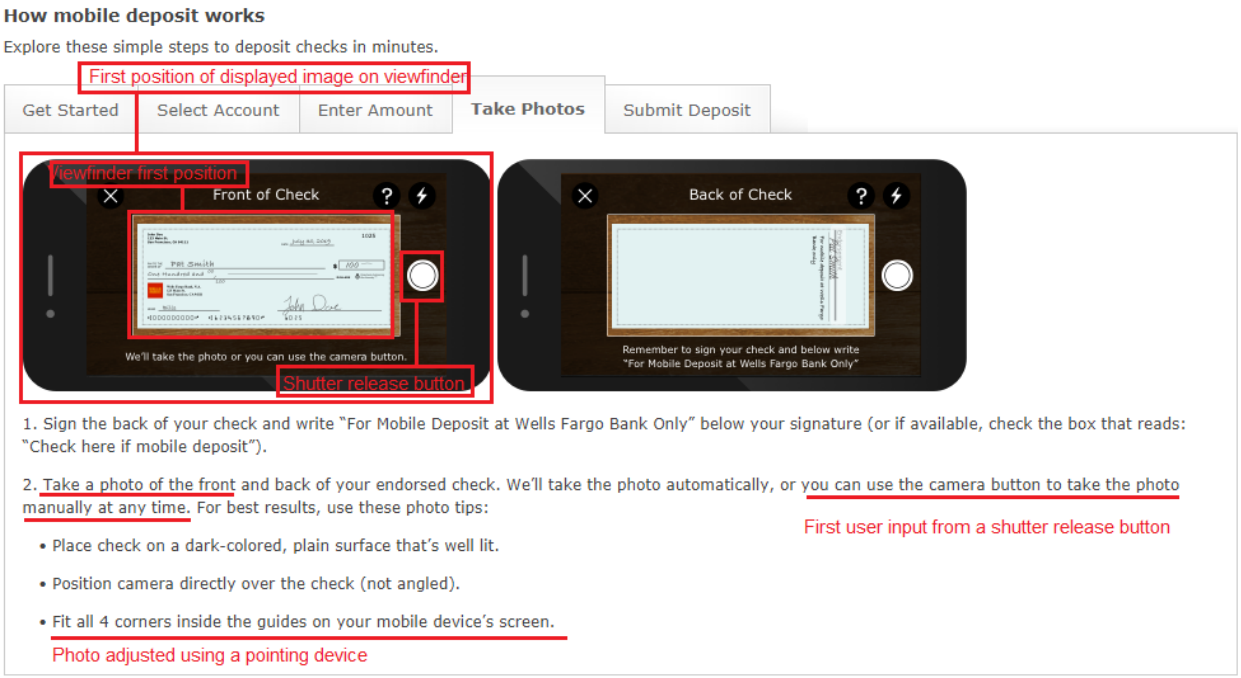
64. At all relevant times herein, Wells Fargo, through its online banking mobile application, performed or directed or controlled the performance of the step of receiving a second user input (e.g., image capture input corresponding to the back of the Check) from the shutter release button (e.g., camera button), the second user input (e.g., second time the user manually presses the camera button to capture an image of the back of the check) being adjusted using the pointing device (e.g., a 4-corners guide displayed by the mobile application) for identifying a second position (e.g., the back of check) within the

displayed image (e.g., photo) on the viewfinder (e.g., the display of the smartphone which renders the images to be captured).

65. To the extent that a user or his or her device was involved in this step at all, it was under the specific direction or control of Wells Fargo, which required users to first install the Wells Fargo online banking mobile application to use Wells Fargo's mobile check deposit functionality. Wells Fargo's online banking mobile application, through source code, received or controlled the process of receiving a second user input by, for example, providing a 4-corners guide displayed on the user's mobile device that directs and controls the adjustment and alignment of the image capture to ensure a satisfactory image capture. In addition, the Wells Fargo online banking mobile application directed and controlled its users through detailed instructions and on-screen prompts that required the user to perform certain actions to complete the mobile check deposit process, including on screen prompts for receiving a second user input. As further evidence of direction and control, Wells Fargo directed users of the mobile check deposit functionality through detailed online tutorials and instructions that outlined the mobile check deposit process, which includes the process of receiving a second user input. Thus, it is Wells Fargo and/or its online banking mobile application that received or controlled the receiving of a second user input.

66. As shown below, in addition to requiring users to install the Wells Fargo online banking mobile application to use the mobile check deposit functionality, Wells Fargo provided specific direction to its users by providing on screen prompts and online tutorials and instructions, that outlined the mobile check deposit process, including the process of

receiving a user's input, and, in doing so, provided evidence of Wells Fargo itself directly infringing Claim 1 of the '523 Patent, without third party users (who are not employees or agents of Wells Fargo) involved in the process.



67. At all relevant times herein, Wells Fargo, through its online banking mobile application, performed or controlled the performance of the step of extracting an image segment from the image (e.g., photo) stored in the memory using the first position (e.g., front of check) and the second position (e.g., back of check).

68. In order to transmit the stored images of first position (e.g., front of check) and the second position (e.g., back of check) for the purpose of processing the check for deposit, the Wells Fargo online banking mobile application would have to extract an image segment using the first position and second position. Thus, it is Wells Fargo and/or its online banking mobile application that extracted an image segment from the stored image.

69. At all relevant times herein, Wells Fargo, through its online banking mobile application, performed or controlled the performance of the step of examining the image segment to identify textual content (e.g., MICR number, Payee number, etc.). It is Wells Fargo and/or its online banking mobile application that extracts or controls the extraction of an image segment.

70. In order to process the check for deposit, the Wells Fargo online banking mobile application must extract, for example, the MICR number of the check and Payee name, among others.

71. Defendant has had knowledge and notice of the '523 Patent, as well as of its own infringement of the '523 Patent, at least since the date of the filing of the original Complaint.

72. Plaintiff is entitled to recover damages adequate to compensate for Defendant's infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendant, together with interest and costs as fixed by the Court.

73. Plaintiff reserves the right to amend its pleadings should discovery show that Defendant's infringement of the '994 Patent has been willful and further reserves the right to request the Court to deem the case exceptional within the meaning of 35 U.S.C. § 285, for which Plaintiff is entitled to enhanced damages.

JURY DEMAND

74. Under Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff respectfully requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for judgment as follows:

A. That Defendant has infringed one or more claims of the Patents-in-Suit.

B. That Plaintiff be awarded all damages adequate to compensate it for Defendant's infringement of the Patents-in-Suit, such damages to be determined by a jury and an accounting, if necessary, to compensate Plaintiff adequately for Defendant's infringement;

C. That Plaintiff be awarded enhanced damages and recovery of reasonable attorneys' fees to the extent the evidence shows that infringement of the '994 Patent has been willful and the Court deems the case exceptional within the meaning of 35 U.S.C. § 285;

D. That Plaintiff be awarded pre-judgment and post-judgment interest, costs, expenses, and disbursements as justified under 35 U.S.C. § 284; and

E. That Plaintiff be awarded such other relief as this Court deems just and proper.

Dated: January 7, 2021

Respectfully submitted,

/s/ Raymond W. Mort, III

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