

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LUPERCAL, LLC,

Plaintiff

v.

**DISCOVER FINANCIAL SERVICES,
DFS SERVICES LLC, AND DISCOVER
BANK,**

Defendants

Case No. 21-cv-5415

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Lupercal, LLC (“Lupercal” or “Plaintiff”) files this Complaint for patent infringement against Defendants Discover Financial Services (“Discover Financial”), DFS Services LLC (“DFS”), and Discover Bank. (“DB”) (Discover Financial, DFS, and DB are collectively referred to as “Discover” or “Defendants”), and alleges as follows:

PARTIES

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

2. On information and belief, Defendant Discover Financial is a corporation organized and existing under the laws of the State of Delaware, with a principal office located at 2500 Lake Cook Road, Riverwoods, Illinois 60015, and it conducts business in this judicial district.

3. On information and belief, Defendant DFS is a limited liability company organized and existing under the laws of the State of Delaware, with a principal office located at 2500 Lake

Cook Road, Riverwoods, Illinois 60015, and it conducts business in this judicial district. On information and belief, DFS is a wholly owned subsidiary of Discover Financial.

4. On information and belief, DB is a banking corporation organized under the laws of the State of Delaware, with a principal place of business located at 502 E. Market Street, Greenwood, DE 19950, and it conducts business in this judicial district. On information and belief, DB is a wholly owned subsidiary of Discover Financial.

JURISDICTION AND VENUE

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

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

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

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

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

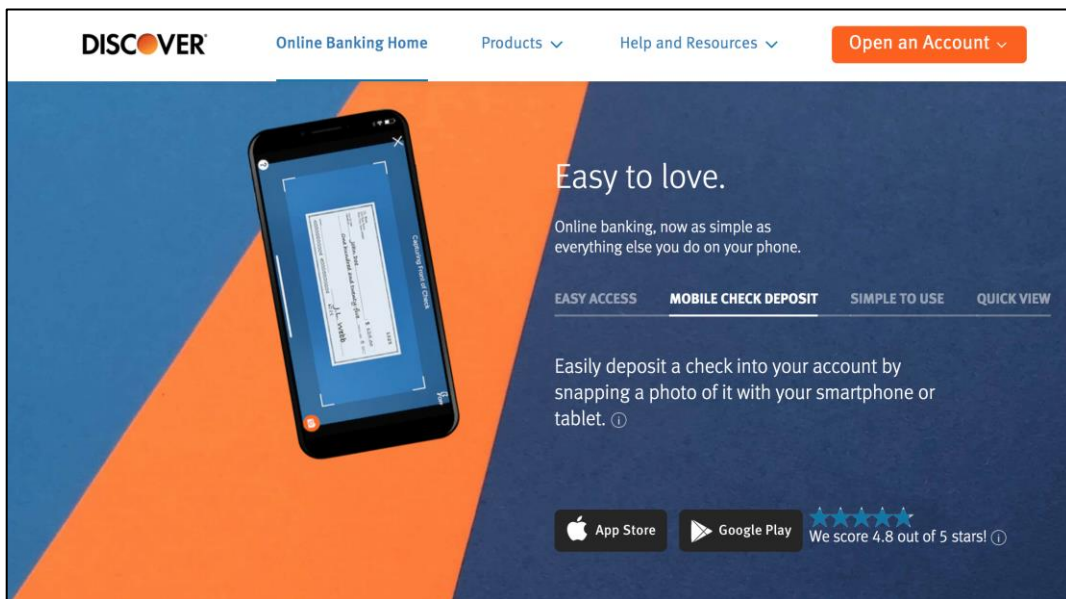
9. Lupercal incorporates paragraphs 1 through 8 as though fully set forth herein.

10. 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 PX-094.

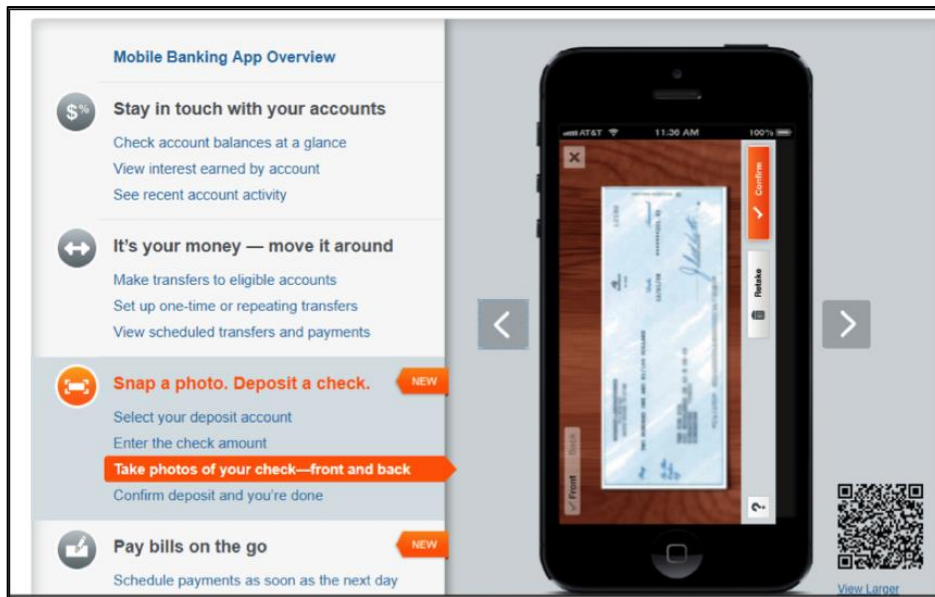
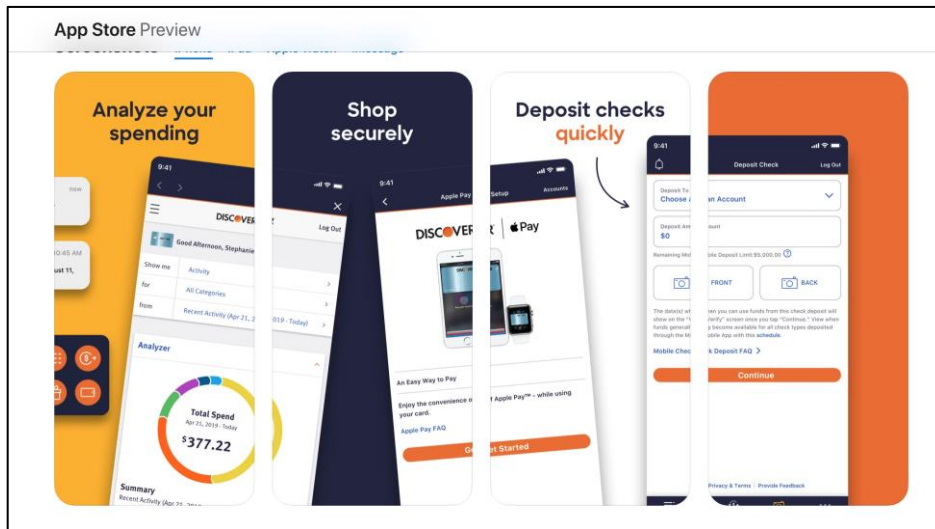
11. The '094 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

12. Defendants have controlled activities related to the development, operation, promotion, and encouragement of the use of the Discover Mobile App (the “Discover App”).

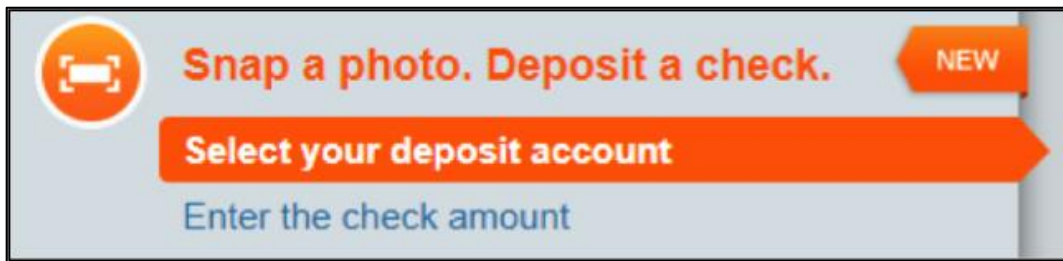
13. Defendants have provided the Discover Mobile App for use with Apple iOS devices and Android devices, which was available for download from Apple’s iTunes App Store and Google Play Apps:

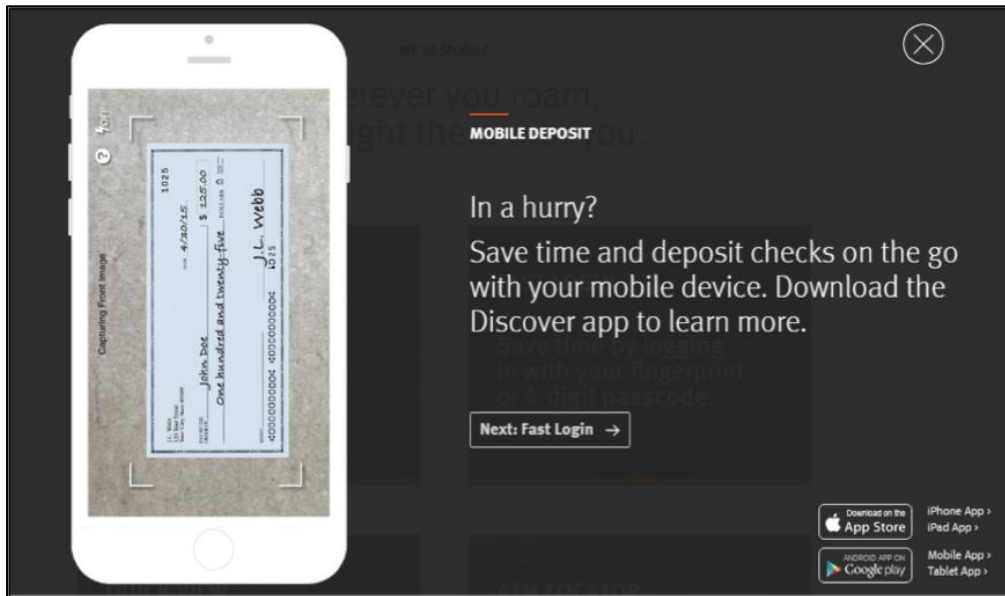


<https://www.discover.com/online-banking/>

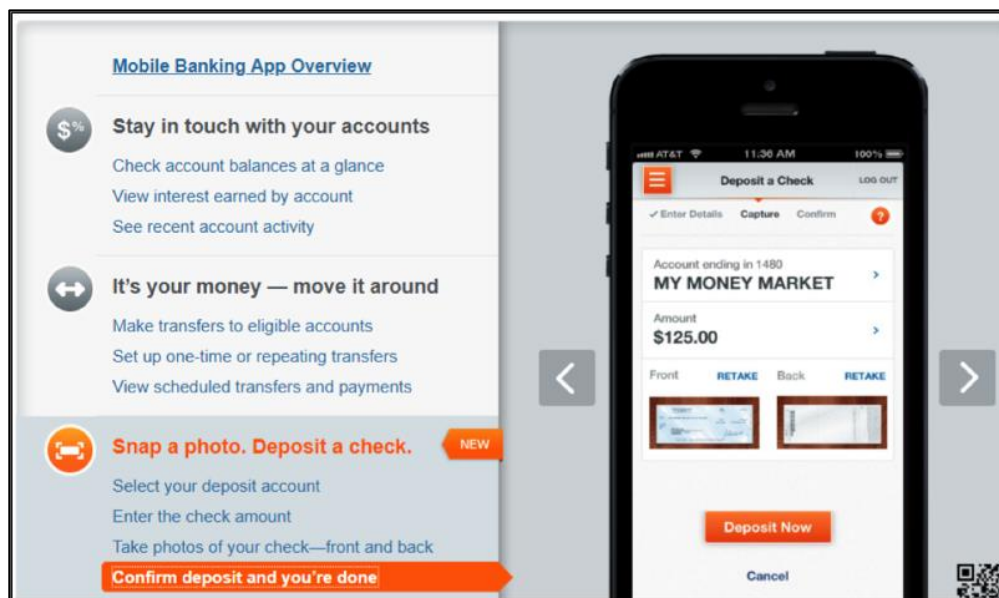


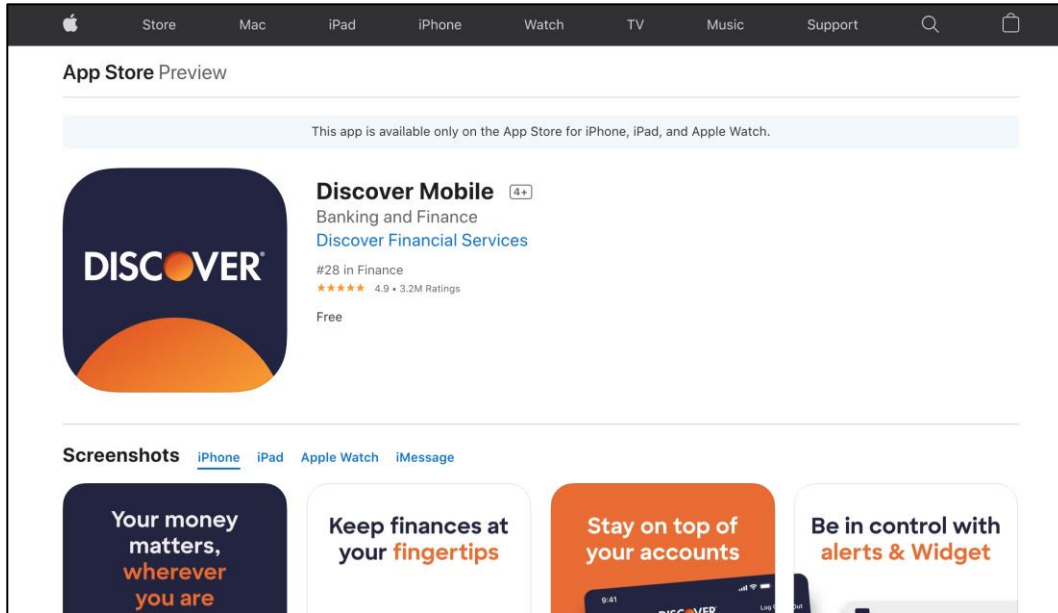
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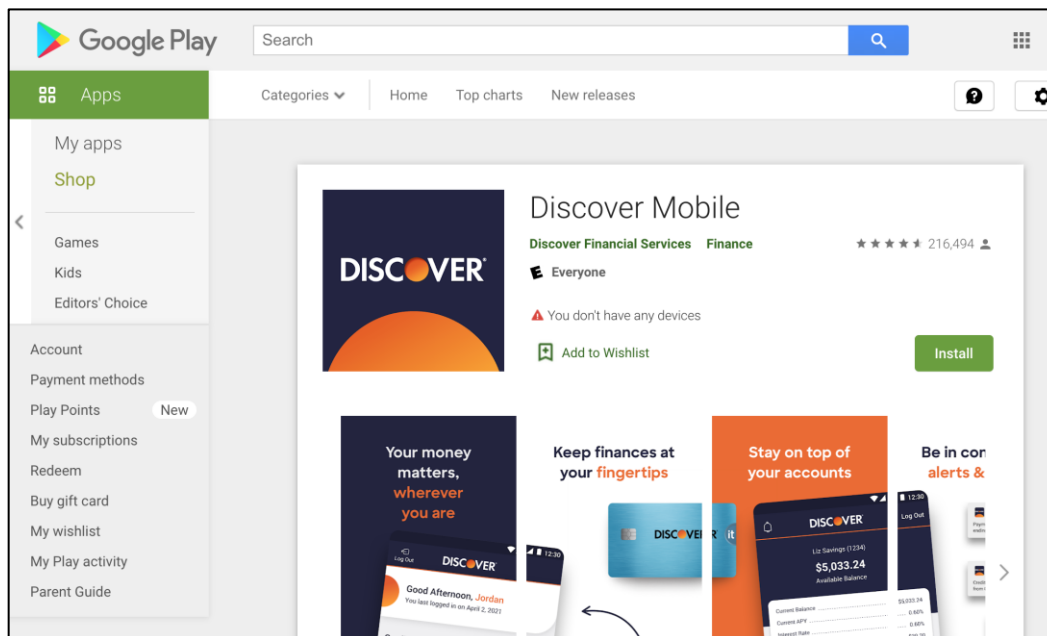


<https://www.discover.com/online-banking/why-us/>





<https://apps.apple.com/us/app/discover-mobile/id3338010821>



<https://play.google.com/store/apps/details?id=com.discoverfinancial.mobile>

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

15. The Discover Mobile 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.

16. 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.

17. Upon being accepted by the user (via the Discover Mobile App), the application pre-processed the front and back images to produce the front and back pre-processed images that were controlled by one or more pre-processing parameters received from a device (e.g., a server used to download the Discover Mobile 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.

18. Defendants have controlled the operation and use of the Discover Mobile App and have encouraged their customers to use the Discover Mobile App to deposit checks to the customer's accounts with Discover Bank. The Defendants' Discover Mobile App is the Accused Instrumentality through which the Defendants and its customers infringed the '094 Patent.

19. At least by developing, distributing, operating, promoting, and encouraging the use of the Discover Mobile App, Defendants have encouraged their customers to use the Discover Mobile App to practice the claimed methods, which Defendants controlled the use of and derived a direct benefit and profit from.

20. Upon information and belief, Defendants have infringed and continue to infringe one or more claims, including Claim 42, of the '094 Patent by developing, distributing, operating,

promoting, and encouraging the use of the Discover Mobile App in the United States without authority. Defendants have infringed and continue to infringe the '094 Patent either directly or through the acts of inducement in violation of 35 U.S.C. § 271.

21. Defendants have been on notice of the '094 Patent at least as early as February 11, 2019 when they received a notice letter, which included a claim chart comparing the '094 Patent claims to the Discover Mobile App.

22. 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.

23. As indicated above, the Discover Mobile App enabled 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 entered the amount of the check.

24. More particularly, the Discover Mobile App is a computer implemented method performed by an image submission tool on a user device.

25. In the process of using the Discover Mobile App, the computer implemented method causes 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.

26. In the process of using the Discover Mobile App, the computer implemented method causes 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.

27. In the process of using the Discover Mobile App, the computer implemented method causes 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.

28. In the process of using the Discover Mobile App, the computer implemented method causes the image submission tool to enable a user to submit the one or more pre-processed images.

29. In the process of using the Discover Mobile App, the computer implemented method causes the image submission tool to transmit the one or more pre-processed images.

30. Lupercal has been damaged by Defendants' infringing activities.

PRAYER FOR RELIEF

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

1. declaring that the Defendants have infringed the '094 Patent;
2. awarding Plaintiff its damages suffered as a result of Defendants' 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: October 13, 2021

Respectfully submitted,

/s/ David R. Bennett

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