

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

<b>MCOM IP, LLC,</b>	)	
<b>Plaintiff,</b>	)	
	)	<b>Civil Action No. 6:21-cv-00966</b>
<b>v.</b>	)	
	)	
<b>INTERNATIONAL BUSINESS</b>	)	
<b>MACHINES CORP.</b>	)	
	)	<b>JURY TRIAL DEMANDED</b>
<b>Defendant.</b>	)	

**PLAINTIFF’S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

mCom IP, LLC (“mCom”) files this First Amended Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent No. 8,862,508 (“the ‘508 patent”) (referred to as the “Patent-in-Suit”) by International Business Machines Corp. (“IBM”).

**I. THE PARTIES**

1. Plaintiff mCom is a Texas Limited Liability Company with its principal place of business located in Harris County, Texas.
  
2. On information and belief, IBM is a corporation existing under the laws of the State of Delaware, with a place of business located at 11501 Burnet Rd, Austin, TX 78758. On information and belief, IBM sells and offers to sell products and services throughout Texas, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Texas and this judicial district. Defendant may be served through its registered agent CT CORP SYSTEM, 1999 Bryan St., Ste. 900 Dallas, TX 75201 or anywhere they may be found.

## **II. JURISDICTION AND VENUE**

3. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff's claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.

4. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of Texas and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in this judicial district; and (iii) Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas and in this judicial district.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendant has committed acts of infringement and has a regular and established place of business in this District. Further, venue is proper because Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Texas and this District.

## **III. INFRINGEMENT**

### **A. Infringement of the '508 Patent**

6. On October 14, 2014, U.S. Patent No. 8,862,508 ("the '508 patent", attached as Exhibit A) entitled "System and method for unifying e-banking touch points and providing personalized financial services" was duly and legally issued by the U.S. Patent and Trademark Office. MCom owns the '508 patent by assignment.

7. The '508 patent relates to novel and improved systems and methods for constructing a unified banking system.

8. IBM maintains, operates, and administers methods and systems of unified banking systems that infringe one or more claims of the '508 patent, including one or more of claims 1-20, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the '508 Patent into service (i.e., used them); but for Defendant's actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant's procurement of monetary and commercial benefit from it.

9. Support for the allegations of infringement may be found in the following preliminary table:

13. A unified electronic banking system, said system comprising:

For example, IBM has a **unified brand platform.**

## Deliver trusted data and democratize AI

Data fuels digital transformation, and 66% percent of businesses have increased revenues due to AI adoption.<sup>1</sup> Yet many still struggle to infuse AI across their organizations at scale. Complex data landscapes limit agility,<sup>2</sup> while data silos and inconsistent data sets hinder AI implementation.

Simplify and automate how you collect, organize and analyze data with a unified data and AI platform, IBM Cloud Pak<sup>®</sup> for Data. Use intuitive, pre-integrated data management tools, data quality software and machine learning solutions. Empower your teams with self-service access to data while enabling data privacy and security and achieving data and AI governance. Run workloads on any cloud, using and paying only for what you need on a secure container management platform.

a common multi-channel server, wherein said multi-channel server is communicatively coupled to one or more independent computer systems; wherein each of one or more independent computer systems is associated with an independent financial institution, and each of said computer systems is communicatively coupled to said multi-channel server;

For example, IBM's unified brand platform communicatively couple's financial institutions computer systems with their multi-channel server.)

## Omnichannel: Defined

Omnichannel is much more than just providing multiple ways for customers to transact. It is about a seamless and consistent interaction between customers and their financial institutions across multiple channels. While multichannel is focused on transactions, omnichannel focuses on interactions. The Economist suggests omnichannel as a strategy that allows customers to "shop with smartphones, tablets, laptops and even in stores as if waited upon by a single salesman with an unfailing memory and uncanny intuition about their preferences."<sup>1</sup>

For banks, IBM offers the following definition: Built on a multichannel strategy that allows anytime, anywhere, any device access with consistent experience across channels, omnichannel enables interactions across multiple customer touch points where intents are captured, insights are derived and conversations are personalized and optimized. With omnichannel, banks can not only fulfil customers' explicit needs, but also anticipate their wants and likes.

one or more e-banking touch points, each of which comprise one or more of an automatic teller/transaction machine (ATM), a self-service coin counter (SSCC), a kiosk, a digital signage display, an online accessible banking website, a personal digital assistant (PDA), a personal computer (PC), a laptop, a wireless device, or a combination of two or more thereof,

For example, IBM's e-banking touch points include: an accessible banking website, and wireless devices, that can connect and perform banking operations.

## Omnichannel: Defined

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wherein one or more of said e-banking touch points are communicatively coupled to said multi-channel server, and wherein at least one of said e-banking touch points is in communication with one or more financial institutions through said multi-channel server;

For example, IBM customers can access their financial institution using IBM's multi-channel platform to perform banking operations.



<https://www.youtube.com/watch?v=1RYKgj-QK4I>

and a data storage device, wherein transactional usage data associated with a transaction initiated by a user through one of said e-banking touch points is stored in said data storage device and accessed by one or more of said other e-banking touch points;

For example, IBM's banking technology stores the customers personal and financial information on IBM's data base.

IBM and Cloudera work together to deliver enterprise-class data lake solutions to help you replace data silos with an agile, scalable platform that can collect, store, govern and secure raw data from across your business, making it ready for analysis. Available on premises or on cloud, Cloudera's advanced data platform combined with IBM products, services and multivendor support positions you to unlock the value of AI.

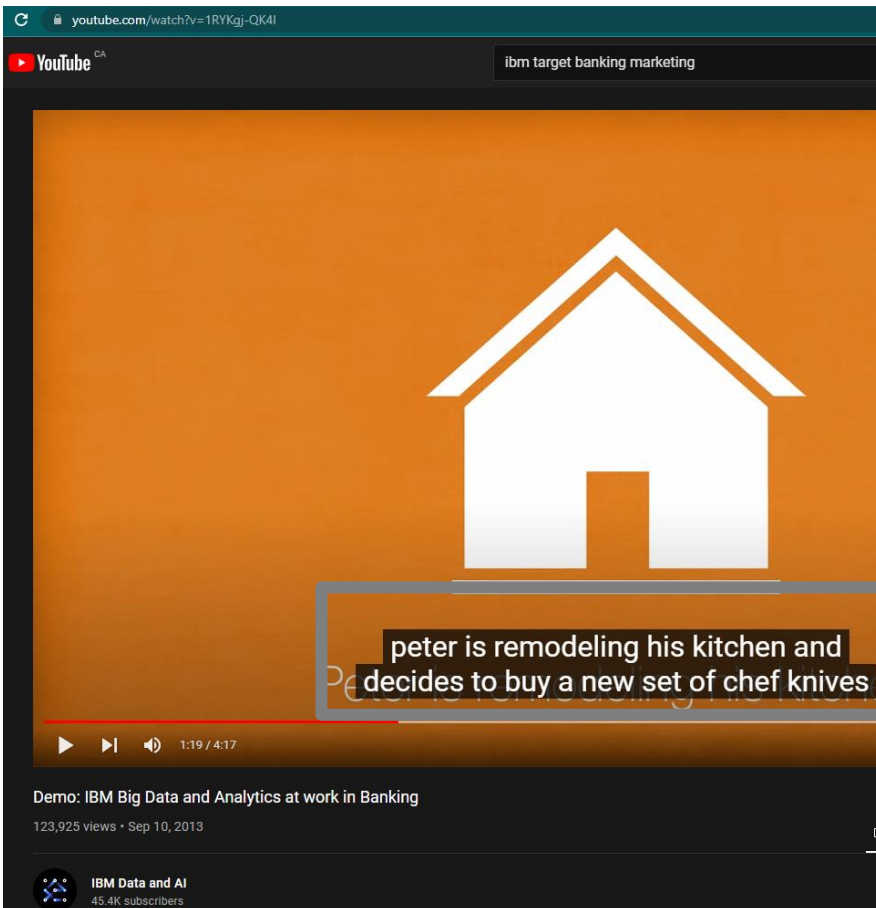
<https://www.ibm.com/analytics/data-lake>



wherein said active session is monitored via said server in real-time for selection of targeted marketing content correlated to said user-defined preferences, said targeted marketing content correlated to said user-defined preferences is selected subsequent to said monitoring.

For example, IBM's omni-channel banking platform allows for real-time targeted marketing. IBM Customer is remodeling and IBM in real-time is alerted that customer will need an increase in credit limit.

Slide 1 of 3 for this claim element

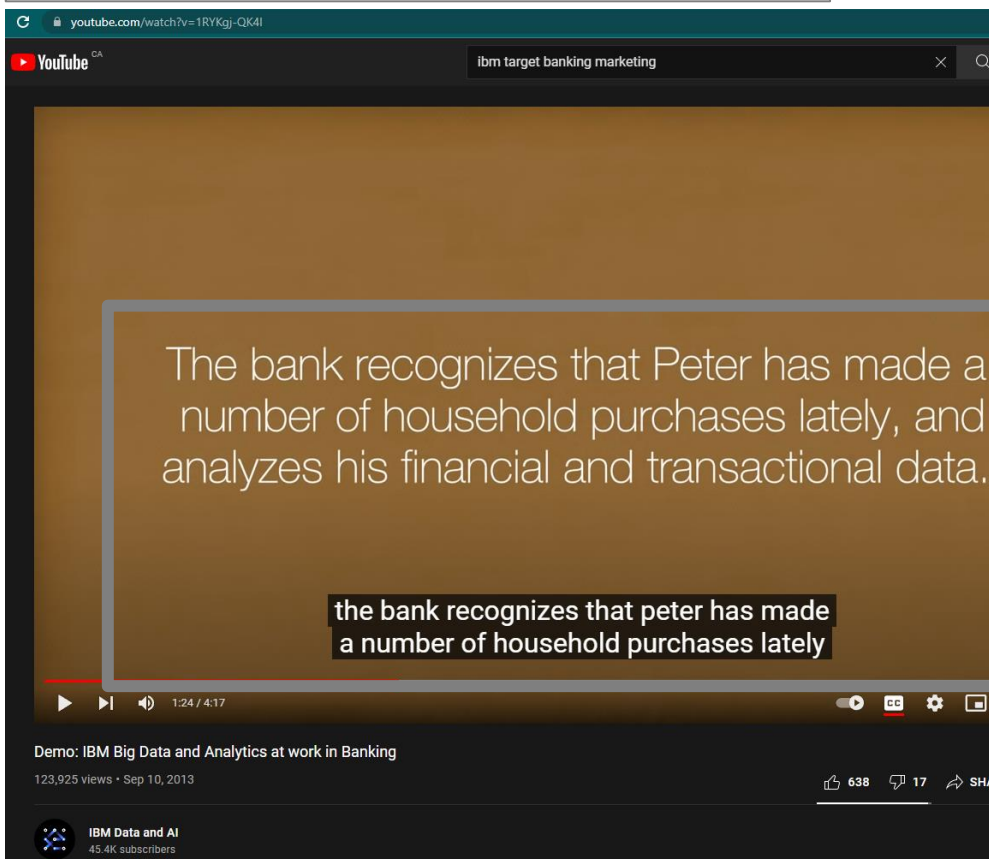


<https://www.youtube.com/watch?v=1RYKgJ-QK4I>

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## Slide 2 of 3 for this claim element



The screenshot shows a YouTube video player interface. The browser address bar displays "youtube.com/watch?v=1RYKgj-QK4I". The search bar contains "ibm target banking marketing". The video content area features a dark brown background with white text. A grey rectangular box highlights a specific line of text: "the bank recognizes that peter has made a number of household purchases lately". Below the video player, the video title "Demo: IBM Big Data and Analytics at work in Banking" is visible, along with "123,925 views · Sep 10, 2013", "638" likes, "17" comments, and the channel name "IBM Data and AI" with "45.4K subscribers".

<https://www.youtube.com/watch?v=1RYKgj-QK4I>

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Slide 3 of 3 for this claim element

youtube.com/watch?v=1RYKgj-QK4l

ibm target banking marketing

Loves to cook

in

g+

Visits gourmet restaurants

Social Media

and learns that Peter loves to cook enjoys gourmet restaurants

1:47 / 4:17

Demo: IBM Big Data and Analytics at work in Banking

123,925 views · Sep 10, 2013

638 17 SHARE SAVE

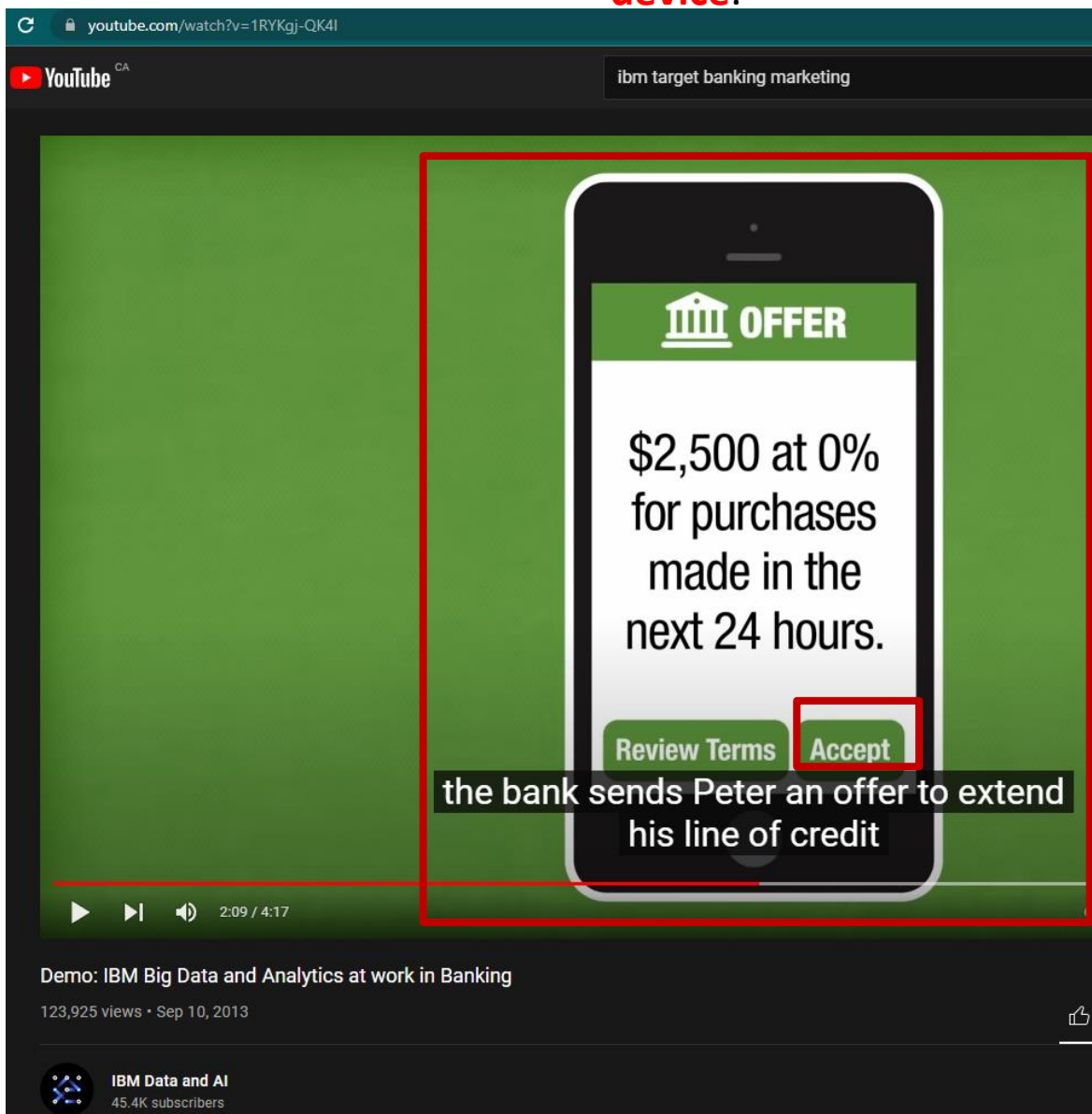
IBM Data and AI  
45.4K subscribers

SUBSCRIBE

<https://www.youtube.com/watch?v=1RYKgj-QK4l>

and transmitted in real-time to at least one of said e-banking touch points for acceptance, rejection, or no response by a user,

For example, For example, IBM's omni-channel banking platform allows the Customer **to receive real-time targeted marketing adds on the customers mobile device.**

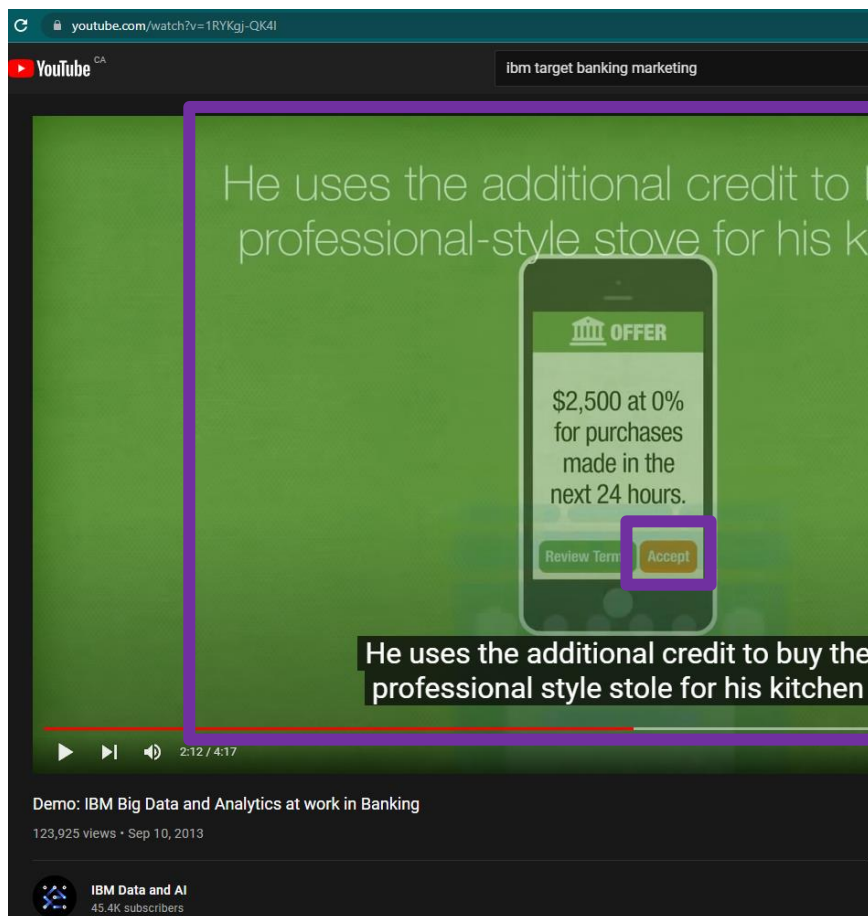


<https://www.youtube.com/watch?v=1RYKgj-QK4I>

wherein said response by said user is used during said active session to determine whether transmission of additional information related to said marketing content occurs during said active session.

For example, For example, IBM's omni-channel banking platform allows the Customer to **accept the real-time targeted marketing add on the customers mobile device.**

Slide 1 of 3 for this claim element

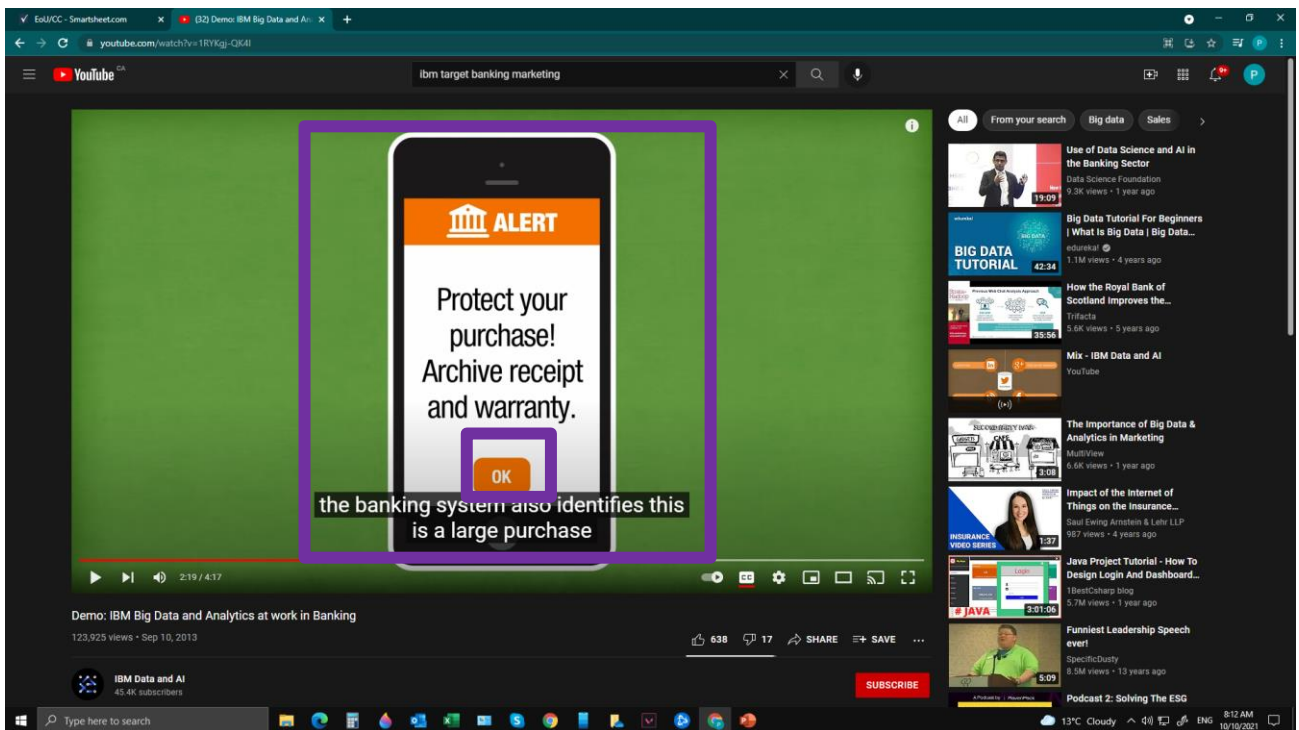


<https://www.youtube.com/watch?v=1RYKgJ-QK4I>

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For example, For example, IBM's omni-channel banking platform allows the Customer to protect the purchase in real time.

Slide 2 of 3 for this claim element

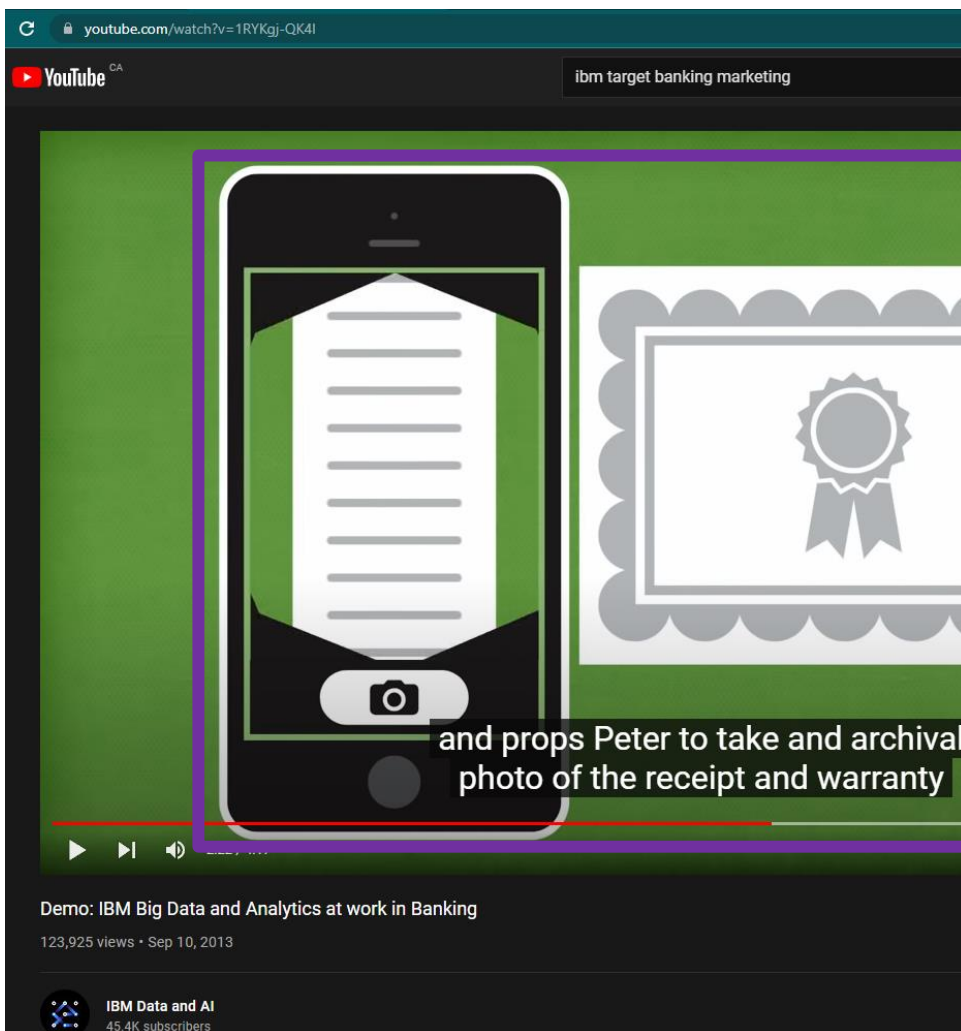


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Slide 3 of 3 for this claim element



<https://www.youtube.com/watch?v=1RYKgJ-QK4I>

These allegations of infringement are preliminary and are therefore subject to change.

10. IBM has and continues to induce infringement. IBM has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to construct a unified banking system such as to cause infringement of one or more of claims 1–20 of the '508 patent, literally or under the doctrine of equivalents. Moreover, IBM has known of the '508 patent and the technology underlying it from at least the date of issuance of the patent.

11. IBM has and continues to contributorily infringe. IBM has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., construction of unified banking system) and related services that provide unified banking systems such as to cause infringement of one or more of claims 1–20 of the '508 patent, literally or under the doctrine of equivalents. Moreover, IBM has known of the '508 patent and the technology underlying it from at least the date of issuance of the patent.

12. IBM has caused and will continue to cause MCom damage by direct and indirect infringement of (including inducing infringement of) the claims of the '508 patent.

#### **IV. JURY DEMAND**

MCom hereby requests a trial by jury on issues so triable by right.

#### **V. PRAYER FOR RELIEF**

WHEREFORE, MCom prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the '508 patent;



- b. award MCom damages in an amount sufficient to compensate it for Defendant's infringement of the '508 patent in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award MCom an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. declare this case to be "exceptional" under 35 U.S.C. § 285 and award MCom its attorneys' fees, expenses, and costs incurred in this action;
- e. declare Defendant's infringement to be willful and treble the damages, including attorneys' fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;
- f. a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendant will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and
- g. award MCom such other and further relief as this Court deems just and proper.

Respectfully submitted,

**Ramey & Schwaller, LLP**

A handwritten signature in black ink, appearing to read 'WPR', with a large, loopy flourish underneath.

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