UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
_____

EVERI PAYMENTS INC.
Petitioner,

v.

SIGHTLINE PAYMENTS LLC
Patent Owner.

_____

Case IPR2022-00614
U.S. Patent No. 8,708,809

**PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NO. 8,708,809**

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Statutes

List of Exhibits

Exhibit No.	Description
E1001	Declaration of Dwight Crevelt
E1002	U.S. Patent No. 8,708,809 ("the '809 Patent")
E1003	File History of U.S. Patent No. 8,708,809
E1004	U.S. Provisional Patent Application No. 61/744,564
E1005	U.S. Patent Application Publication No. 2013/0073447 ("Smith")
E1006	U.S. Patent Application Publication No. 2008/0113776 ("Sommer")
E1007	Computerizing Chance: The Digitization of the Slot Machine (1960-1985)
E1008	Casino Technology: Player Tracking and Slot Accounting systems
E1009	U.S. Patent No. 5,179,517
E1010	U.S. Patent No. 6,852,031
E1011	U.S. Patent No. 5,326,104
E1012	U.S. Patent No. 5,855,515
E1013	U.S. Patent No. 6,547,131
E1014	U.S. Patent No. 5,655,961
E1015	Best of the Millennium Magazine
E1016	Global Gaming Business Magazine
E1017	U.S. Patent No. 5,371,345
E1018	U.S. Patent No. 5,470,079
E1019	U.S. Patent No. 5,265,874
E1020	U.S. Patent No. 6,607,441
E1021	U.S. Patent No. 5,038,022
E1022	U.S. Patent No. 5,811,772
E1023	U.S. Patent No. 5,902,983
E1024	Casino Loyalty Programs within the Las Vegas Locals' Market, Charles Andrew Baynes, Spring 2011
E1025	IGT's SAS Protocol
E1026	Casinos try again with 'coinless' slots, Las Vegas Sun article, March 10, 2000
E1027	Description of Demand Deposit Account, Investopedia.com

I. INTRODUCTION

Pursuant to 35 U.S.C. §§ 311 et seq., Everi Payments, Inc. ("Petitioner") petitions for *inter partes* review (IPR) under 35 U.S.C. §§ 311-319 and 37 C.F.R. §§ 42.1 *et seq.* of claims 1-2, 6-11, 14-20, and 22-26 of U.S. Patent No. 8,708,809 ("the '809 Patent")(Ex. 1001). Review should be instituted because there is a reasonable likelihood that Petitioner will prevail on at least one challenged claim.

II. MANDATORY NOTICES UNDER 37 C.F.R. § 42.8

A. Real Party-In-Interest — 37 C.F.R. § 42.8(b)(1)

Petitioner certifies that the real party-in-interest is: Everi Payments Inc. Petitioner also identifies Everi Holdings Inc., Everi Games Holding Inc., and Everi Games Inc. as real parties-in-interest under the statute in view of their corporate relationship with Everi Payments, Inc.

B. Related Matters — 37 C.F.R. § 42.8(b)(2)

The '809 Patent is presently asserted by Patent Owner against Petitioner in *Sightline Payments LLC v. Everi Holdings Inc., et al*, No. 6:21-cv-01015-ADA (W.D.Tex.), filed September 30, 2021. The complaint asserts four additional patents: U.S. Patent Nos. 8,998,708, 9,196,123, 9,466,176, and 9,785,926. In addition to the present petition, petitions for IPR have been or are being filed against the other four patents-in-suit.

C. Lead and Back-Up Counsel Under 37 C.F.R. § 42.8(b)(3)

Petitioner provides the following designation of counsel. Pursuant to 37 C.F.R. § 42.10(b), a Power of Attorney is being submitted with this Petition.

LEAD COUNSEL	BACKUP COUNSEL
John S. Artz (Reg. No. 36,431) Dickinson Wright, PLLC 350 S. Main Street., Suite 300 Ann Arbor, MI 48104 Telephone: (248) 433-7262 Facsimile: (844) 670-6009 jsartz@dickinson-wright.com	Michael N. MacCallum (Reg. No. 63,108) Dickinson Wright, PLLC 2600 W. Big Beaver Road, Suite 300 Troy, MI 48084 Telephone: (248) 631-2080 Facsimile: (844) 670-6009 mmaccallum@dickinson-wright.com James K. Cleland (Reg. No. 44,619) Dickinson Wright, PLLC 524 South Main St. Suite 300 Ann Arbor, MI 48104 Telephone: (734) 436-7356 Facsimile: (844) 670-6009 jcleland@dickinson-wright.com

D. Service Information Under 37 C.F.R. § 42.8(b)(4)

Please address all correspondence/service to all counsel listed above. Petitioner consents to service by email directed to everi@dickinson-wright.com.

III. SERVICE

Petitioner has electronically served the Petition, Power of Attorney and supporting evidence on the Patent Owner and the correspondent attorney of record of Patent Owner as listed on USPTO PAIR. A certificate of service is attached at the end of this Petition, pursuant to 37 C.F.R. § 42.6(e)(4)(i).

IV. FEES

The required fees are submitted herewith. If any additional fees are due at any time during this proceeding, the Patent Office is authorized to charge such fees to Dickinson Wright's Deposit Account No. 04-1061.

V. REQUIREMENTS FOR IPR UNDER 37 C.F.R. § 42.104

A. Grounds for Standing (37 C.F.R. § 42.104(A))

Petitioner certifies that the '809 Patent is available for IPR and that Petitioner is not barred or estopped from requesting IPR challenging Claims 1-2, 6-11, 14-20, and 22-26 of the '809 Patent on the grounds set forth below.

B. Identification of Claims Being Challenged (37 C.F.R. § 42.104(B))

Petitioner requests IPR of Claims 1-2, 6-11, 14-20, and 22-26 of the '809 patent and that these claims be found invalid on the following bases:

Ground	Prior Art	Basis	Claims Challenged
1	US 2013/0073447 ("Smith", Ex. E1005)	§103	1-2, 6-8, 10-11, 14-15, 17-20, and 22-26
2	US 2008/0113776 ("Sommer", Ex. E1006)	§103	1-2, 6-11, 14-19, and 22-23

Although Smith and Sommer each disclose all of the limitations of the challenged claims, Petitioner is relying on §103 because of alternative obviousness arguments for certain claim limitations, and anticipation as the epitome of obviousness.

A detailed explanation of why claims 1, 2, 6-11, 14-20, and 22-26 are invalid is provided below in Sections IX and X, especially in light of the supporting evidentiary declaration of Dwight Crevelt (E1001).

The '809 Patent is subject to post-AIA law because its pre-AIA-filed provisional application (E1004) does not support at least one claim of the post-AIA-filed utility application. For example, claim 16's "jackpot identifier" and authenticating "jackpot information" are not supported anywhere in the provisional application (E1001, ¶88A.)

Smith and Sommer both qualify as prior art under post-AIA 35 U.S.C. §102(a) because they were filed before the utility filing date of the '809 Patent.

Even if the '809 Patent was treated under pre-AIA law, Smith qualifies as prior art under pre-AIA 35 U.S.C. §102(e) because it was filed before the '809 Patent's provisional filing date, and Sommer qualifies as prior art under pre-AIA 35 U.S.C. §102(b).

VI. SUMMARY OF THE '809 PATENT

The '809 Patent claims priority to U.S. Provisional 61/744,564 filed September 28, 2012. (E1004.)

A. The Specification and Claims

The '809 Patent relates to systems and methods for moving money electronically into and out of various accounts associated with a casino gaming

environment without cash. (E1002, Abstract, 1:23-30.) The '809 system allows a player to transfer funds from a personal account to a gaming account inside the casino, and to transfer funds back from an account inside the casino to an outside personal account. (*Id*. at 1:63-2:3.) The system also tracks a player's gaming and purchase activity, both inside and outside the casino, so casinos can associate such activity with a player's loyalty profile 352. (*Id*., 1:63-2:3.)

As shown in Fig. 7 below, a player maintains funds in a stored value account 728 (blue) outside the gaming environment 702. The stored value account is associated with a computing system (issuer processor computing system 726), and funds are accessible through the use of a stored value payment vehicle 716 (brown), such as a debit or credit card. (*Id*. at 12:51-65.) The player maintains a gaming account 788 (green) (also called a casino-level player account) inside the gaming environment, which communicates with gaming devices 776 to allow the player to access funds while at gaming devices, such as slot machines. (*Id*. at 13:60-14:9.) A transaction facilitator 790 (purple) orchestrates fund transfers between the stored value account and the gaming account. (*Id*., 12:42-44; 13:65-14:3.) Although shown in Fig. 7 as a single entity, the transaction facilitator can be distributed across multiple entities, including various gateways, processors and payment intermediaries. (*Id*., 12:65-13:5.)
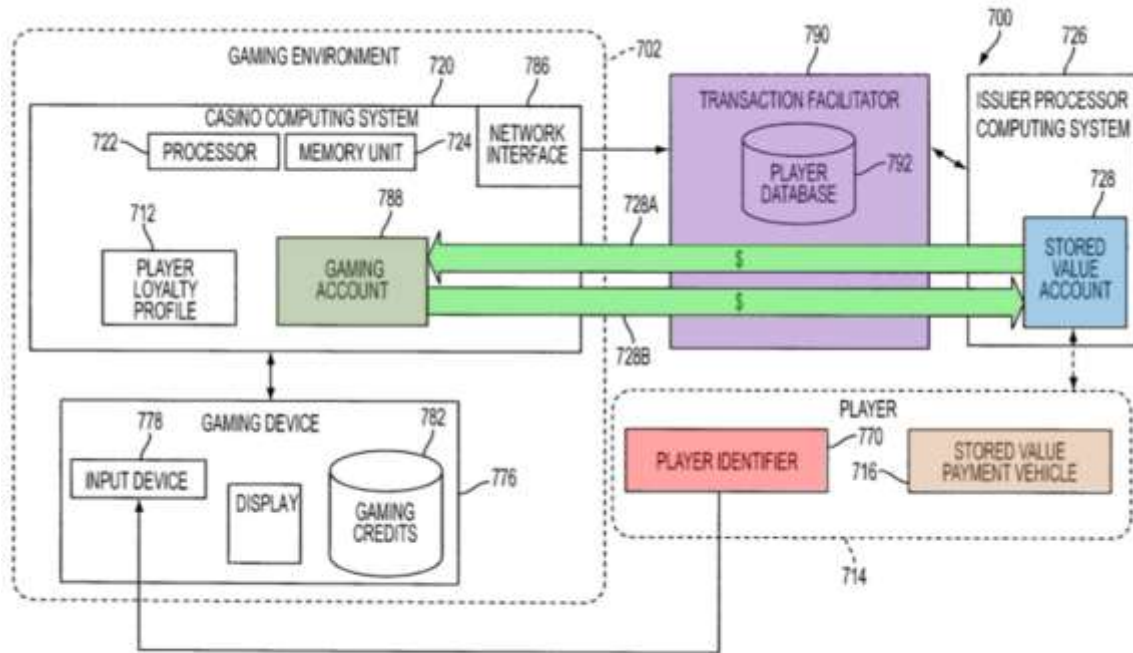
FIG. 7

The transaction facilitator can be a computer, server, mainframe or network of computers, and includes a processor 992, memory 994 and server 996 (*Id.*, 16:39-59):

FIG. 9
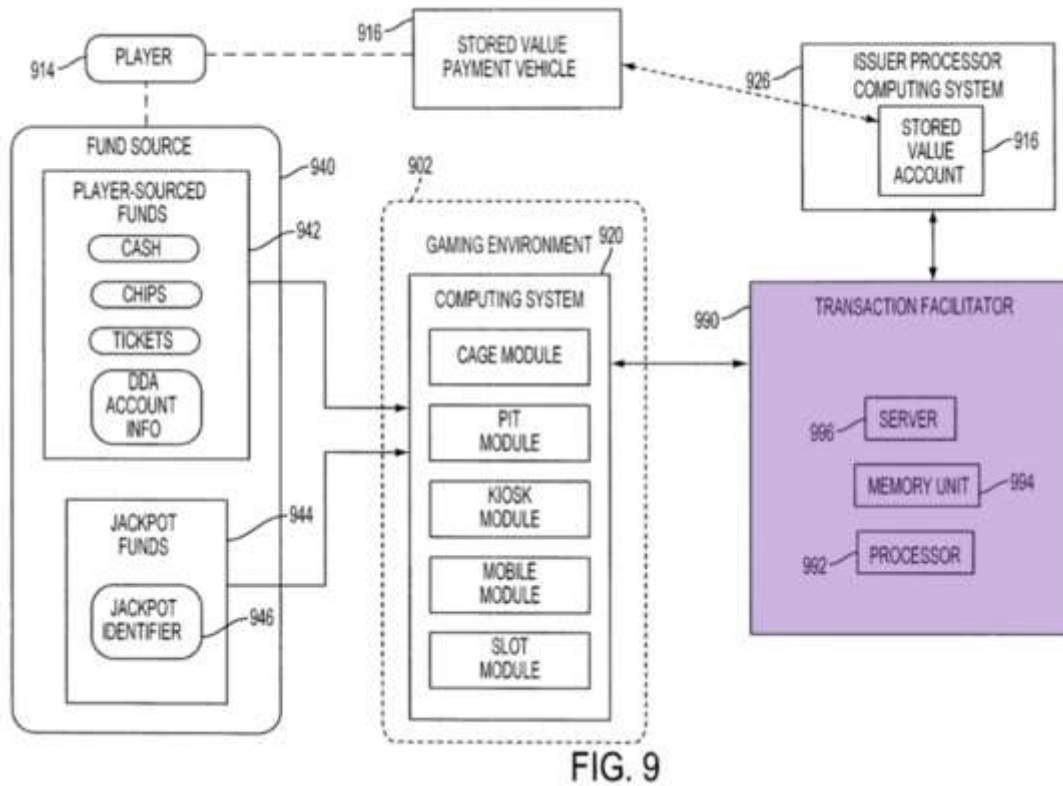
Referring again to Fig. 7 above, to use money from a player's stored value account to fund a player's gaming account, a player provides their unique player identifier 770 (red) via a player card, debit card or other player identifier linked payment vehicle to a gaming device. (*Id.*, 5:49-67; 13:39-47.) The system identifies the player's associated gaming account and stored value account, and transfers funds from the stored value account into the gaming account (arrow 728A) (light green). (*Id.*, 6:1-4, 25-31; 13:48-14:9.) A player can then use the funds in the gaming account for wagering at the gaming device. (*Id.*, 6:33-36.) When the player finishes gambling, the player cashes out by sending funds from the gaming device, back to

the player's gaming account and then to the stored value account. (*Id.*, 6:36-43; 13:60-14:9.)

The '809 Patent includes four independent claims that recite a method of gaming and funding player accounts both in the gaming environment and outside the gaming environment. (E1002, Claims 1, 10, 17, 24.) As shown in this Petition, the prior art discloses cashless gaming systems with player tracking having the features of the independent and challenged dependent claims before September 2012.

B. Prosecution History of the '809 Patent

The '809 Patent issued on April 29, 2014 from Application No. 14/033,493 filed on September 22, 2013. It claims priority to Provisional Patent Application No. 61/744,564 filed on September 28, 2012.

Prosecution was brief. The Examiner only rejected one of the original 27 claims based upon prior art not relied upon in this Petition. In an initial Office Action, the Examiner rejected Claim 24 as anticipated by U.S. Patent Application Publication No. 2012/0123943 to Potts. (E1003, pp.95-99.) The remainder of the claims were either allowed or objected to. (*Id.*) Applicant responded by combining rejected Claim 24 with objected-to Claim 25. (E1003, pp.106-114.) The Examiner issued a Notice of Allowance, declaring Potts "the closest prior art", but failed to disclose the following features, which are the last two elements of current Claim 1:

> "based at least partially on the player identifier, **identifying, by the transaction facilitator, a stored value account**, wherein the stored

value account is associated with a stored value payment vehicle issued to the player, and wherein the a balance of the stored value account is maintained by an issue processor computing system, and

communicating, by the transaction facilitator, with the issuer processor computing system and the gaming computing system **to decrease the balance of the stored value account and increase the balance of the gaming account**."

(E1003, 122-125.) Smith (Ground 1) discloses these elements but was not cited.

Sommer (Ground 2) also discloses these elements and was cited, however, the

Examiner did not comment on or rely on Sommer to reject any claims. (E1003,

pp.95-99.)

VII. PERSON OF ORDINARY SKILL IN THE ART

The level of ordinary skill in the art is evidenced by the references. *See In re

GPAC Inc.*, 57 F.3d 1573, 1579 (Fed.Cir.1995). A person of ordinary skill in the art

("POSA") to which the '809 Patent pertains would have a Bachelor's degree in

Computer Engineering or Computer Science, or an equivalent degree, with at least

two years of experience in casino or gaming transaction facilitation, or related

technologies. (E1001, ¶37.)

VIII. CLAIM CONSTRUCTION (37 C.F.R. § 42.104(b)(3))

For purposes of this IPR, the claim construction standard set forth in *Phillips

v. AWH Corp.*, 415 F.3d 1303 (Fed.Cir.2005) applies to this proceeding. *See, e.g.,*

37 C.F.R. 42.100. Petitioner submits that no special constructions are necessary at

this time, and that the '809 Patent claim terms have their plain and ordinary meaning

to a POSA in view of the patent and file history. *Phillips*, 415 F.3d at 1312-13.

IX. GROUND 1: CLAIMS 1-2, 6-8, 10-11, 14-15, 17-20, AND 22-26 ARE OBVIOUS IN VIEW OF SMITH

A. Overview of Smith

Smith discloses a funding system that provides cashless fund transfers from

a player's personal account to gaming establishments. (E1005, Abstract.) Figure 1

is a block diagram showing components of Smith's system 104, while Fig. 6 shows

how funds are transferred. (*Id.*, [0084].)
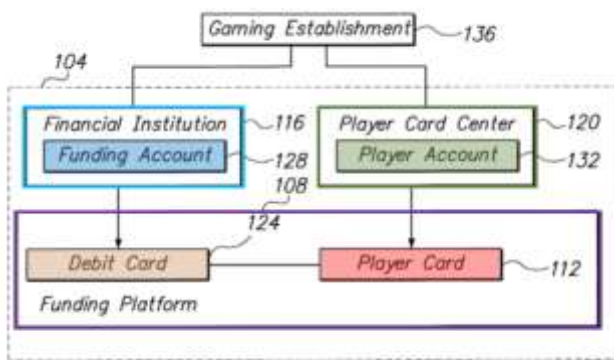
FIG. 1
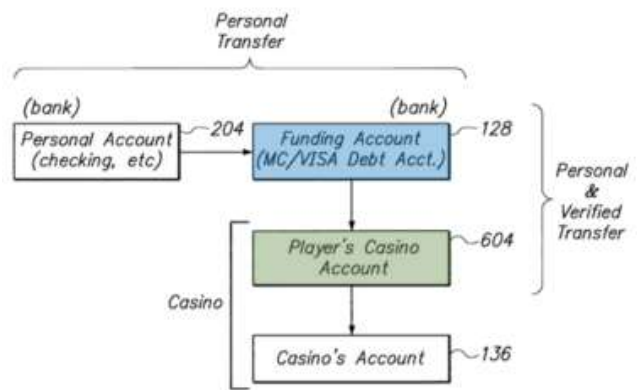
FIG. 6

Referring to Fig. 1, a financial institution 116 houses funding account 128

(blue), and issues a debit card 124 (brown) to the player for accessing the funding

account. (*Id.*, [0033].) Similarly, player card center 120 provides a player's casino

account 132 (green) and issues an associated player card 112 (red) linked to the

player account 132. (*Id.*, [0036].) Funding platform 108 (purple) links the funding

account 128 (and associated debit card 124) with the player's casino account 132

(and associated player card 112). (*Id.*)

Referring next to Fig. 6, funds are first transferred from a player's personal

account 204 (*i.e.*, bank account, checking account) to funding account 128 (blue).

(*Id.*, [0084]; E1001, ¶91.) The player accesses funds in the funding account, for

instance by the use of prepaid and reloadable debit card 124, to transfer funds from

funding account 128 to player's casino account 604/132[1] (green) in the casino.

(E1005, [0009], [0033], [0085].) The player wagers using funds in the player's

casino account 604/132 by transferring funds to the casino's account 136 during

wagering. (*Id.*)

Figure 3 of Smith (below) shows how funding account 128 (blue) is

associated with the player's casino account 604/132 (green). The player swipes

his/her card at a card reader of a casino access terminal, such as a gaming machine.

(*Id.*, [0077].) Smith's system transmits player card information (including player

account number) to a communication device 316 and processor 304 via link 320N

(red arrows). (*Id.*, [0046], [0077].) Based on the player card information, processor

304 identifies and associates from storage 308 the player's casino account

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[1] Player account 132 in Fig. 1 and player casino account 604 in Fig. 6 are the same
account. (E1005, [0084]-[0086],[0036],[0009]-[0010].)

information 328 (green hashed) and funding account information 332 (blue hashed).

(*Id.*, [0049]; Figs. 3, 5; E1001, ¶95.)

FIG. 3
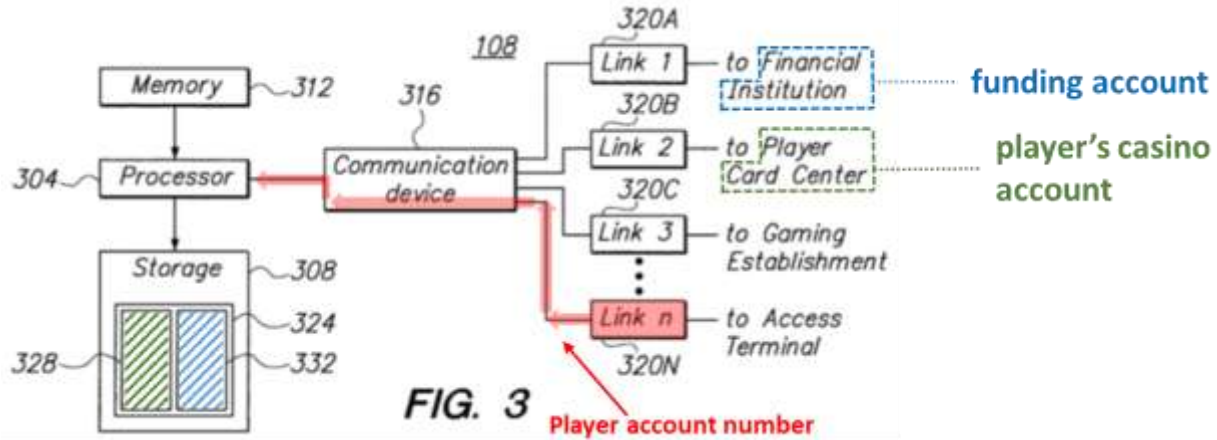
Smith's system then executes fund transfers between funding account 128 and

player's casino account 604/132 via communication device 316 and (1) link 320A

to the financial institution 116, and (2) link 320B to the player card center 120. (*Id.*,

[0045], [0046], [0079]; E1001, ¶96.)

FIG. 3
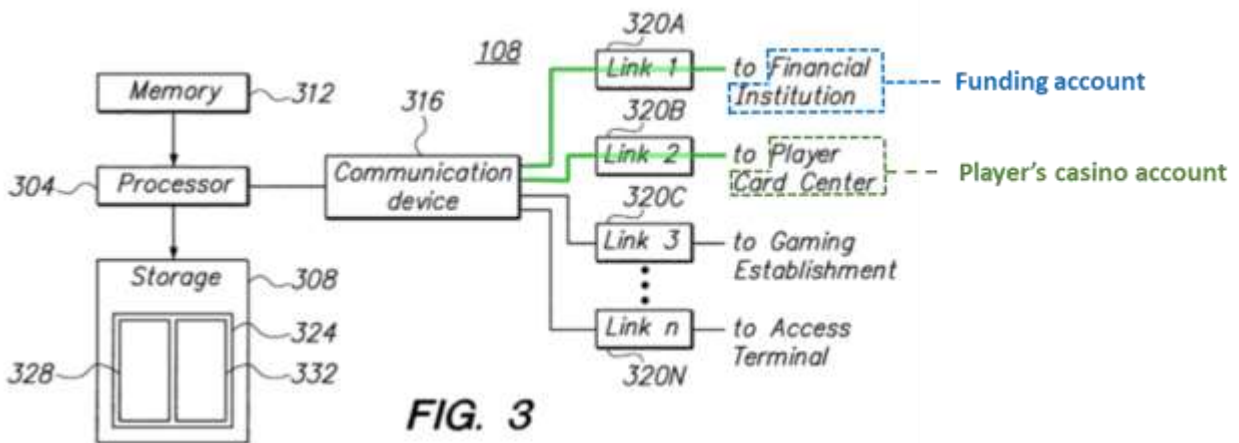
Benefits of the Smith system include the convenience of electronic funds transfers (versus cash, check, etc.), and the use of player cards that track player activity and enable loyalty programs. (E1005, [0029], [0058]; E1001, ¶98.)

1. Claim 1

a. [1.0] A computer-based method of gaming, the method comprising:

To the extent the preamble is limiting, Smith's funding platform 108 (Fig. 3) is a server having a processor 304, memory 312, storage 308

FIG. 3
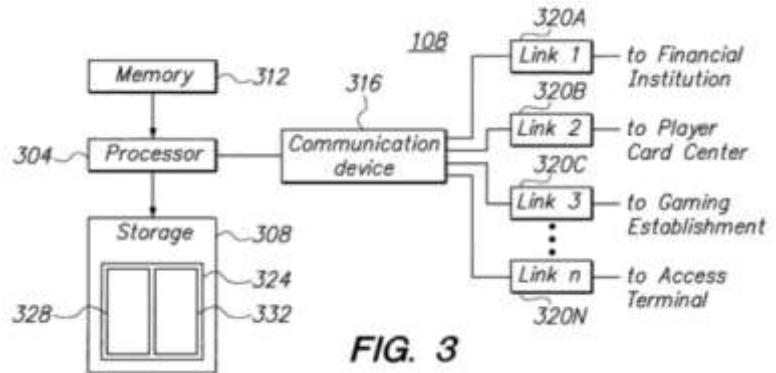
and communication device 316 that execute instructions and communicate fund transfers to and from a gaming establishment. (*Id.*, [0043], [0045].) Smith thus discloses a computer-based method of gaming, including transferring funds to wager at gaming machines. (*Id.*, [0092]; E1001, ¶¶99-101.)

b. [1.1] receiving, by a transaction facilitator, from a gaming computing system affiliated with a gaming environment, a player identifier of a player,

Smith discloses a casino *gaming environment*. (E1005, [0034]; E1001, ¶103.)
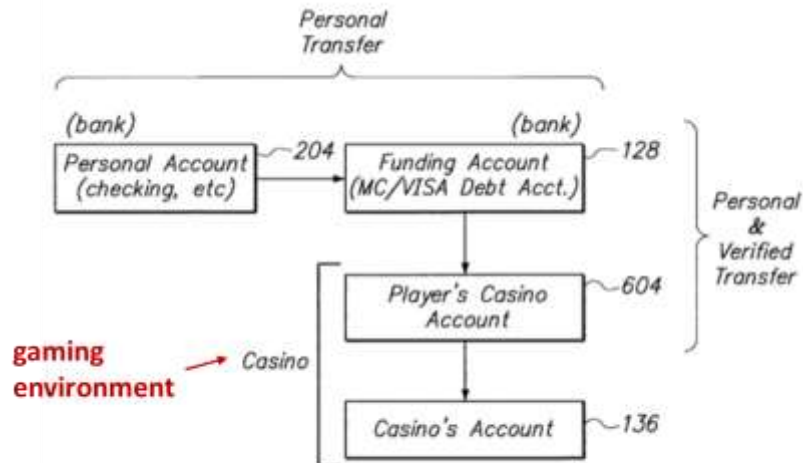
FIG. 6

As shown in Fig. 3 below, Smith's gaming environment includes the player card center, gaming establishment and access terminals[2]. (E1001, ¶104.) A POSA would immediately envisage that the player card center, gaming establishment and access terminals necessarily include a ***gaming computing system*** (yellow) to monitor and manage gaming machines, player accounts and player wagering activities. (E1001, ¶104.) Alternatively, it would have been obvious to a POSA that the player card center, gaming establishment and access terminals include a gaming computing system in view of the state of the art, and particularly the use of computer games such as slot machines or video poker tracked closely by casino computer systems, at the time of filing of the '809 Patent. (E1001, ¶105.)

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[2] Smith defines "access terminal" as including a kiosk, gaming machine computer, or other device that allows the player to provide player card information such as a player account number by, for example, swiping or scanning his or her card. (E1005, [0077].)

14
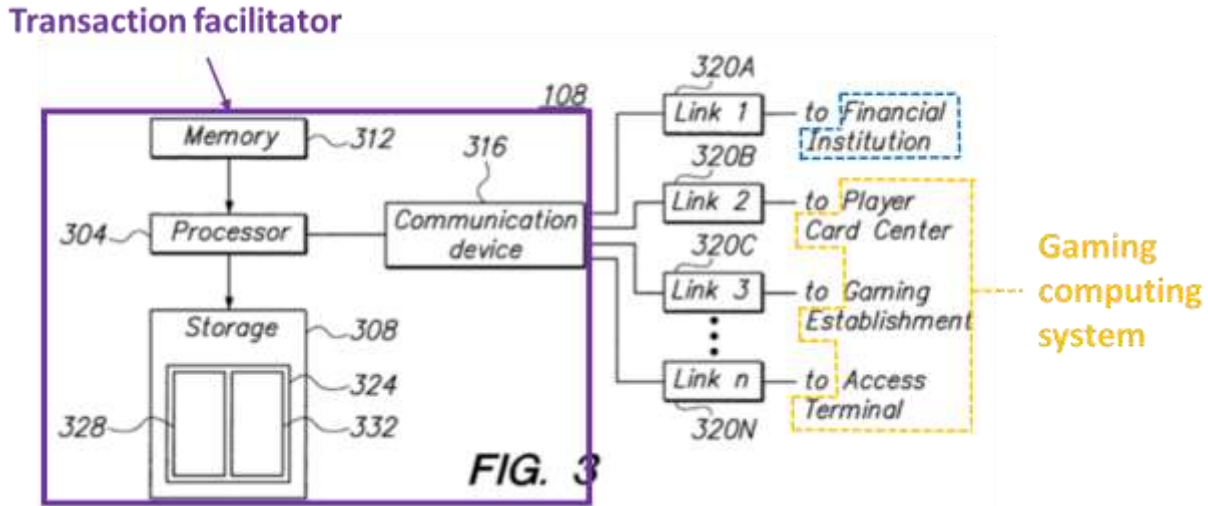
FIG. 3

Also shown in Fig. 3 above, Smith's funding platform 108 (purple) is a *transaction facilitator* that "may function as a hub to orchestrate fund transfers between a player, various accounts, and the gaming establishment 136." (E1005, [0039]; E1001, ¶106.) Transaction facilitator 108 includes communication device 316 comprising hardware interfaces that enable communications and fund transfers with other servers or devices, such as by identifying a source account, a destination account, an amount to be transferred, and/or providing authorization for the transfers. (*Id*., [0045]; E1001, ¶107.) Gaming computing system communicates with financial institution through transaction facilitator 108 and communication links 320A, B, C and N. (E1005, [0045], [0046]; E1001, ¶107.)

Smith further discloses issuing a player tracking card 112 for accessing a player's account(s) at a gaming establishment and/or financial institution. (E1005, [0034], [0035], Fig.1; E1001, ¶108.) The player tracking card includes a unique

player account identifier – the ***player identifier*** – that is associated with the player's

casino/gaming account. (*See, e.g.,* E1005, [0011]-[0019], Figs. 1 and 6, claim 16;

E1001, ¶108.) As shown in Fig. 3 below, when a player swipes or scans his/her

debit card or player tracking card at an Access Terminal (e.g. gaming device), the

communication device 316 receives the player identifier (red) via communication

link 320N. (*Id.*, [0042], [0046], [0077].) Transaction facilitator 108 and its processor

304 use the player identifier to retrieve player account information 328 and funding

account information 332 from storage 308. (E1005, [0049]; E1001, ¶109) Smith

thus discloses the step of receiving a player identifier of a player from a gaming

computing system affiliated with a gaming environment by a transaction facilitator.

(E1001, ¶¶102-109.)

FIG. 3
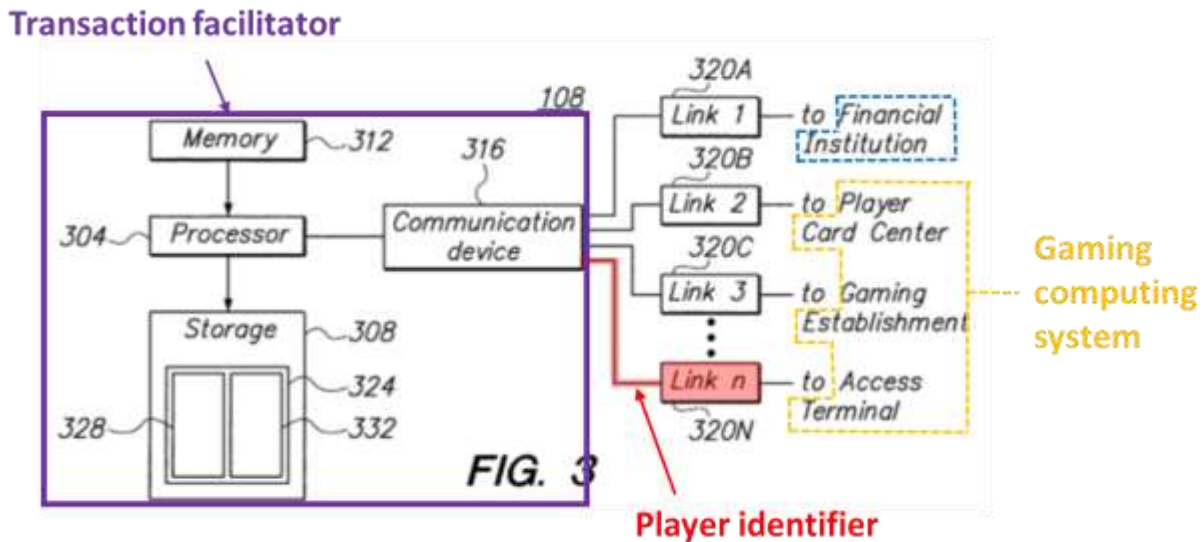
      c.   **[1.2] wherein the player identifier is associated with a gaming account having a balance,**

As explained in [1.1] above, the player tracking card 112 provides the player identifier. Smith further discloses, "[t]he player tracking card 112 … may have information stored thereon or which is otherwise associated therewith that identifies a player's account at a gaming establishment." (E1005, [0034]-[0035], [0077]-[0078].) Fig. 1 illustrates showing player card 112 (red) linked to the player's gaming account 132 (green). (E1005, [0036]; E1001, ¶111.)
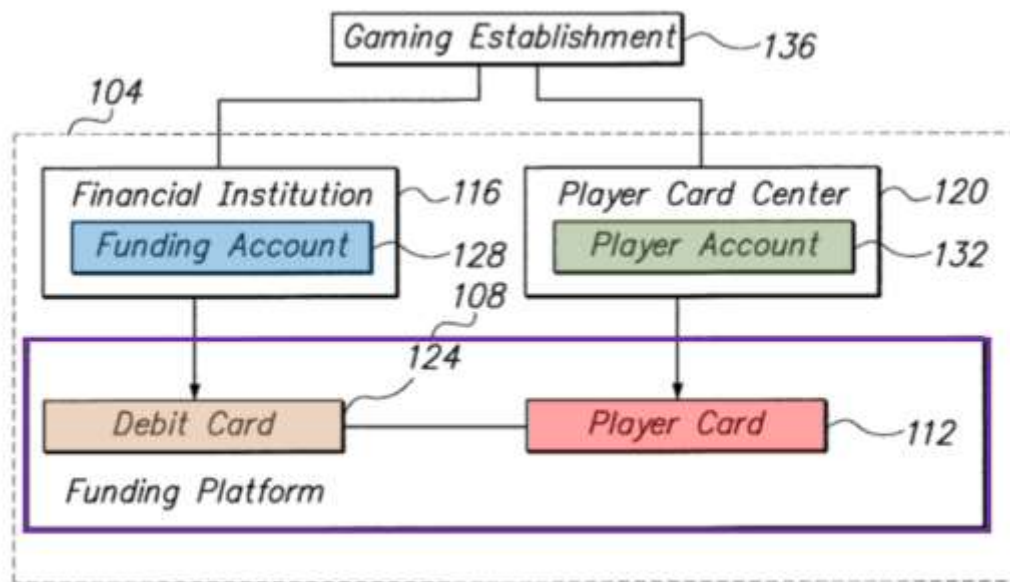
FIG. 1
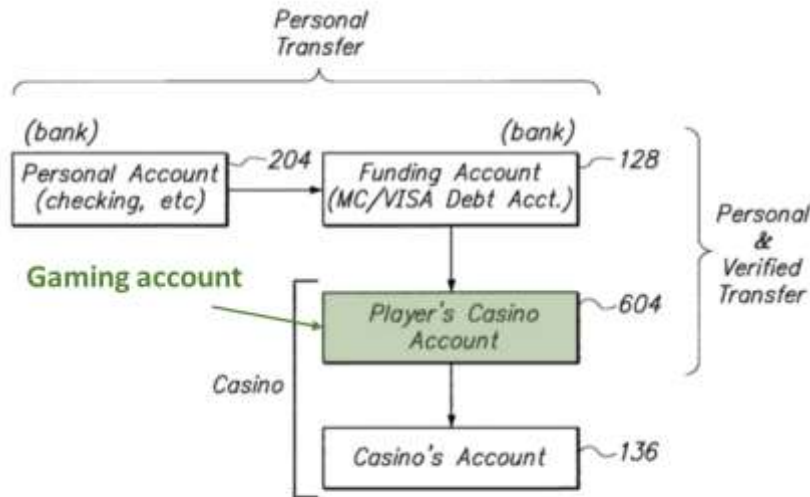
FIG. 6

Gaming account 604/132 must have a balance because the funds in that account can be wagered or used within the casino. (E1005, [0009], [0041], [0076], [0085]; E1001, ¶112.)

> d.   **[1.3] and wherein the transaction facilitator comprises a processor and a memory unit;**

Smith's transaction facilitator 108 includes a ***processor*** 304 (pink) and a ***memory unit*** (both memory 312 and storage 308 (brown). (E1005, [0017], [0043]); E1001, ¶¶114-115.) Memory 312 can be RAM or cache memory and stores data so that it is accessible to processor 304. (E1005, [0044]; E1001, ¶115.) Storage 308 may have instructions stored therein for execution by the processors, and may also store account information 324, including player account information 328 and funding account information 332. (E1005, [0047], [0049]; E1001, ¶115.)

FIG. 3
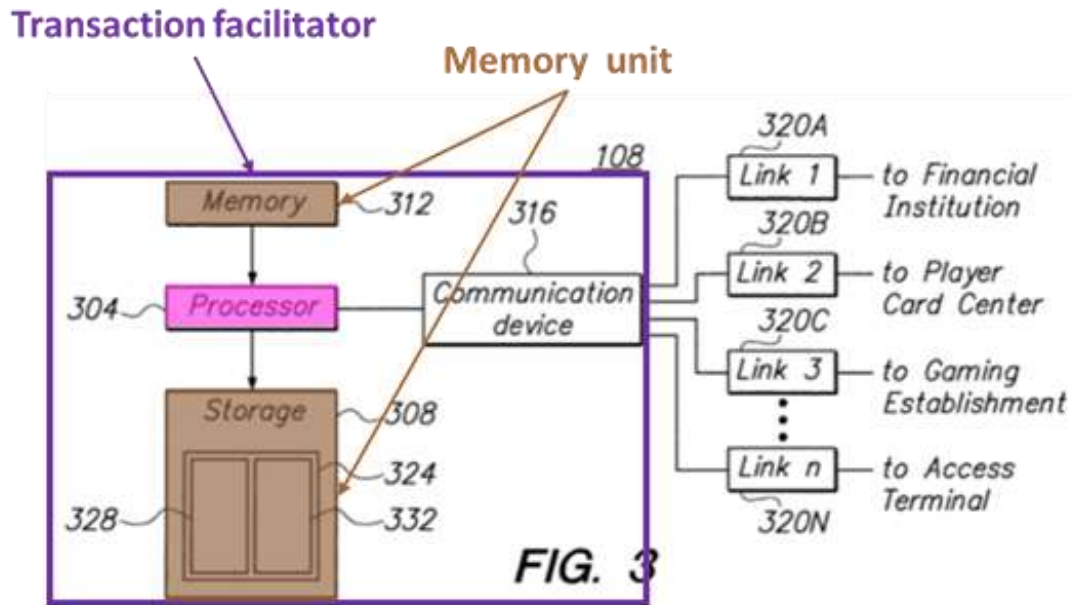
> e.   **[1.4] based at least partially on the player identifier, identifying, by the transaction facilitator, a stored value account,**

As shown in Fig. 6 below, Smith teaches that funds originating from the player's personal bank account 204 are transferred to funding account 128 (blue). (E1005, Abstract, [0084].) Funding account 128 is a ***stored value account*** that can be a "checking, savings, or other account" for "holding and transferring a player's funds" (E1005, [0033]), or a "debit account used anywhere a debit card would be accepted, even for purposes outside of casino wagering (*i.e.* grocery, retail store, hotel, show tickets, etc.)" (E1005, [0091], [0093], [0094], [0041], Fig. 6; E1001, ¶117.)
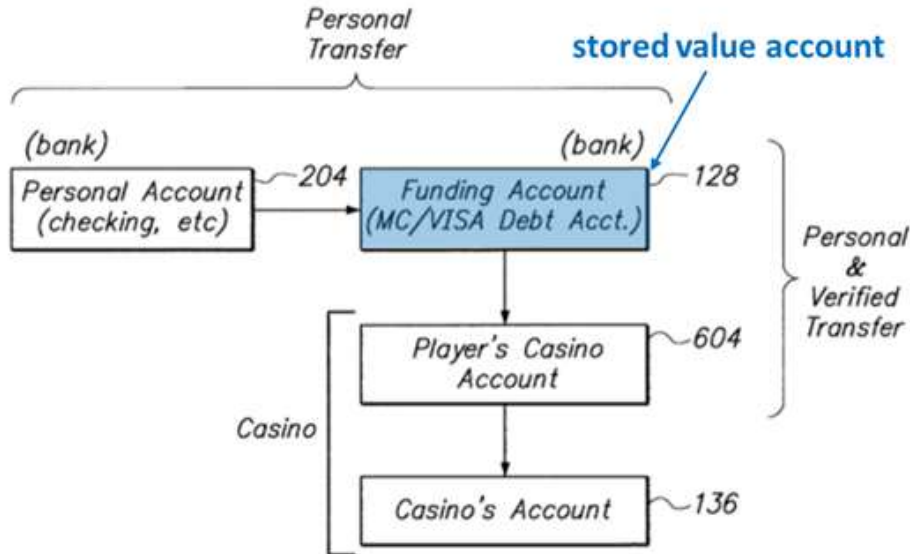
FIG. 6

Figs. 5 and 3 below how Smith identifies the stored value account (blue) by the player identifier (red) using transaction facilitator 108. (E1005, Fig. 5, [0077]-[0078], [0034]; E1001, ¶119.) Referring to Fig. 5, a player enters his/her card at a card reader of a gaming machine (step 504), which devices transmits the player card information to the funding platform 108 (*transaction facilitator*) to identify the associated funding account (step 508). (*Id.*)
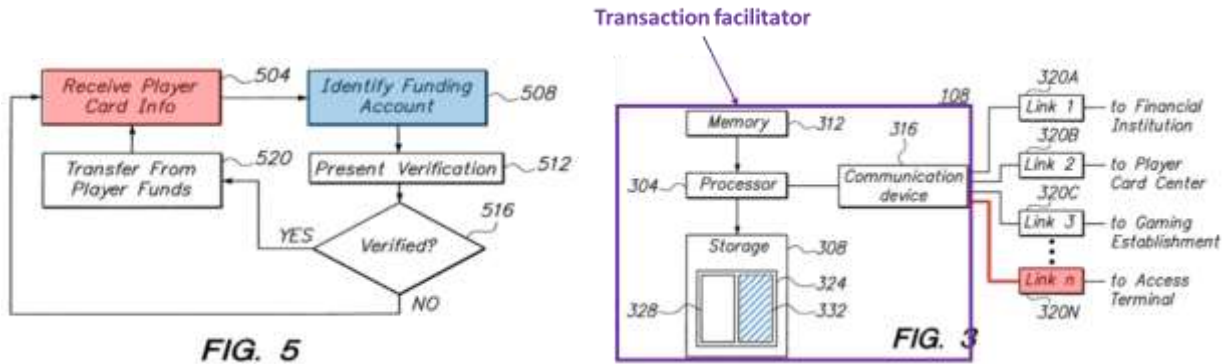
FIG. 5

FIG. 3

Smith teaches that Fig. 5's steps are performed by transaction facilitator 108 shown in Fig. 3. (E1005, [0075], [0077].) As illustrated, storage 308 stores "funding account information 332" (blue hashed) which identifies a player's stored value account 128. (E1005, [0049], [0056], [0058]; E1001, ¶120.) Processor 304 retrieves this funding account information 332 based on the player identifier from the player tracking card. (E1005, [0017], [0043]-[0044].) Smith therefore discloses identifying by the transaction facilitator a stored value account based at least partially on the player identifier. (E1001, ¶¶116-120.)

> **f.** **[1.5] wherein the stored value account is associated with a stored value payment vehicle issued to the player,**

The '809 Patent states that the stored value payment vehicle may be a "prepaid debit card. . . issued to the player 614 by a bank or other financial entity" to provide access to the funds in the stored value account. (E1002, 11:41-43.) Similarly, Smith teaches that "financial institution 116 may issue a debit card 124 or the like through which funds in the funding account 128. . . may be accessed." (E1005, [0033].) Debit card 124 is *stored value payment vehicle* that "has information that identifies a player's account at … financial institution 116." (E1005, [0035].). As shown in Fig. 1 below, Smith's stored value payment vehicle 124 (brown) issued to the player is associated with the stored value account 128 (blue). (E1001, ¶122.)
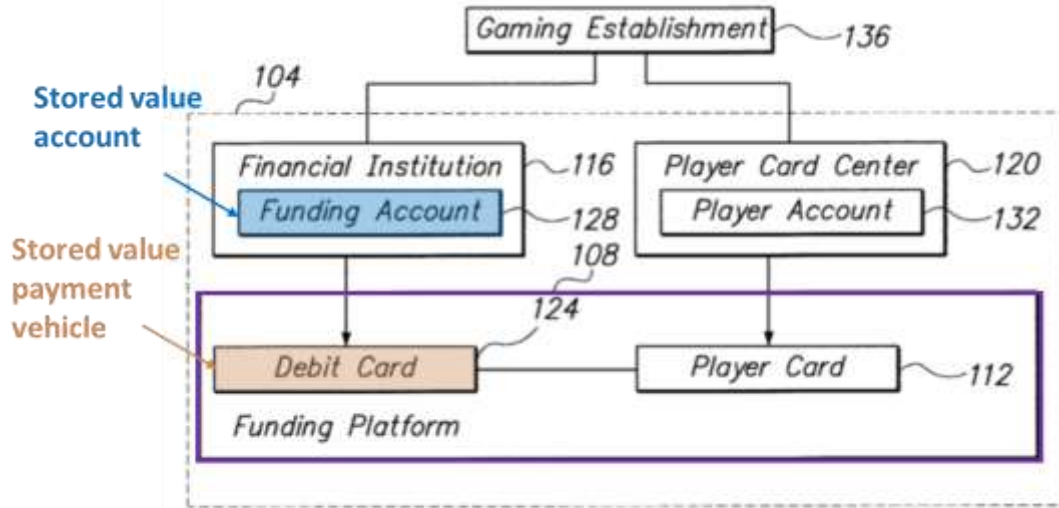
FIG. 1

g. **[1.6] and wherein a balance of the stored value account is maintained by an issuer processor computing system; and**

Smith teaches that a bank or other financial institution 116 provides stored value account 128. (E1005, [0033].) The balance of stored value account 128 is accessible from the financial institution 116 via, for example, debit card 124. (*Id.*) Smith further teaches that transaction facilitator 108 may electronically initiate a funds transfer from stored value account 128 to the gaming establishment by communicating an account number, amount to be transferred, authorization information, etc. with a server of the financial institution 116. (*Id.*, [0015], [0039], claim 15.) A POSA would thus understand and immediately envisage that Smith's financial institution (*issuer processor*) must have a computer system (*issuer processing computing system*) to accomplish the disclosed fund transfer, and that

the balance of the stored value account is maintained by Smith's issuer processor

computing system. (E1001, ¶¶124-125.)

> **h.** **[1.7] communicating, by the transaction facilitator, with the issuer processor computing system and the gaming computing system to decrease the balance of the stored value account and increase the balance of the gaming account.**

As shown in Fig. 6 below, Smith teaches transferring funds from stored value

account 128 to the player's casino/gaming account 604. (*Id.*, [0085].)
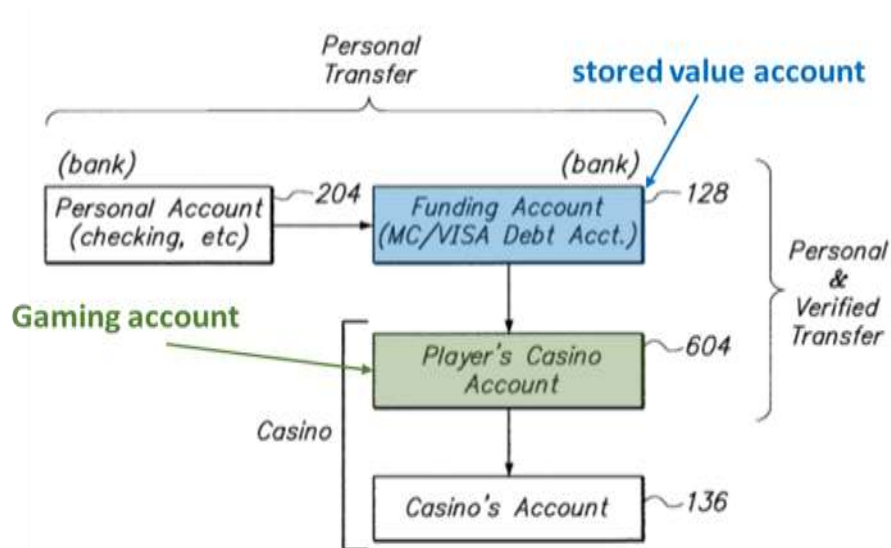
FIG. 6

Smith teaches that in order to make the transfer, and as illustrated in Fig. 3

below, a player swipes his/her player tracking card at an access terminal (gaming

device), which is associated with the gaming computing system (yellow). (E1005,

[0077]; E1001, ¶128.) Smith's system transmits player identifier (red) to transaction

facilitator 108 (purple). (E1005, [0045].) The transaction facilitator hardware (*e.g.*,

processor 304 and storage 308) then retrieves funding account information 332 (blue

hashed) that identifies the player's stored value account, and transmits instructions to the financial institution's server (*issuer processor computing system*) to transfer funds from the player's stored value account 128 to the player's casino/gaming account 604/132. (E1005, [0044]-[0045], [0077], [0079], [0085]; E1001, ¶¶129-131.) The transfer necessarily causes a decrease in the balance of the stored value account 128, and a corresponding increase in the balance of player's casino/gaming account 604. (E1001, ¶131.)
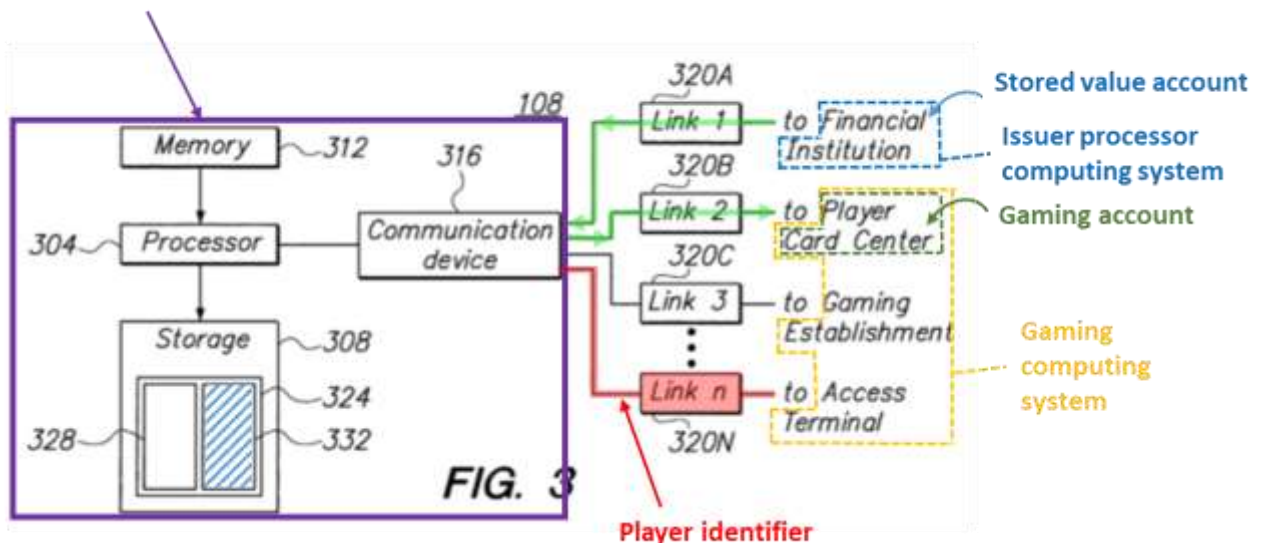
2. **Claim 2**

   a. **[2.1] The computer-based method of claim 1, further comprising: receiving, by the transaction facilitator, a request from the gaming computing system to transfer a first amount of funds from the stored value account to the gaming account;**

Smith teaches transferring funds from stored value account 128 to the player's casino/gaming account 604/132. (*See* Claim [1.7]; E1001, ¶133.)

As shown in Fig. 3 below, a player initiates the fund transfer request by swiping a player card at a card reader at a gaming machine, kiosk, or other access terminal that is associated with the gaming computing system (yellow) to provide the player identifier (red). (E1005, [0077], [0013]; E1001, ¶133.)   Transaction facilitator 108 (purple) receives the request via communication link 320N in order to retrieve funding account information 332 (blue hashed) that identifies the player's stored value account (blue) from which funds are transferred. (*Id.*, [0049]; E1001, ¶134.)
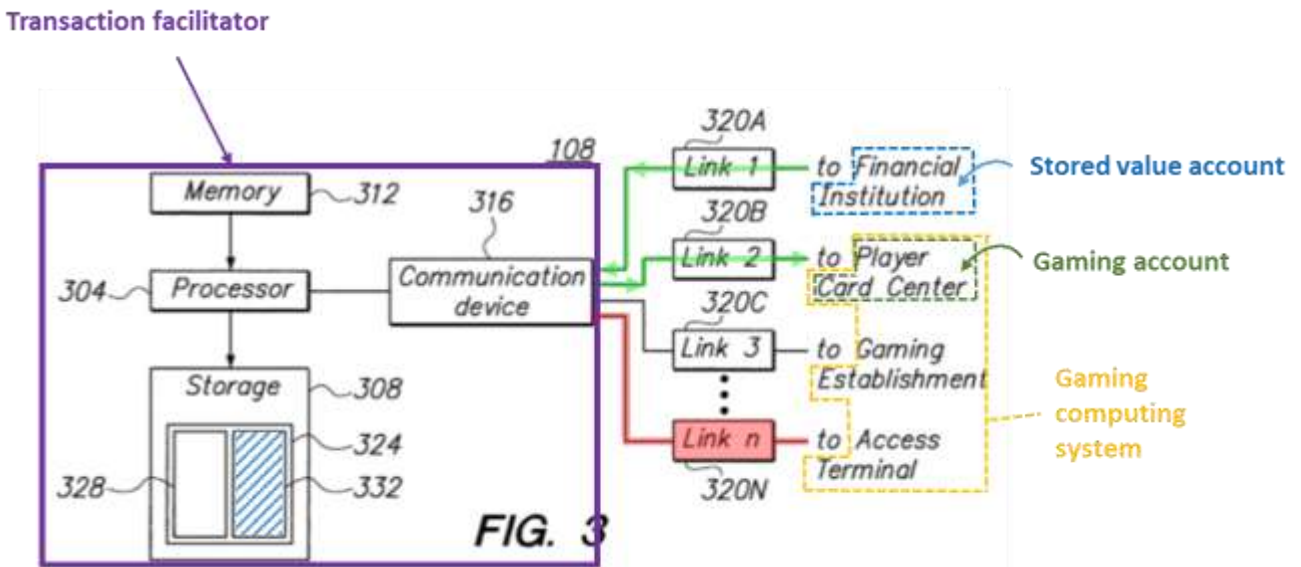
FIG. 3

b.   **[2.2] initiating, by the transaction facilitator a transaction, with the issuer processor computing system to decrease the balance of the stored value account; and**

Referring again to Fig. 3 above, Smith teaches that once transaction facilitator 108 identifies the player's stored value account, it then communicates with the finananial instituion's issuer processor computing system via communicaiton link

320A to initiate the transfer of player selected amount of funds from stored value account 108. (E1005, [0077], [0082]; E1001, ¶136.) The transfer of funds from the stored value account 128 (blue) to the player's casino/gaming account 604/132 (green) necessarily requires a decrease in the balance of the stored value account by the financial institution's issuer processor computing system. (*See* Claim [1.7]; E1005, [0082]; E1001, ¶¶131, 136.)
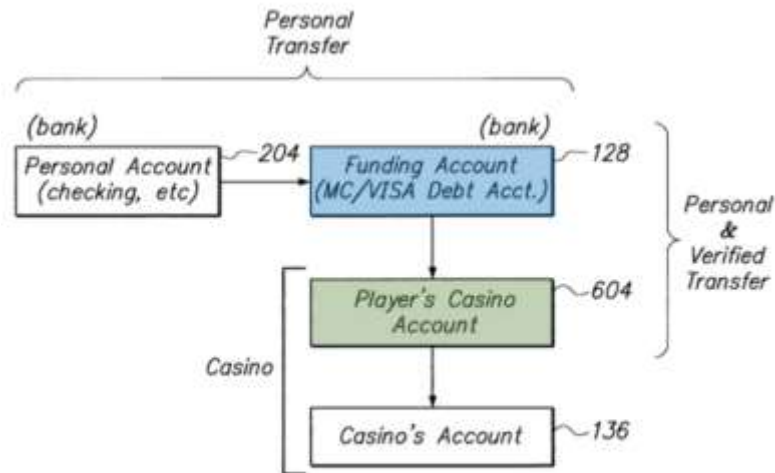
FIG. 6

c.   [2.3] responding to the gaming computing system with an approval of the request.

Smith's system transfers funds from stored value account 128 to the player's casino/gaming account 604/132 only after "the player has adequately verified or confirmed that a fund transfer should occur" via "verification screens" on the access terminal (gaming device). (*See* Claim [1.7]; E1005, [0009], [0079]-[0082]; E1001, ¶138.) By transferring funds after verification, Smith thus teaches responding to the gaming computing system with an approval of the request. (E1001, ¶138.)

3. **Claim 6:** **The computer-based method of claim 1, wherein the gaming account is any of a wagering account and a casino level player account.**

As shown in Fig. 6, Smith refers to gaming account 604 as a "player's casino account." (E1005, [0042], [0049], [0091], [0093]), and teaches that a player use "funds associated with their casino account
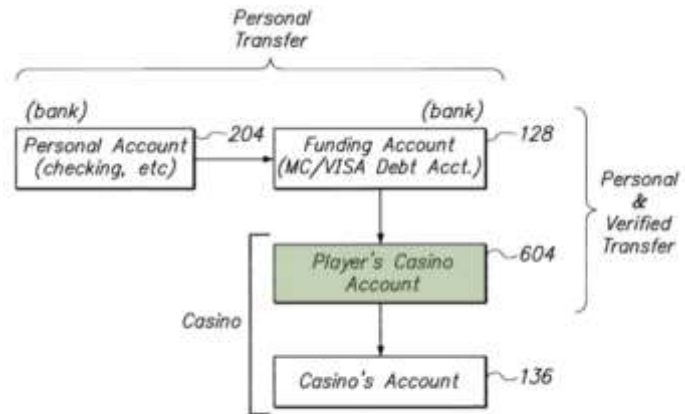
FIG. 6

604 to place wagers" (*Id.*, [0085], [0076], [0041]). This account thus comprises a wagering account and/or a casino level player account. (E1001, ¶140.)

4. **Claim 7:** **The computer-based method of claim 1, wherein decreasing the balance of the stored value account and increasing the balance of the gaming account occurs in substantially real-time.**

Smith teaches providing "real-time confirmation information" that a transaction from the player's stored value account to the player's casino/gaming account has been received and/or completed. (E1005, [0095].) A POSA would thus understand and immediately envisage that the balance of the gaming account is increased and the balance of the stored value account is decreased in substantially real-time in order to make funds immediately available to a player for gaming. (E1001, ¶¶142-143.) Alternatively, it would have been obvious to a POSA to make funds transferred from the stored value account to the gaming account available in

substantially real-time as electronic fund transfers in the gaming industry at the time

of filing the '809 Patent were well known to be done in substantially real-time given

the advances in cashless gaming, the ease of electronic fund transfers performed by

banking systems, and the desire to make transferred funds immediately available to

a player for gaming. (E1001, ¶144.)

5.   **Claim 8:   The computer-based method of claim 1, wherein the player identifier that is provided to a gaming device is a casino-issued unique identifier tied to a loyalty program of the gaming environment.**

As illustrated in Fig. 1 below, Smith's player card center 120 issues player

tracking cards 112 (red) with a player tracking card number for use by players at

gaming devices to access their player casino/gaming account 132 (green) in the

gaming establishment 136. (Ex. 1005, [0034], [0035], Figs. 1, 4; E1001, ¶146.) The

player tracking card number is a unique identifier that identifies a particular gaming

account associated with that number. (*Id.*) Using their player tracking card 112,

players "accumulate rewards such as player points and redeem such points" for

"prizes." (E1005, [0034], E1001, ¶147.) A POSA would understand and

immediately envisage this to be a loyalty program of the gaming environment, and

thus the player identifier associated with Smith's player tracking card is a casino-

issued unique identifier tied to Smith's loyalty program. (E1001, ¶148.)
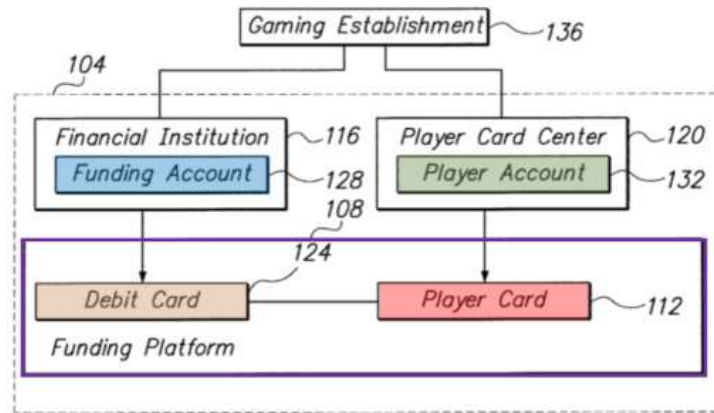
FIG. 1

6.   **Claim 10**

   a.   **[10.0] A computer-based method of funding an account associated with a player, comprising:**

To the extent the preamble is limiting, Smith teaches a computerized method of gaming and funding a player account. (*See* Claim [1.0].) Smith's method uses a computer in the form of transaction facilitator 108 to "function as a hub to orchestrate fund transfers between a player, various accounts, and the gaming establishment 136." (E1005, [0039], Title, Abstract, Figs. 2-3 and 6; E1001, ¶149.)

   b.   **[10.1] receiving, by a transaction facilitator computing system, a load request from a casino computing system that is associated with a casino, wherein the load request comprises a request to load player funds to a stored value account associated with a stored value payment vehicle,**

As illustrated in Fig. 6 below, Smith discloses loading player funds from the player's casino/***gaming account*** 604 (green) into his/her ***stored value account*** 128 (blue). (E1005, [0093]-[0094], Fig. 6; Claim [1.4]; E1001, ¶152.) The casino may deposit a player's winnings into player/gaming account 604/132, and "the player

might transfer the funds ***from their player account [604] to their debit account***

[128][3]." (E1005, [0093].)
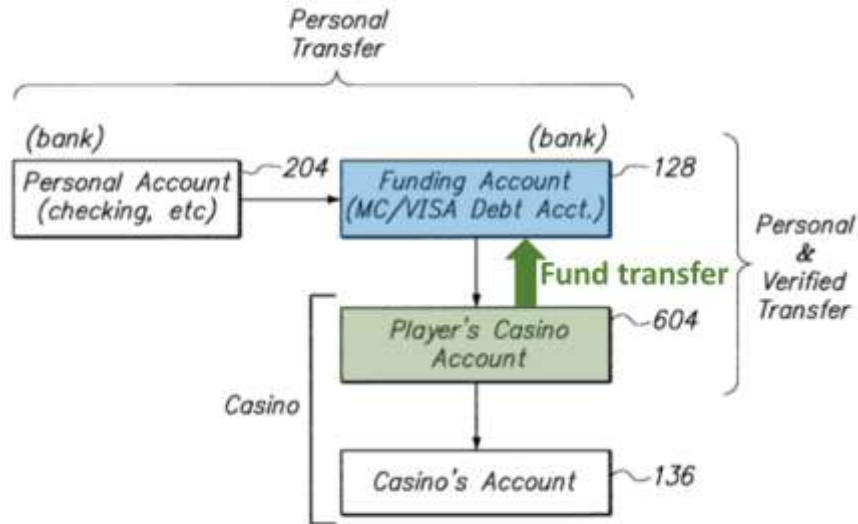
FIG. 6

As shown in Fig. 1, the player's casino/gaming account 604/132 is part of player card center 120. (E1005, [0034], [0073].) Player card center 120 is also shown in Fig. 3 below as part of Smith's casino, which also includes gaming establishment and access terminals (i.e., kiosk and gaming machine computers). (E1005, [0037], [0077]; E1001, ¶153.)

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[3] As explained in claim element [1.4] above, reference to "debit account" is the stored value account 128. (*See also* Smith's Fig. 6 referring to funding account 128 as "debit acct.")
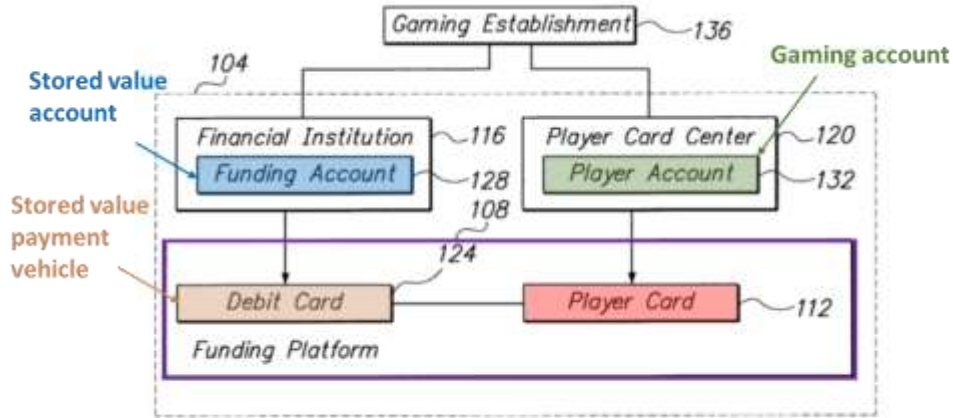
FIG. 1

A POSA would immediately envisage that the player card center, gaming establishment and access terminals are associated with a ***casino computing system*** to monitor and manage gaming machines, player accounts and player wagering activities. (E1001, ¶154.) Alternatively, it would be obvious to a POSA that the player card center, gaming establishment and access terminals include a casino computing system in view of the state of the art, and particularly the use of computer games such as slot machines or video poker tracked closely by casino computer systems, at the time of filing of the '809 Patent. (E1001, ¶155.)

Transaction facilitator computing system

FIG. 3
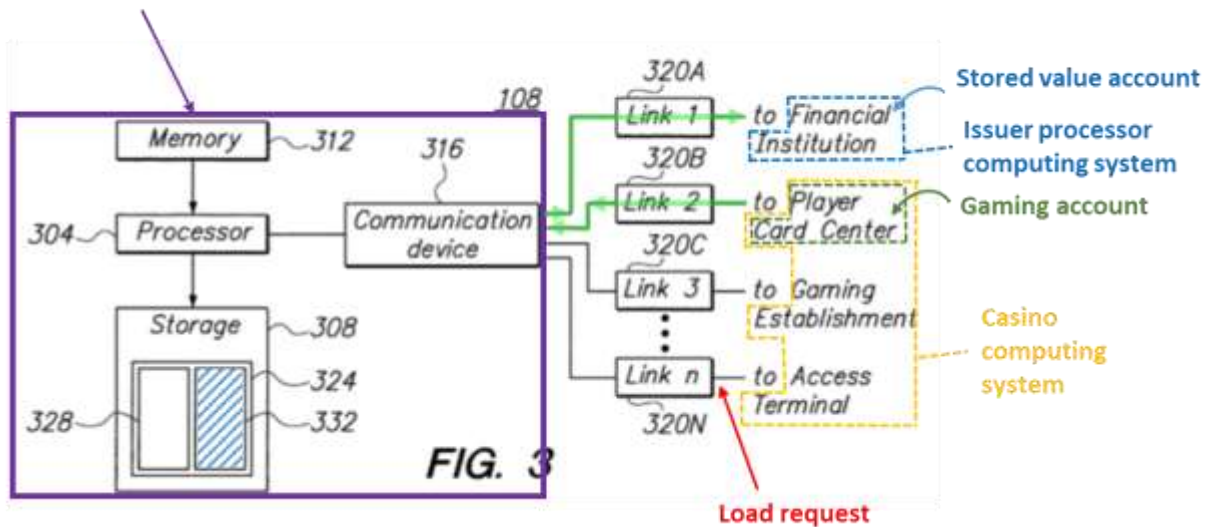
For the reasons in claim elements [1.4] and [1.5] above, and as shown in Fig.

1 above, Smith's ***stored value account*** 128 (blue) is associated with a ***stored value***

payment vehicle 124 (brown). (E1001, ¶156.)

Smith's teaches that a player initiates a ***load request*** to transfer a player's

funds by swiping or scanning his or her card at a card reader of an access terminal,

which can be a kiosk or gaming device. (See Claim elements [1.4], [2.1]; E1005,

[0077], [0093]-[0094].) As described above in this claim element, A POSA would

understand and immediately envisage that the access terminal is part of the casino

computing system, and the load request necessarily comes from the casino

computing system. (*Id.*, E1001, ¶157.)

For the reasons in claim element [1.1] above, and as shown in Fig. 3 above,

Smith's funding platform 108 (purple) is the ***transaction facilitator computing***

system. Smith teaches that "the funding platform 108 may function as a hub to

orchestrate fund transfers between a player, various accounts, and the gaming
establishment 136." (*Id*., [0039].) Transaction facilitator 108 communicates with
other servers or devices to transfer funds from a "source account" (*player's
casino/gaming account*) to a "destination account" (*stored value account*). (*Id*.,
[0045]; E1001, ¶158.) Smith thus discloses that a player sends a load request to
transfer player funds to a stored value account from the casino computing system to
the transaction facilitator computing system. (*Id*., E1001, ¶¶150-159.)

> a.   **[10.2] wherein the stored value account has a balance
>   amount;**

Smith discloses this element for the same reasons as claim element [1.6].
(E1001, ¶160.)

> b.   **[10.3] receiving, by the transaction facilitator computing
>   system, player funds information from the casino computing
>   system, wherein the player funds information comprises at
>   least a total value of the player funds;**

Smith teaches that fund transfers from the player's casino/gaming account
604/132 to stored value account 128 are received by communication device 316 of
transaction facilitator computing system 108 for "identifying a source account, a
destination account, an amount to be transferred, and/or providing authorization for
the transfers." (E1005, [0045], Fig. 3; E1001, ¶162.) Smith further teaches that
when a player transfers winnings from their player casino/gaming account 604/132
to their stored value account 128, the player can transfer *all* of those winnings: "a

player might win $1000 at a casino and transfer those funds to their debit account"

and "then use that card to buy $1000 in clothing at a retail store." (E1005, [0093],

[0094].) The amount to be transferred ($1000 in this example) is ***player funds***

information, including the ***total value of the player funds*** to be transferred. (E1001,

¶163.) Smith thus discloses that the transaction facilitator computing system

receives player funds information, including the total value of the player funds, from

the casino computing system. (E1001, ¶¶161-163.)

> **c. [10.4] communicating, by the transaction facilitator computing system, with an issuer processor computing system to increase the balance amount of the stored value account based on the total value of the player funds,**

After receiving player funds information from the casino computing system,

transaction facilitator computing system 108 (purple) communicates via link 320A

(Link 1) to the financial institution (blue dotted), which provides the stored value

account 128. (E1005, [0033], [0046], Figs. 1, 3, 6; E1001, ¶¶165-166.) As

explained in Claim element [1.6], a POSA would understand and immediately

envisage that Smith's financial institution (*issuer processor*) must have the disclosed

server and associated computer system, and that the ***issuer processor computing***

system is the mechanism by which the financial institution and stored value account

receive communications. (*See* Claim element [1.6]; E1001, ¶167.)

FIG. 3
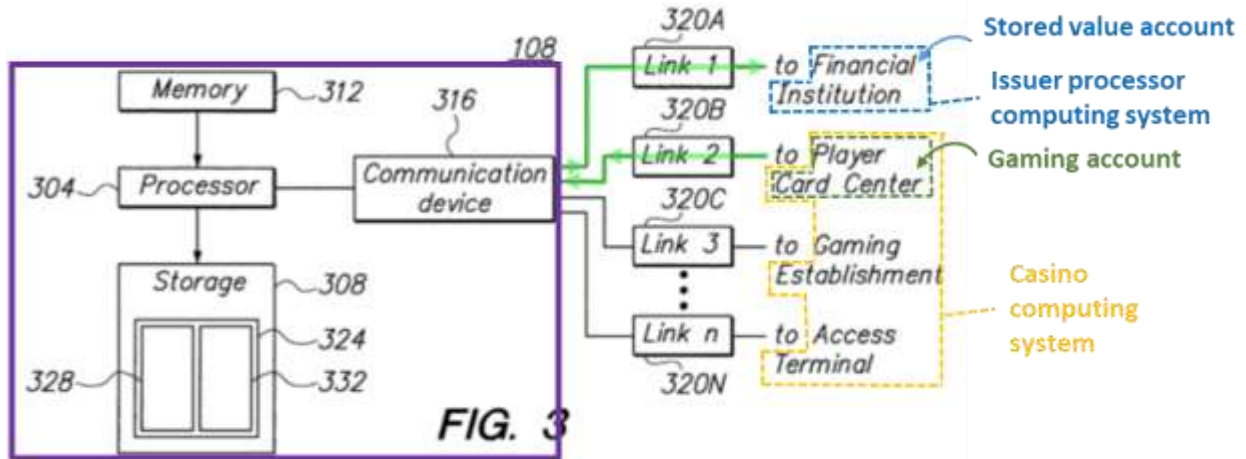
When, as shown in Fig. 6 below, the player "transfer[s] the funds from their player account [604] to their debit account [128]", the balance of stored value account 128 necessarily increases by the total value of the player funds to be loaded. (*See* Claim element [1.7]; E1005, [0093]; E1001, ¶168.) Indeed, a player cannot transfer more than he/she has available. (*Id.*)
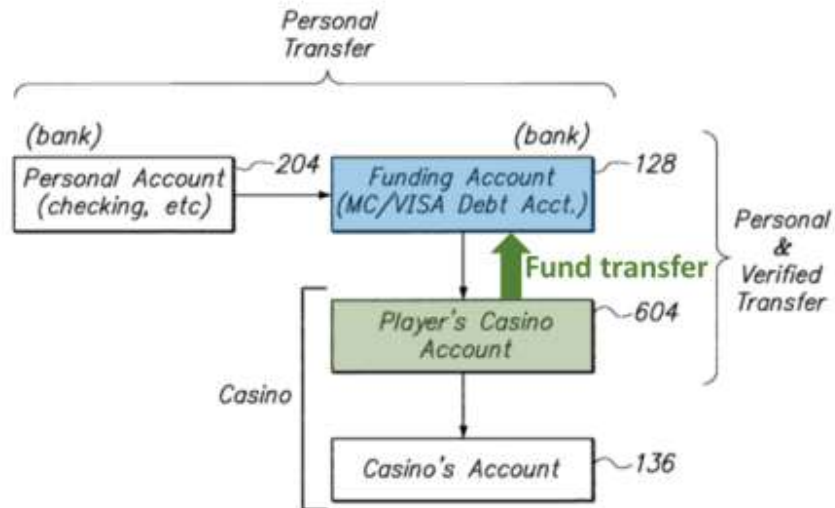
FIG. 6

Smith therefore discloses that the transaction facilitator computing system communicates with an issuer processor computing system to increase the balance of the stored value account based on the total value of the player funds. (E1001, ¶¶164-168.)

d. [10.5] wherein the balance amount is available for access by the stored value payment vehicle in substantially real-time.

Smith discloses this element for the same reasons as Claim 7. (E1001, ¶169.) A POSA would understand and immediately envisage that the new increase in balance of the stored value account 128 is available for access by the corresponding stored value payment vehicle 124 in substantially real-time in order to make funds immediately available to a player for use anywhere that the stored value account normally allows. (E1001, ¶170.) Alternatively, it would have been obvious to a POSA to make funds transferred into the stored value account from the player's casino/gaming account available in substantially real-time as electronic fund transfers in the gaming industry at the time of filing the '809 Patent were well-known to be done in substantially real-time given the advances in cashless gaming, the ease of electronic fund transfers performed by banking systems, and the desire to make transferred funds available immediately to a player for spending with a credit or debit card linked to the stored value account. (E1001, ¶171.) Additionally, it was well known to a POSA that funds stored in a debit account like stored value account 128 are accessible in real time by a user's debit card 124. (*Id.*)

7. **Claim 11: The computer-based method of claim 10, wherein the casino computing system is associated with any of a casino cage, a casino table game, a gaming device, a kiosk, a casino pit, a casino sports book, and an online casino.**

As explained in Claim element [10.1] and illustrated in Fig. 3 below, Smith's casino computing system is associated with the player card center, gaming establishment and access terminals. (E1001, ¶173.) Smith defines "access terminal" as including "a kiosk, gaming machine computer, or other" device that can allows the player to swipe or scan his/her card. (E1005, [0045], [0046], [0077].) A POSA would also immediately envisage that the gaming establishment and "other" devices referenced by Smith include a casino cage, a casino table game, a casino pit, a casino sports book and an online casino. (E1001, ¶174.)

FIG. 3
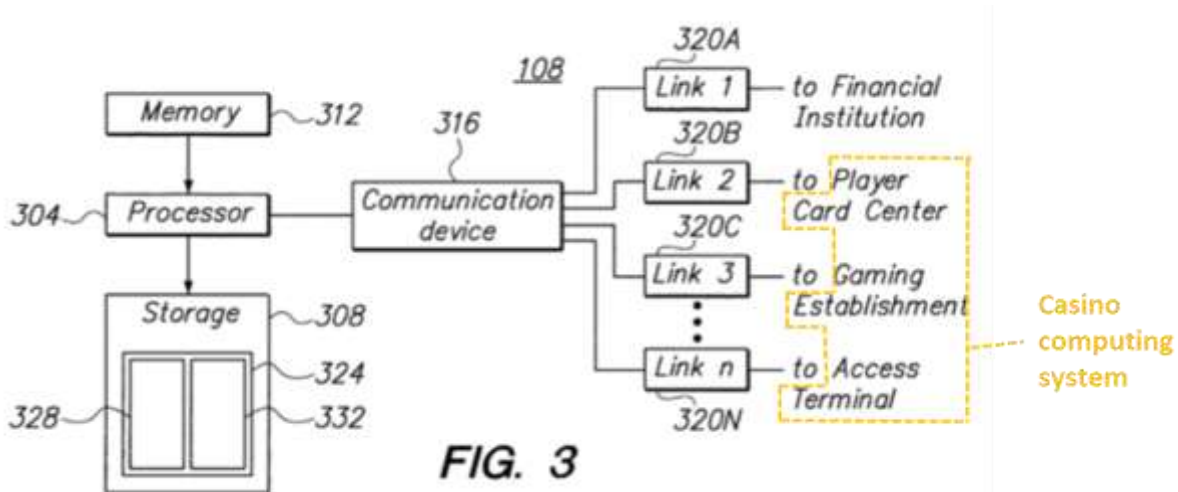
8. **Claim 14: The computer-based method of claim 10, wherein the player funds comprise player-sourced funds tendered to the casino.**

Before player funds are transferred from the player's casino/gaming account 604/132 into stored value account 128 described in Claim element [10.1] above, a

player can transfer funds won during gaming to the player's casino/gaming account. (E1005, [0058], [0091]; Ex. 1001, ¶176.) For instance, Smith teaches that credits a player earns from wagering (which the '809 Patent describes as a form of player-sourced funds) can be loaded into the player's casino/gaming account. (*Id.*, E1002, 16:32-38; (E1001, ¶176.) Smith thus discloses that player funds to be transferred comprise player-sourced funds tendered to the casino. (E1001, ¶¶175-177.)

9. **Claim 15:   The computer-based method of claim 10, wherein the player funds comprise a jackpot payout.**

Smith's teaches that a player can "cash out" winnings from the player's casino/gaming account 604/132, wherein the winnings can be "a winning slot or poker game outcome or the like." (E1005, [0093].) A POSA would have understood and immediately envisaged that a wining slot outcome can include jackpot winnings; hitting jackpots are routine and standard in casino environments, and that the player funds to be transferred comprise the jackpot payout. (E1001, ¶179.)

10. **Claim 17**

   a. **[17.0] A computer-based method of funding an account associated with a stored value payment vehicle, comprising:**

To the extent the preamble is limiting, Smith discloses this element for the same reasons as claim elements [1.5] and [10.0]. (E1001, ¶181.) Smith's stored value account 128 is associated with a stored value payment vehicle 124 (i.e. debit card). (*See* claim element [10.1]; E1001, ¶181.)

      b.   **[17.1] receiving, by a casino computing system, a load request initiated by a player, wherein the load request comprises a request to load player-sourced funds to a stored value account,**

Smith discloses this element for the same reasons as claim elements [1.7] and

[10.1]. (E1001, ¶182.) The request to load player-sourced funds to a stored value

account occurs when a player swipes his/her player card 112 at the gaming machine

within the casino computing system. (E1005, [0077]; E1001, ¶182.)

      a.   **[17.2]   wherein the stored value account has a first available balance amount associated with any of a stored value payment vehicle and a player identifier; and**

Smith discloses this element for the same reasons as claim elements [1.2],

[1.4], [1.5], [1.6] and [10.2]. (E1001, ¶183.) Smith's stored value account 128 has

a first available balance [1.6], which is associated with both the stored value payment

vehicle 124 and the player identifier obtained from the player card information.

(E1005, [0077]; E1001, ¶183.)

      b.   **[17.3] communicating, by the casino computing system, with an issuer processor computing system to increase the first available balance amount of the stored value account to a second available balance amount based on a total value of funds to be loaded.**

Smith discloses this element for the same reasons as claim elements [10.3]

and [10.4]. (E1001, ¶185.) As shown in Fig. 6 below, a player can load funds from

the player's casino/gaming account 604/132 (green) to stored value account 128

(blue). (E1005, [0077], [0036], [0049]; *see also* claim element [10.1]; E1001, ¶185.)
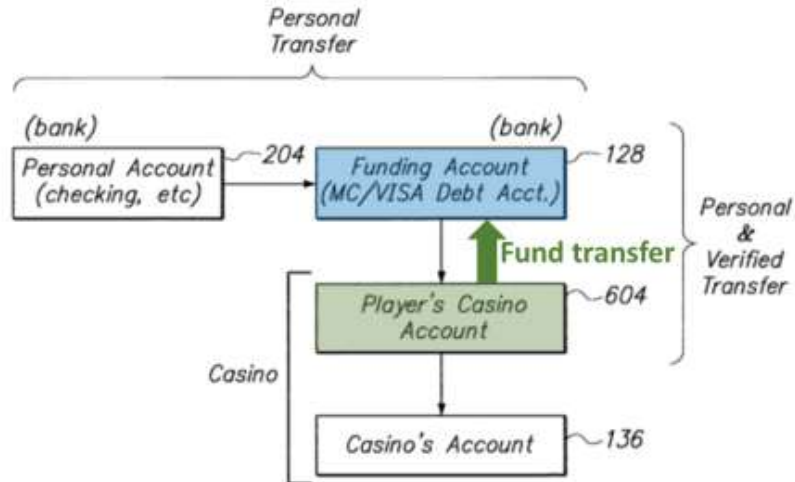
FIG. 6

As show in Fig. 3 below, the player initiates the fund transfer request by swiping or scanning his/her card at the access terminal associated with the casino computing system (yellow). (*See* claim elements [10.1] and [17.1]; E1005, [0077]; E1001, ¶186.) Casino computing system communicates the fund transfer request with the issuer processor computing system (blue) through communication device 316 in funding platform 108 to increase the first available balance in the stored value account 128 to a second available balance based on the value of the funds to be loaded to the stored value account 128. (*See* claim elements [10.4] and [17.1], E1001, ¶186.)

FIG. 3
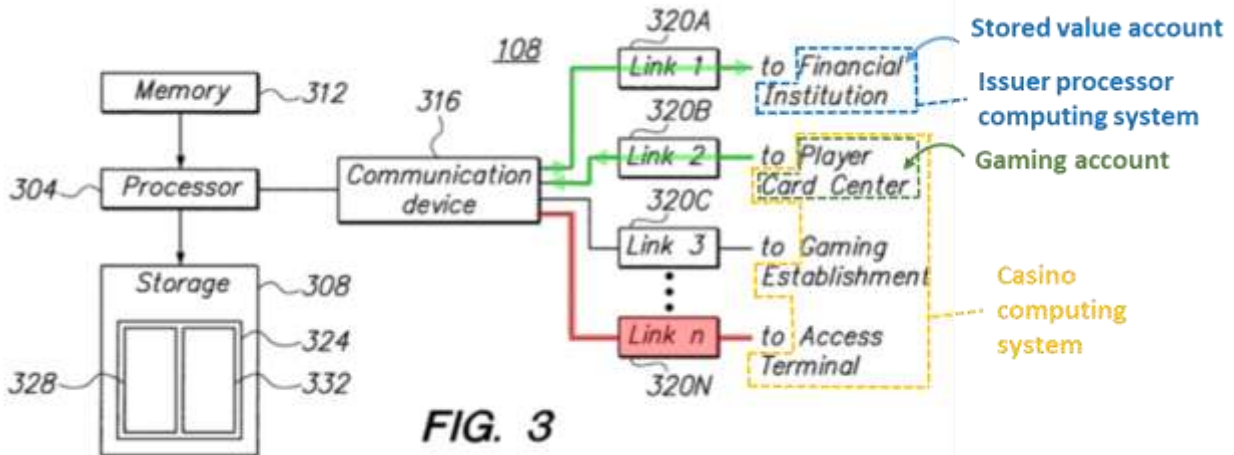
11. **Claim 18:   A computer-based method of claim 17, wherein the casino computing system is either of an attended computing device and an unattended computing device.**

Smith's casino computing system includes computing devices in the form of gaming machines, kiosks, gaming machine computers, or other access terminals at which a player swipes or scans a player card to initiate a fund transfer. (E1005, [0077]; *see* claim element [10.1]; E1001, ¶188.)   Smith's example computing devices are typically unattended, but each must be either attended or unattended. (E1001, ¶188.)

12. **Claim 19:   The computer-based method of claim 18, wherein the load request further comprise fund source information, and wherein the fund source information identifies any of a demand deposit account, a credit account, and a debit account.**

In addition to funding stored value account 128 with funds from player's casino/gaming account 604/132, as explained in claim 17 above, Smith also teaches funding stored value account 128 (blue) via the player's personal account 204 (pink). (E1005, Abstract, [0040], [0084]; E1001, ¶190.)
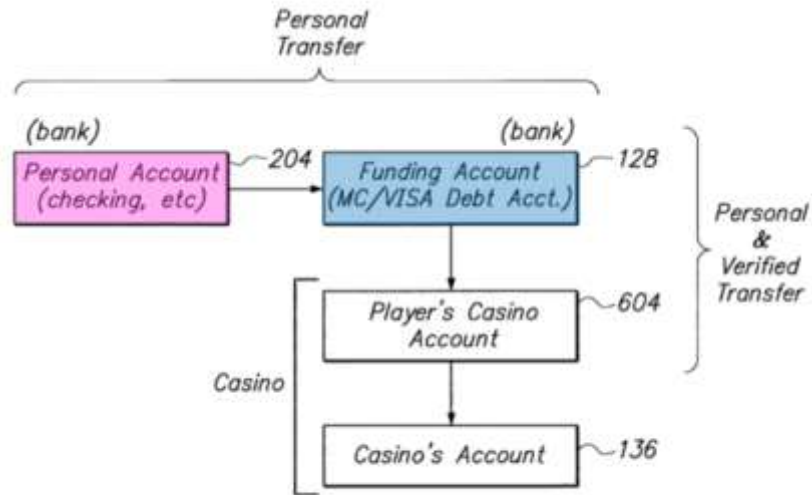
FIG. 6

When a player "sign[s] up to use the funding system [104]," funding platform 108 provides the player with an "electronic application form." (E1005, [0061]-[0062].) The player in turn provides the funding platform 108 with a "routing number" or "account number" identifying the player's accounts (including a list of personal bank accounts 204) from which the player can transfer funds to Smith's funding system 104, which includes stored value account 128 as shown in Fig. 1. (*Id.*, [0065].) Smith teaches that these personal bank accounts 204 – ***fund sources*** – comprise a "credit card account," or a "checking or savings account."[4] (E1005, [0040], [0065]; E1001, ¶¶191-192.)

Smith teaches that a player can initiate such a fund transfer request at an access terminal associated with the casino computing system. (*See* claim element [17.1];

---

[4] A POSA would understand and immediately envisage a checking or savings account to be a demand deposit account. (E1001, ¶192.)

E1001, ¶193.) As shown in Fig. 3 below, casino computing system communicates via communication device 316 and link 320A with financial institution that provides stored value account 128. (E1005, [0046], [0033]; E1001, ¶193.)

FIG. 3
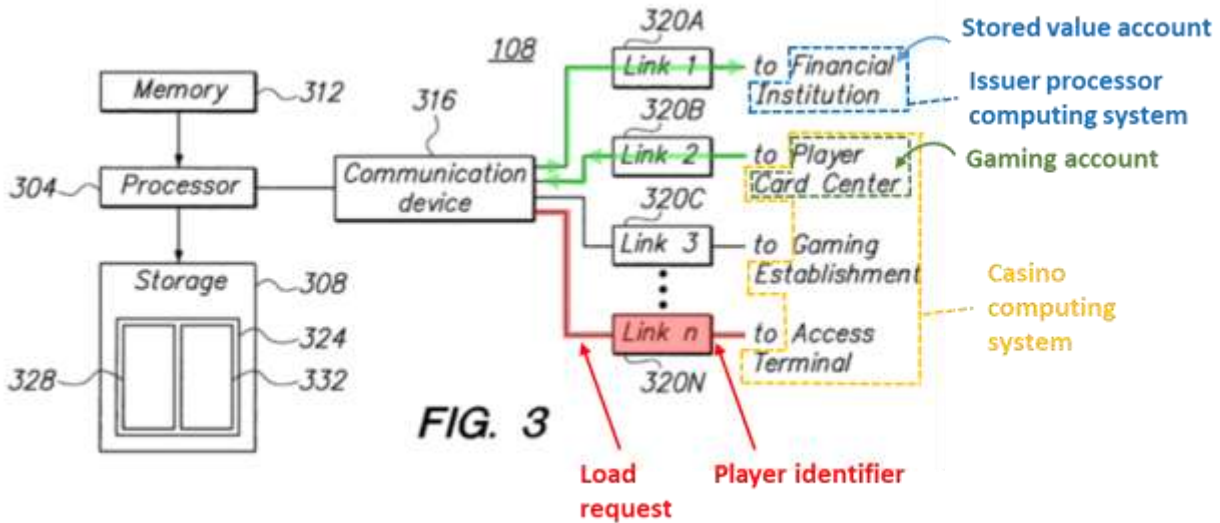
Smith provides that "banks or other financial institutions may be connected to the funding platform 108 in this manner as well." (E1005, [0046]; E1001, ¶193.) Player's personal account 204 is another "financial institution" linked to the casino computing system through funding platform 108 in this manner. (E1005, [0046]; E1001, ¶193.) Smith thus teaches and a POSA would immediately envisage that when a player initiates a load request from casino computing system to transfer funds from personal account 204 to stored value account 128, the request necessarily includes fund source information identifying the account number of personal account 204 (*i.e.* credit, savings or demand deposit account) stored by funding system 108. (E1001, ¶¶189-193.)

Additionally, it would have been obvious to a POSA that a player could initiate the load request with fund source information to transfer funds from personal account 204 to stored value account 128 from the access terminal and casino computing system in the casino. (E1001, ¶193.) Funding platform stores the account number and routing information for personal account 204 to facilitate electronic fund transfers. A POSA understands that a casino would want to provide a player with the convenience of performing fund transfers while at an access terminal or gaming device to ensure the player does not stop gaming, walk away to visit a cashier or ATM, or leave for another casino, thus resulting in revenue loss. (*Id.* at ¶193.)

13. **Claim 20: A computer-based method of claim 17, wherein the casino computing system comprises a redemption kiosk, and wherein the player-sourced funds are any of cash and a slot machine ticket.**

As illustrated in Fig. 3 below, Smith teaches that the casino computing system (yellow) includes "access terminals," and that one type of "access terminal" is a "kiosk." (E1005, [0077]; E1001, ¶194.) The kiosks "permit a player to transfer funds between their accounts." (E1005, [0090].) One way of doing so is by depositing "cash" into the stored value account 128 via the kiosk. (*Id.*, [0033], [0040], [0090]; E1001, ¶194.) A POSA would also immediately envisage that Smith's kiosks are configured to accept either cash or slot machine tickets, as casino

kiosks that accepted slot machine tickets were well-known and regularly used before

2012. (E1001, ¶194.)

FIG. 3
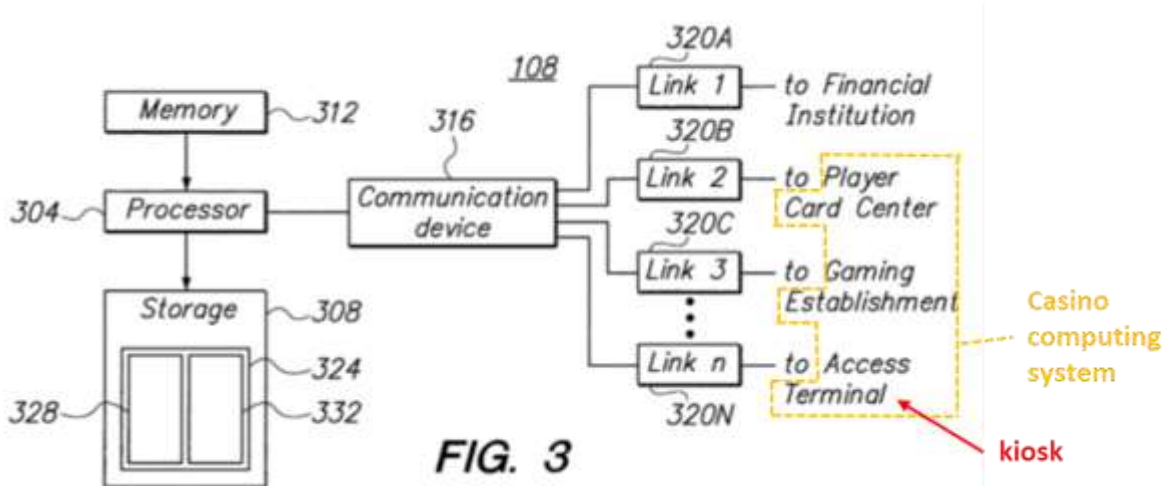
14. **Claim 22: The computer-based method of claim 17, further comprising: receiving, by the casino computing system, a request from the player to transfer a balance from the stored value account to a gaming account.**

Smith discloses this element for the same reasons as claim elements [1.7] and

[2.1]. (E1001, ¶196.) Shown in Fig. 6, Smith teaches that a player can transfer funds

from stored value account 128 (blue) to player's casino/gaming account 604/132

(green). (E1005, [0085].)
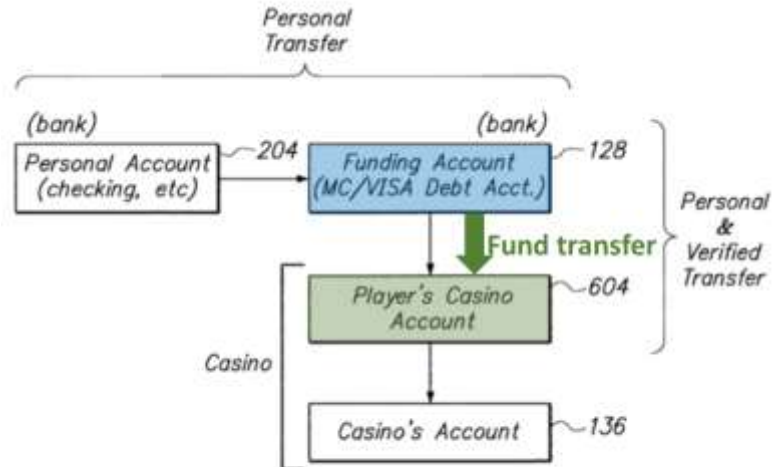
FIG. 6

The player initiates the request by swiping or scanning a card at a gaming machine, which is part of the casino computing system. (E1005, [0077]; E1001, ¶197.) The casino computing system thus receives the player request to transfer a balance from the stored value account to a gaming account. (E1001, ¶¶195-197.)

15. **Claim 23: The computer-based method of claim 22, wherein the gaming account is a wagering account affiliated with a casino, the method further comprising: causing, by the casino computing system, the balance to be transferred from the stored value account to the wagering account via communications with the issuer processor computing system.**

Smith discloses this element for the same reasons as claim element [1.7] in Claim 1. (E1001, ¶198.) As illustrated in Fig. 6 below, players can wager funds from Smith's player's casino/gaming account 604/132 to the casino 132; it is thus a wagering account affiliated with a casino. (E1005, [0041]; E1001, ¶199.)
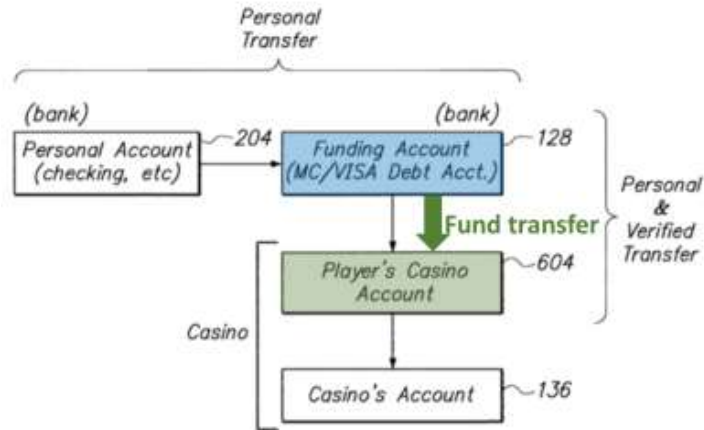
FIG. 6

As explained relative to claim element [1.7] and as illustrated in Fig. 3 below, a player's request to transfer funds made at an access terminal associated with the casino computing system (yellow) is communicated via link 320N through communication device 316 to issuer processor computing system via link 320A, thus causing the balance to be transferred from stored value account 128 to the wagering account 604/132. (E1005, [0077], [0046]; E1001, ¶200.)

FIG. 3

47
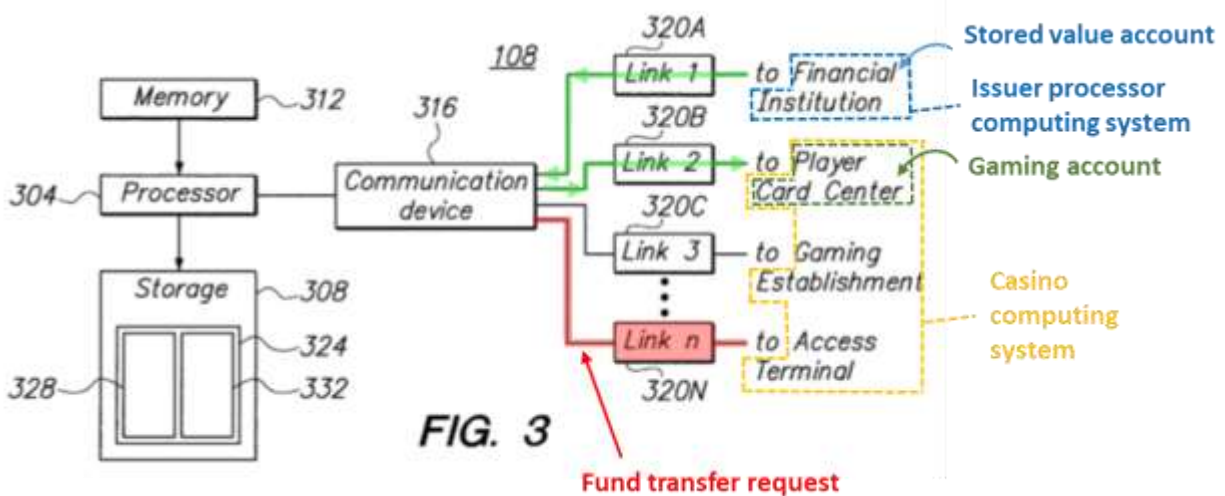
16.   **Claim 24**

       a.   **[24.0] A gaming system for a gaming environment, comprising:**

To the extent the preamble is limiting, Smith teaches a gaming system for a gaming environment. (*See* claim element [1.0]; E1005, [0092]; E1001, ¶201.)

       b.   **[24.1] a stored value payment vehicle issued to a player,**

Smith discloses this element for the same reasons as claim element [1.5]. (E1001, ¶202.)

       c.   **[24.2] wherein funds accessible by the stored value payment vehicle are maintained by an issuer processor computing system in a stored value account and are accessible through a payment network;**

Smith discloses this element for the same reasons as claim elements [1.4], [1.5] and [1.6]. (E1001, ¶203.) Additionally, Fig. 6 below shows stored value account 128 can rely on MasterCard or Visa, which are known to utilize payment networks. (E1005, [0033], Fig. 6; E1001, ¶204.) A POSA would understand and immediately envisage that funds in stored value account 128 are accessible by a stored value payment vehicle such as debit card 124 "through a payment network" because of how debit cards operate and the '809 patent's admission that it is known in the art to use payment network communications for such transactions. (E1002, 14:41-48; E1001, ¶204.)
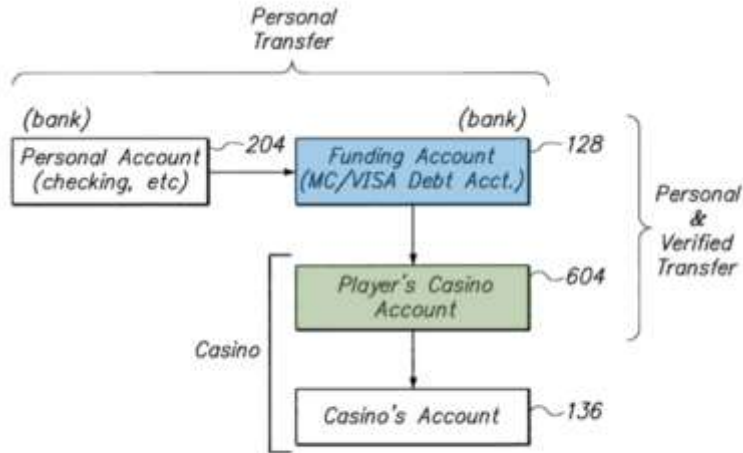
FIG. 6
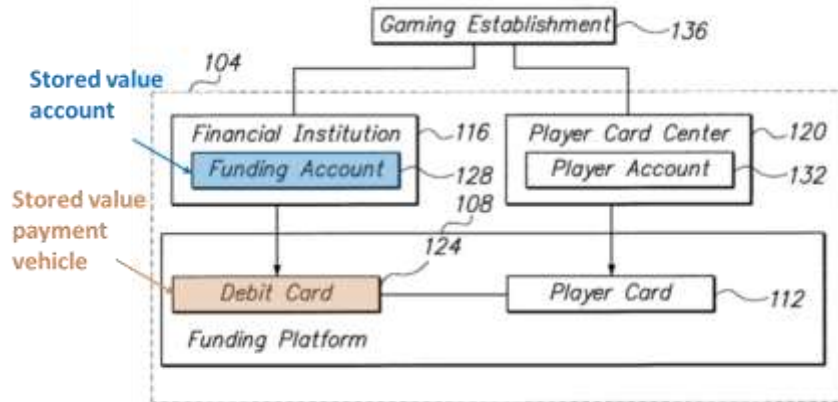
FIG. 1

d.   [24.3] a gaming account maintained by a casino computing system;

Smith discloses a gaming account for the same reasons as claim element [1.2].

(E1001, ¶205.)
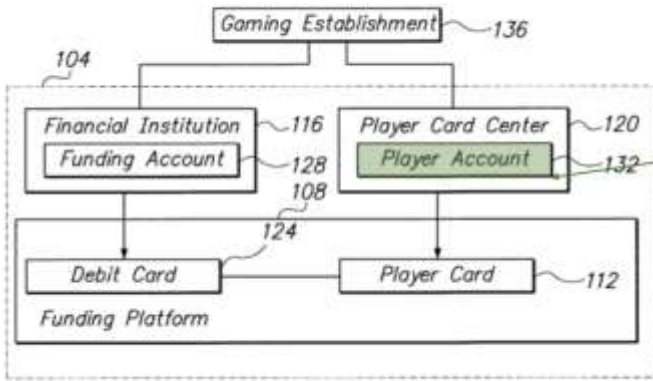
FIG. 1
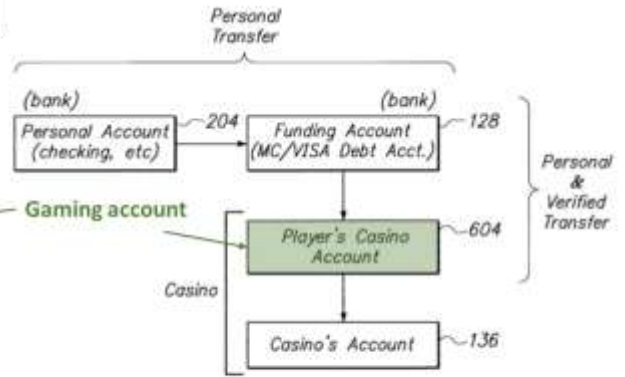
FIG. 6

Smith discloses a casino computing system for the same reasons as claim element [10.1]. (E1001, ¶206.) As shown in Fig. 3 below, Smith's player card center 120 and the player's gaming account 132/604 are both part of the casino computing system. (E1005, [0009], [0034, [0041], [0073]; E1001, ¶207.)
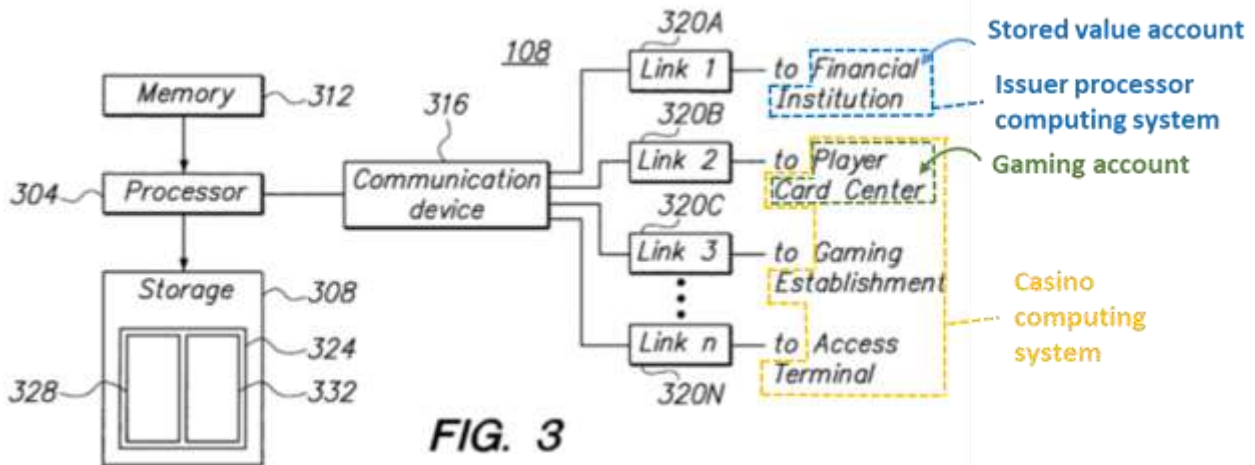
FIG. 3

e.   **[24.4] a loyalty account assigned to the player,**

Smith discloses this element for the same reasons as Claim 8. (E1001, ¶208.)

      f.   **[24.5] wherein the loyalty account is maintained by a customer management system associated with the casino computing system,**

The '809 patent teaches that the casino management system provides the gaming account 688 and the player loyalty profile 612. (E1002, 11:21-34, Fig. 6.) The '809 patent also provides that player loyalty profile 612 may be maintained by a customer relation management engine/service or the casino gaming system. (*Id.* at 10:33-37, Fig. 4.) Smith's player card center 120 provides the player's casino/gaming account 604/132 and the ability to track loyalty, and is associated with the casino computing system. (E1005, [0034]; claim element [24.3]; E1001, ¶210.) A POSA would understand and immediately envisage that Smith's player card center includes a customer management system to maintain Smith's loyalty program as customer management systems were well-known to support loyalty programs and used in most casinos well before 2012. (E1001, ¶211.)

      g.   **[24.6] wherein the loyalty account assigned to the player is associated to the stored value payment vehicle issued to the player; and**

Fig. 1 below shows how Smith's funding platform 108 (purple) associates the stored value account 128 (blue) with player casino/gaming account 132 (green) through stored value payment vehicle 124 (brown) and player tracking card 112 (red). (E1005, [0036].) Smith also teaches using stored value payment vehicle 124

to directly access player casino/gaming account 132, which includes loyalty account

information. (E1005, [0034], [0042]; claim elements [24.4], [24.5]; E1001, ¶213.)
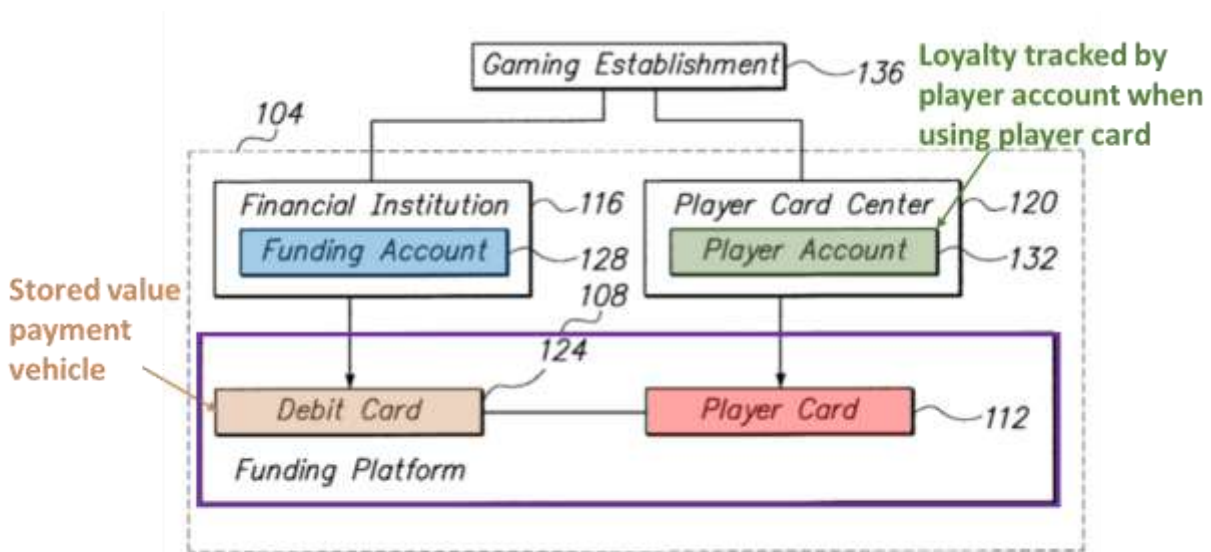
FIG. 1

By virtue of the link between stored value payment vehicle 124, player tracking card

112 and player casino/gaming account 132, Smith thus discloses that loyalty account

information is associated with the player's stored value payment vehicle 124.

(E1001, ¶213.)

> **h.**   **[24.7] a transaction facilitator comprising at least one
> processor and non-transitory computer readable medium**

having instructions stored thereon which when executed by a processor cause the processor to:

Smith discloses a transaction facilitator (purple) for the same reasons as claim elements [1.1] and [1.3]. (E1001, ¶214.) As shown in Fig. 3, Smith's transaction facilitator 108 includes a processor 304 (pink) in communication with memory 312 and storage 308 (brown) that are a non-transitory computer readable medium that executes instructions. (E1005, [0043]; E1001, ¶215.) The instructions may be hardwired into the processors 304 and/or retrievably stored on a storage device 308 for execution by the processors. (*Id.*, [0044].)

FIG. 3
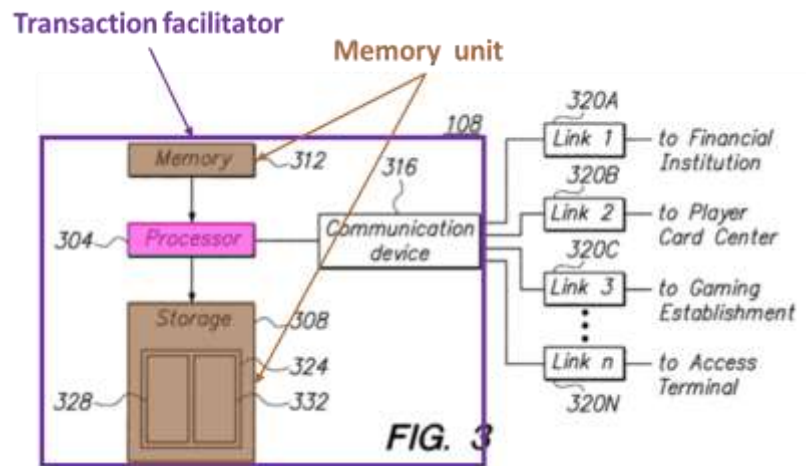
i.   [24.8] selectively increase and decrease balances of the stored value account and the gaming account.

Smith discloses this element for the same reasons as claim elements [1.7], [10.1] and [10.4]. (E1001, ¶216.) Smith teaches using transaction facilitator 108 to transfer funds from stored value account 128 (blue) to player's casino/gaming account 604/132 (green) (E1005, [0085]), and to transfer funds from the player casino/gaming account 604/132 to stored value account 128. (*Id.*, [0093]). (E1001, ¶217.)
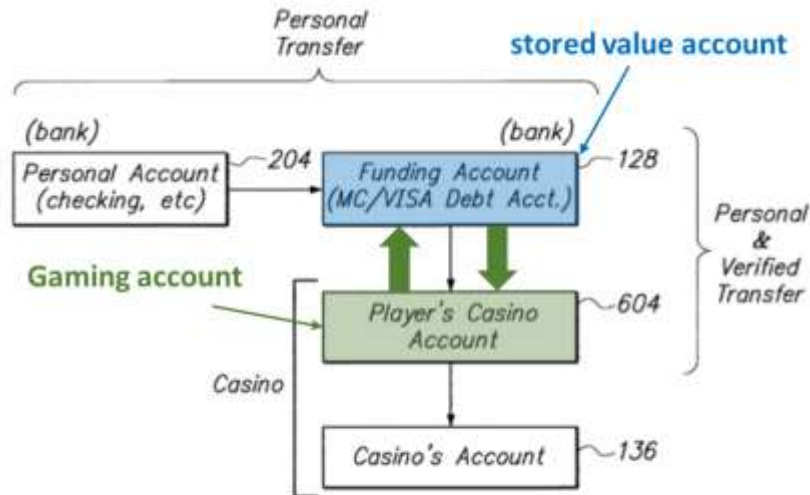
FIG. 6

17. **Claim 25: "The gaming system for the gaming environment of Claim 24 wherein the gaming account is any of a casino level player account, brick-and-mortar wagering account, race-and-sports wagering account, and an internet gaming wagering account."**

Smith discloses this element for the same reasons as Claim 6. (E1001, ¶218.)

18. **Claim 26**

   a. **[26.1] The gaming system for the gaming environment of claim 24, further comprising: a gaming device comprising means for identifying the loyalty account assigned to the player,**

Smith provides, "the player may swipe or scan his or her card at a card reader of a gaming machine, which devices transmits the player card information to the funding platform." (*Id.*, [0077].) Smith teaches using debit card 124 or player tracking card 112 at a card reader of a gaming device to access the player account 132, which houses the loyalty account information. (*Id.*, [0042].) The gaming

device's card reader thus comprises means for identifying the player's loyalty account. (Claim elements [24.4], [24.5]; E1001, ¶220.)

b.   **[26.2] wherein the gaming account is associated with the gaming device, and**

As explained in [26.1], Smith teaches that "the player may swipe his/her card at a card reader of a gaming machine," which allows access to the player's casino/gaming account 604/132. (*Id*., [0042], [0072]; E1001, ¶221.)

c.   **[26.3] wherein the transaction facilitator further comprises instructions which when executed by a processor cause the processor to: receive a player identifier of a player;**

Smith discloses this element for the same reasons as claim element [1.1]. (E1001, ¶222.) Additionally, Smith's transaction facilitator 108 includes processor 304 that executes instructions, including receiving a player identifier. (E1005, [0042]-[0044], [0075], [0077]; E1001.)

d.   **[26.4] based at least partially on the player identifier, identify the stored value payment vehicle that is linked to the loyalty account.**

Claim element [1.4] shows how Smith teaches identifying a stored value account 128 based at least partially on the player identifier. (E1001, ¶224.) Claim element [1.5] shows how Smith teaches associating stored value account 128 with stored value payment vehicle 124 issued to the player. (*Id*.) Additionally, Smith teaches that the stored value payment vehicle 124 itself may contain the player identifier. (E1005, [0035], [0042].) Claim element [24.6] shows how Smith teaches

linking the loyalty account to the stored value payment vehicle 124. (E1001, ¶¶225-226.)

X. GROUND 2: CLAIMS 1-2, 6-11, 14-19, AND 22-23 ARE OBVIOUS IN VIEW OF SOMMER

B. Overview of Sommer

Sommer discloses a method for cashless gaming at a casino. (Ex. E1006, Abstract.) Sommer explains the gaming industry had long embraced networking electronic gaming devices via a central computer with player cards equipped with a unique identifier that enables the casino to centrally track the player's wagering activity. (E1006, [0003]). Sommer teaches the ability to link a player's *external personal financial* accounts with the casino environment so the player can, while at the casino, transfer money between the player's casino account and the player's external financial accounts. (*Id*., Abstract, [0006].) The player can use their player card to initiate transfers. (*Id*., [0022], [0028].)
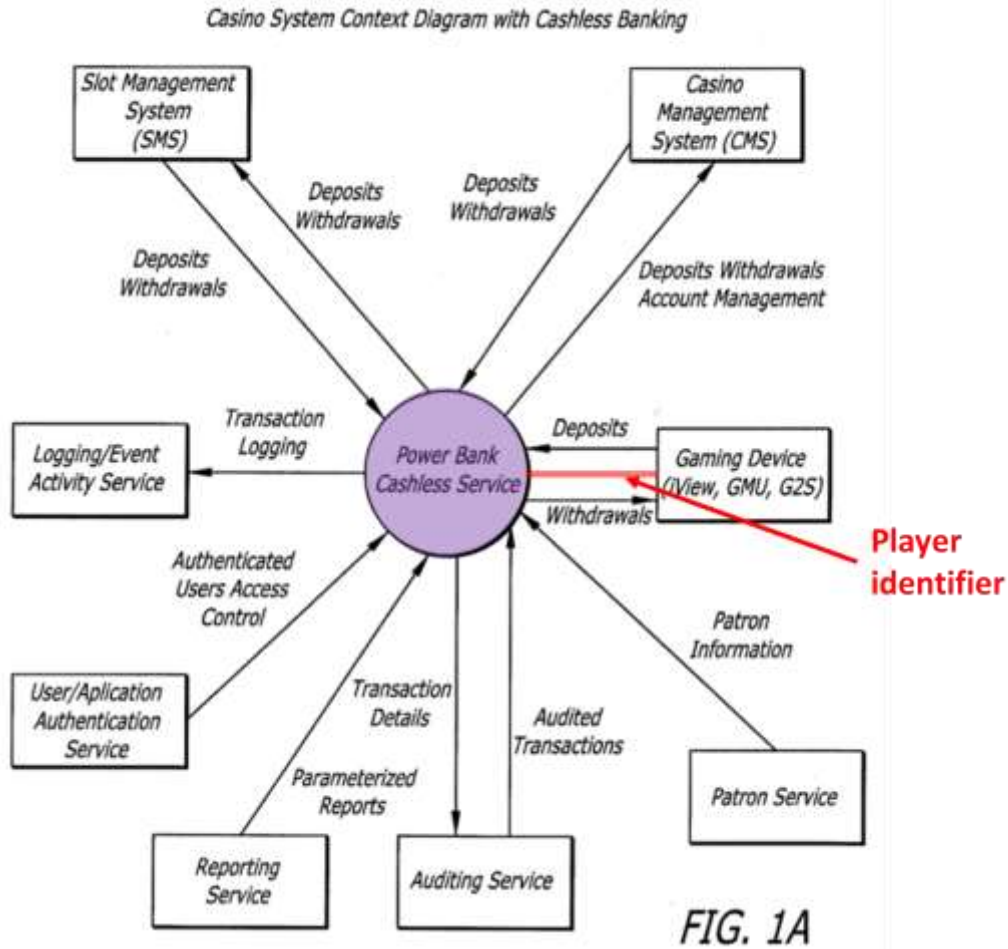
FIG. 1A

As shown in Fig. 1A, Sommer's system utilizes one or more networked "PowerBank" gaming servers (purple) to link the player's personal financial accounts and the player's casino account based on a player identifier on the card. (*Id.*, [0028], [0029].) As is shown in Figs. 2 and 5 below, once identified, the player can (1) transfer funds from the player's financial accounts (blue) to the player's casino account (green) (Fig. 2), or (2) "cash out" by transferring funds from the player's casino account (green) to the player's financial accounts (blue) (Fig. 5). (*Id.*, [0013], [0016].)
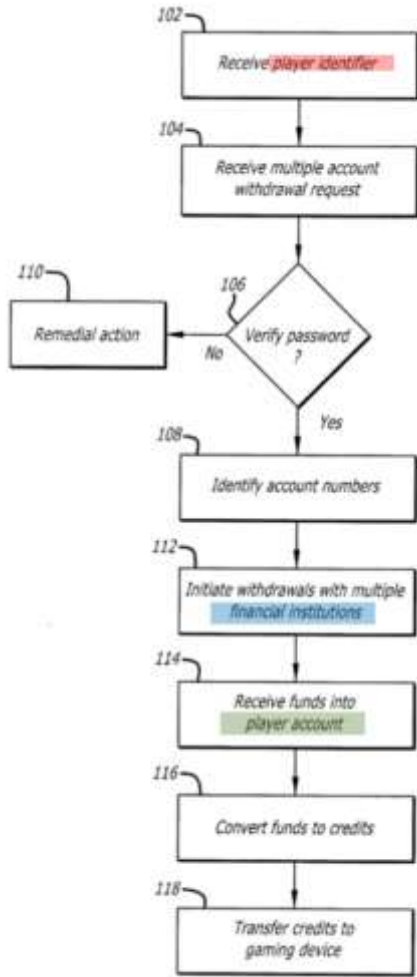
FIG. 2
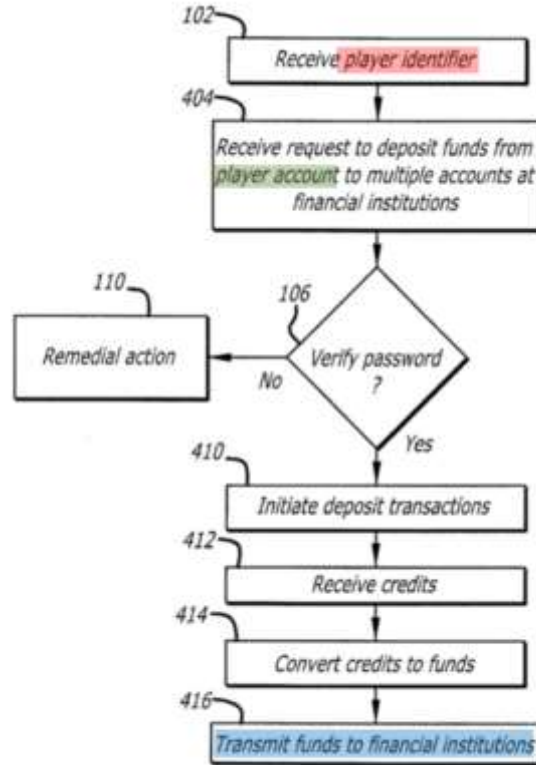
FIG. 5

Sommer's gaming server stores account number and financial institution information related to the player identifier, so a table showing account balances (see Table 1, below) may be displayed to the player on the gaming device. (*Id.*, [0030], [0038].)

TABLE 1

Account Name	Balance	Withdrawal
Chase 1	$1,000.00	$ ____
Citibank 1	$2,000.05	$ ____
Wells Fargo 1	$3,050.11	$ ____
Total	$4,050.16	$ ____

Sommer also discloses transferring funds to and from *one* financial account at *one* financial institution. (*Id.*, [0030].)

1. Claim 1

a. [1.0][5]

To the extent the preamble is limiting, Sommer discloses a gaming server as part of a casino system having a processor, a memory, and a storage device. (E1006, [0010]-[0015], [0027], all claims; E1001, ¶¶232-233.)

b. [1.1]

Sommer discloses issuing a player identifier (red) to facilitate cashless gaming. (E1006, [0021]; E1001, ¶235.) Once registered, "the player logs in to the electronic wagering system by presenting a player identifier to a gaming device" by

---

[5] For the claims challenged below in Ground 2, Petitioner refers to the recitations of the claim language in Ground 1 rather than repeat the claim language in Ground 2. For example, claim element [1.0] in Ground 2 corresponds to claim element [1.0] in Ground 1. For claims challenged below in Ground 2 but not in Ground 1, Petitioner recites the entirety of the claim language.

"swiping a player card" or "entering an alphanumeric code via a keypad." (*Id*.,

[0022].)
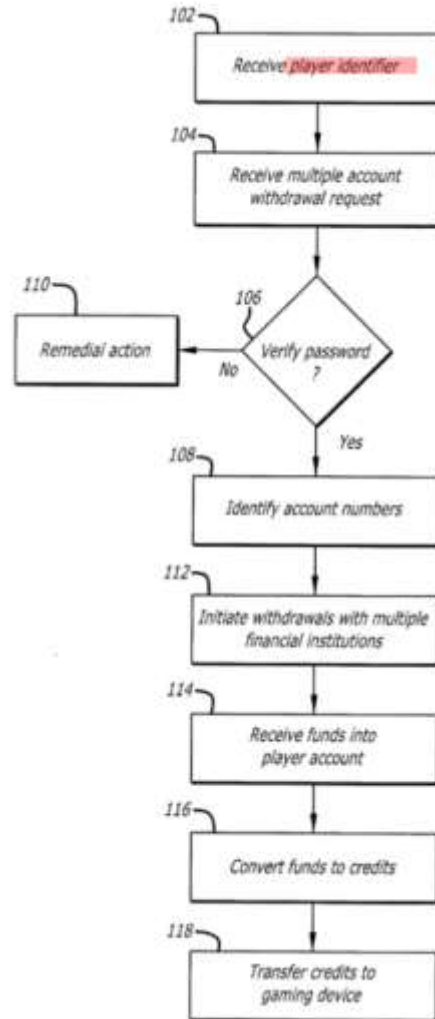
Sommer's "gaming devices" are "electronic devices that provide for wagering

games such as poker, blackjack, and other games of chance… in a networked

environment." (E1006, [0023].) These gaming devices can include "iView, GMU,

and G2S" which are software and communication protocols. (E1006, Fig. 1A;

E1001, ¶236.) Given Sommer's disclosures of computer based gaming devices in a

networked environment, a POSA would immediately envisage a ***gaming computing system*** associated with the gaming devices. (E1001, ¶236.) Alternatively, it would have been obvious to a POSA that Sommer's gaming devices are associated with and managed by a gaming computing system in view of the state of the art, and particularly the use of computer games such as slot machines or electronic poker tracked closely by computer systems of casinos, at the time of filing of the '809 patent. (E1001, ¶237.)
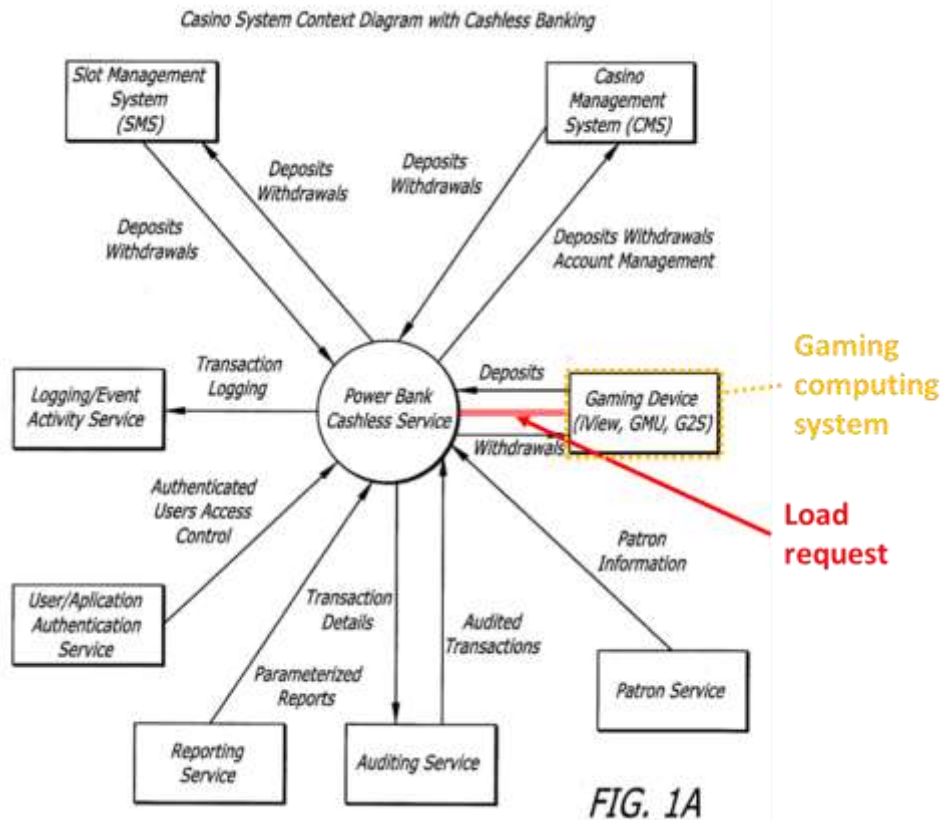
FIG. 1A

Sommer teaches that a "gaming server recieves the player identifier from the gaming device (step 102)." (E1006, [0026].) As shown in Fig. 1A below, the PowerBank gaming server (purple) is a ***transaction facilitator*** that includes a processor, memory, and storage device. (E1006, [0005], [0027], Figs. 1A, 1C, claim 26; E1001, ¶238.) Transaction facilitator controls deposits and withdrawals to and from the gaming device and gaming computing system. (E1006, [0042]-[0055], [0069]-[0071]; all claims; E1001, ¶239.)
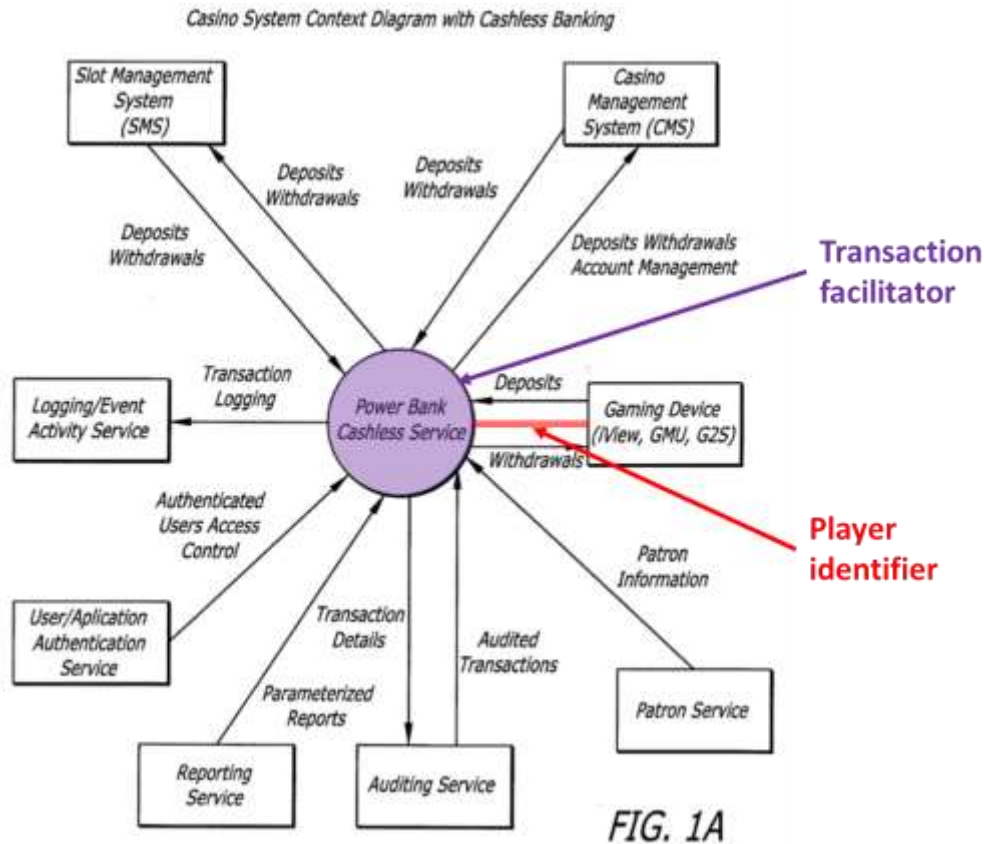
FIG. 1A

Sommer thus discloses the step of receiving a player identifier of a player from a gaming computing system affiliated with a gaming environment by a transaction facilitator. (E1001, ¶¶234-240.)

c.　　[1.2]

Sommer discloses a "player account" from which a player can wager money

– *i.e.,* a ***gaming account***. (E1006, [0025], [0035]; E1001, ¶¶242-243.) "[T]he player

account is associated with the player identifier and resides on the gaming server."

(E1006, [0035].) Upon logging into the gaming device with player identifier (red),

the player may fund player/gaming account (green)(steps 112, 114), which therefore

has a balance. (E1006, [0028]; E1001, ¶243.)
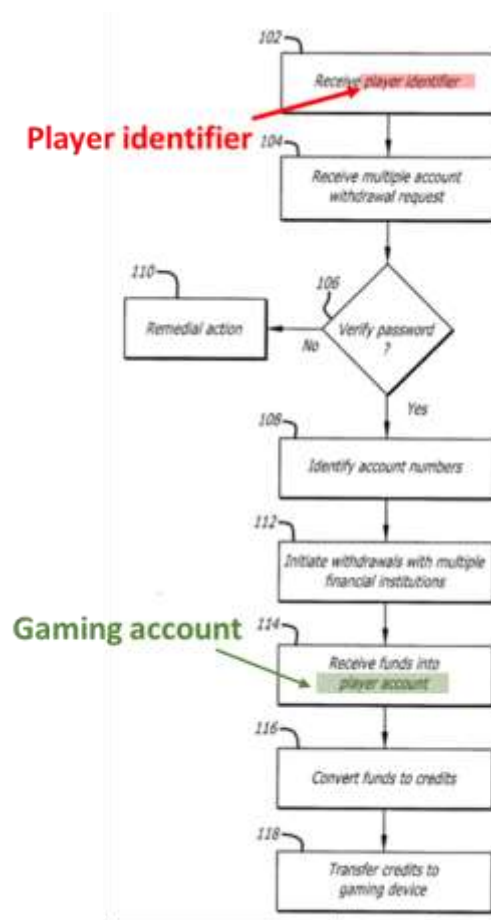
FIG. 2

d. [1.3]

Sommer's transaction facilitator is a server or networked computer that includes a processor, memory unit and storage device. (E1006, [0027], Claim 26; E1001, ¶245.) Fig. 1C also shows the transaction facilitator (purple). (E1001, ¶246.)
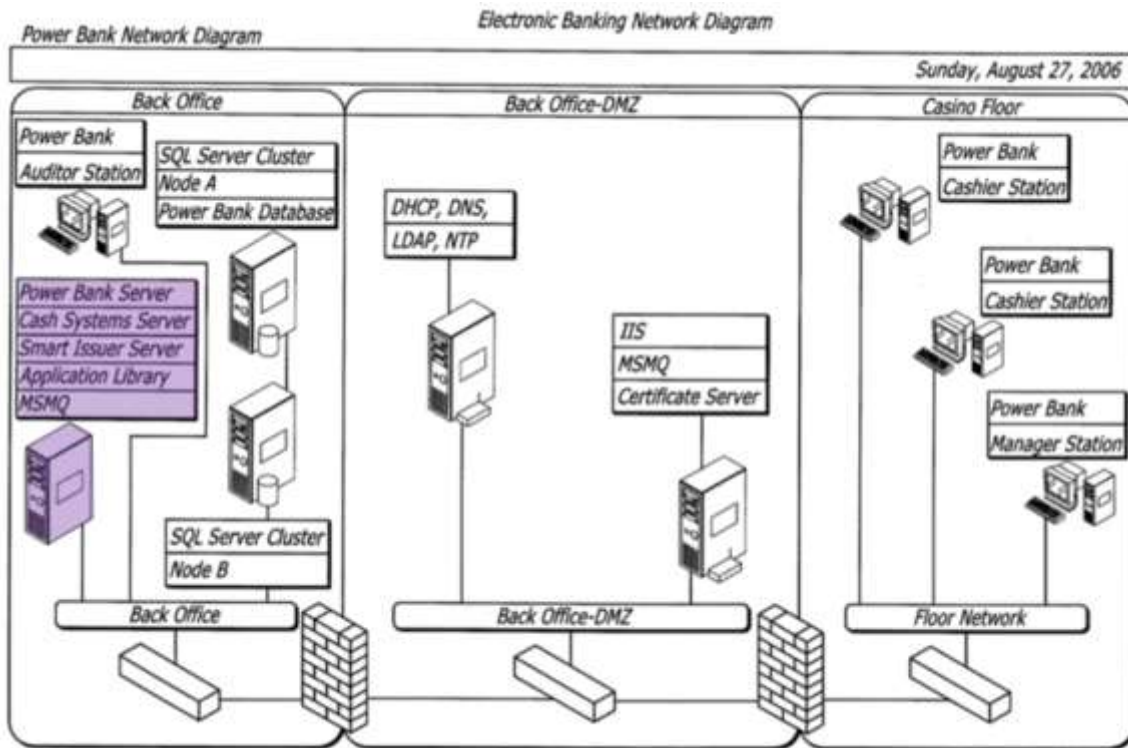
FIG. 1C

e. [1.4]

Sommer teaches that a player maintains his/her personal funds in a ***stored value account*** (blue) at a financial instiuttion, which may be a checking, savings, debit or credit account. (E1006, [0018].) When a player requests a fund transferr from his/her stored value account to his/her player/gaming account (step 104), Sommer's PowerBank (*transaction facilitator*) identifies stored value account (blue) "by associating the player identifier [red], … with the respective
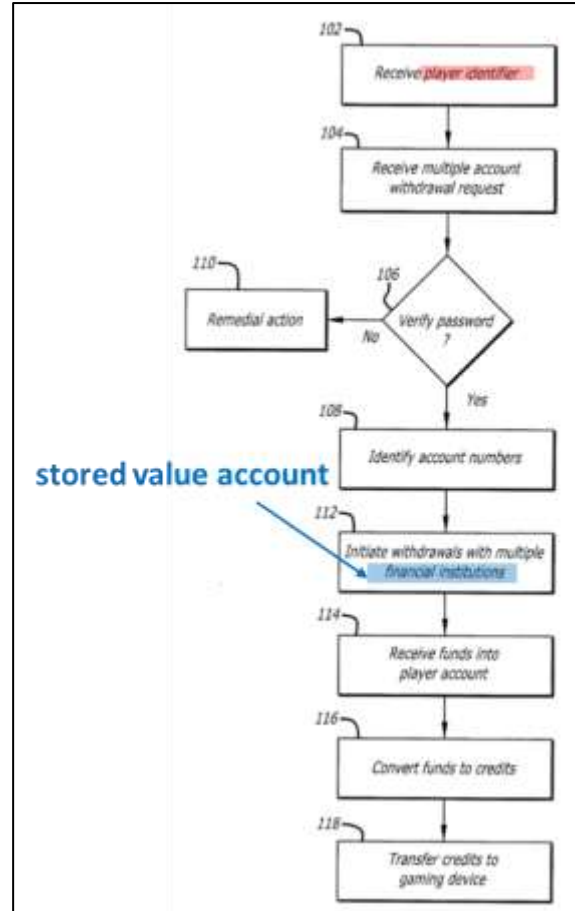
account number and financial institutions of the requst (step 108)." (E1006, [0030], [0033]; E1001, ¶248.)

f. [1.5]

Sommer teaches that the player's stored value account can be a "checking, savings, credit card, debit card, ATM card, and bank card." (E1006, [0018], [0020]; E1001, ¶250.) A card associated with this account (e.g., debit card, credit card, etc.) is a ***stored value payment vehicle*** issued to the player. (*Id.*)

g.   **[1.6]**

When Sommer's transaction facilitator communicates with the financial institution, it transmits sensitive information in a secure, encrypted form (e.g. IFX protocol). (*Id.*, [0034].) A POSA would thus understand and immediately envisage Sommer's financial institution (issuer processor) must have a computing system (***issuer processor computing system***) to handle such communications. (E1001, ¶252.) A POSA would have understood and immediately envisaged that a player's stored value accounts at a financial institution are maintained by servers (e.g., processors, memory, etc.), and therefore that the balance of the stored value account is maintained by an issuer processor computing system. (E1001, ¶253.)

a.   **[1.7]**

As illustrated in Fig. 1A below, a player provides his/her player identifier at a gaming device to request funds to be transferred from one or more stored value accounts to a player's gaming account. (E1006, [0030].) The gaming computing system (yellow) then communicates by transaction facilitator (purple) with the financial institution's issuer processor computing system (purple). (E1006, [0034], [0035]; E1001, ¶255.)

Casino System Context Diagram with Cashless Banking

FIG. 1A
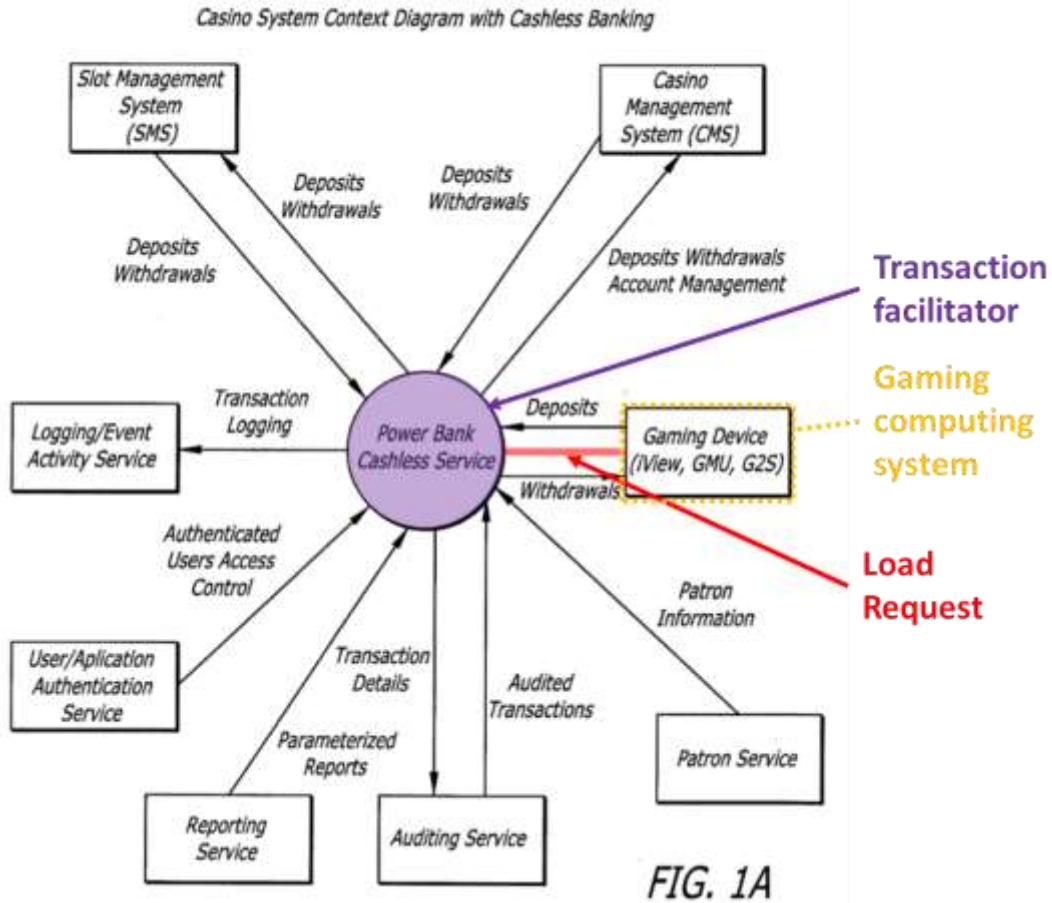
Once the request is approved, Fig. 2 below shows that funds are transferred from stored value account (blue) to the gaming account (green) (step 114).[6] (E1006, [0035]; E1001, ¶256.) The transfer necessarily causes a decrease in the balance of the stored value account and a corresponding increase in the balance of the gaming account. (E1001, ¶256.)

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[6] Sommer teaches transferring funds to/from more than one financial account, or just one financial account. (E1006, [0030]; E1001, ¶¶231, 257.)
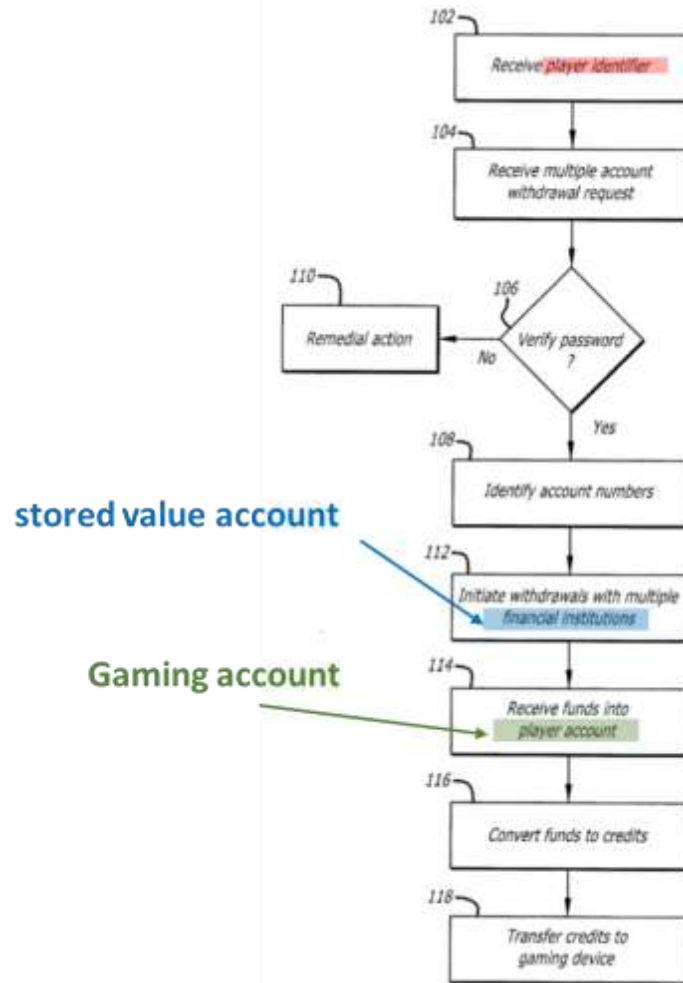
FIG. 2

2. **Claim 2**

   a. **[2.1]**

Sommer teaches transferring funds from the stored value account to the player/gaming account. (*See* Claim [1.7]; E1001, ¶258.)

As shown in Fig. 1A below, a player initiates the fund transfer request by swiping a player card at a gaming device that is associated with the gaming computing system (yellow) to provide a player identifier (red). (E1006, [0022]; E1001, ¶259.)

FIG. 1A
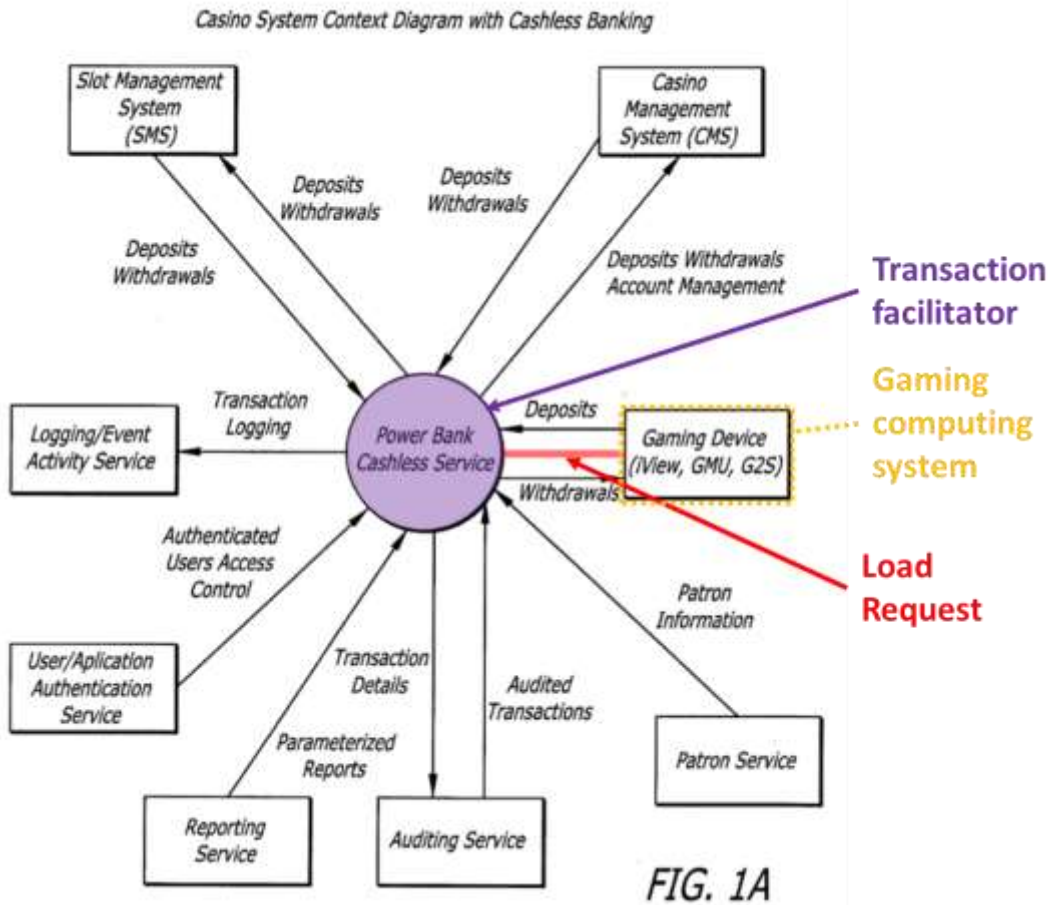
As also shown in Fig. 2 below, transaction facilitator (purple) receives the request (step 104), and identifies account numbers of the stored value account from which the funds are transferred (step 108). (E1006, [0030], [0031], [0033], Claim 1; E1001, ¶260.)
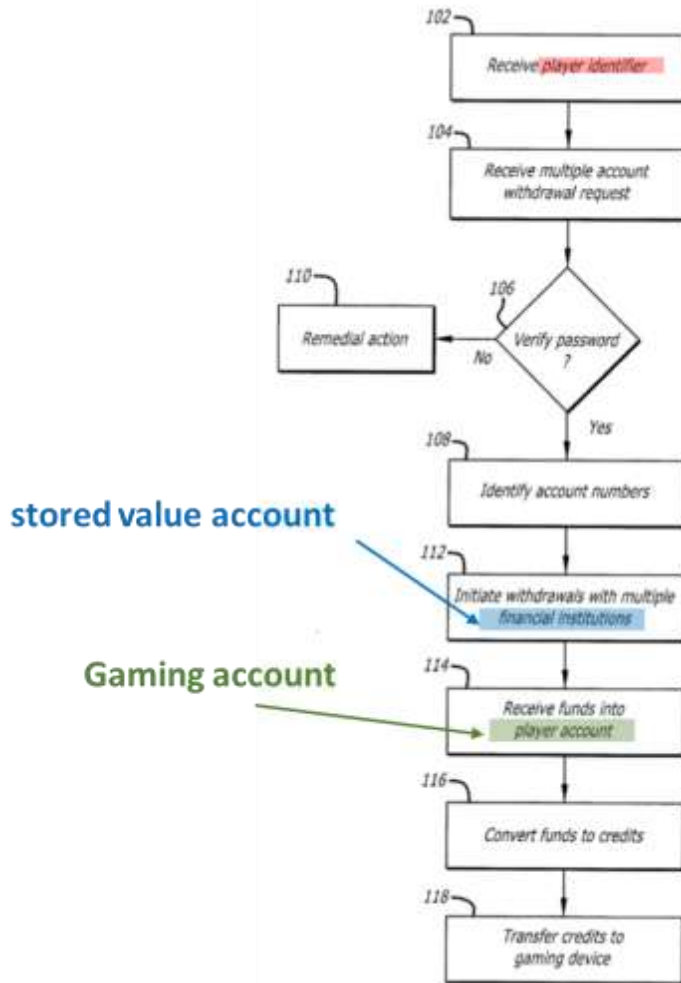
FIG. 2

b.   [2.2]

Referring again to Fig. 2 above, Sommer teaches that once the transaction facilitator identifies the player's stored value account, it then communicates with the financial institution's issuer processor computing system to initiate "withdrawal transactions with… the financial institutions" to transfer funds to the player/gaming account (step 112)." (E1006, [0034].) This funds transfer necessarily requires a decrease in the balance of the stored value account by the financial institution's

issuer processor computing system. (See claim element [1.7]; E1006, [0034]; E1001,

¶¶256, 262.)

        c.   **[2.3]**

Sommer teaches that "assuming the financial institutions approve the

transactions of step 112, the funds are transferred. . . into the player/[gaming]

account (step 114)" whereupon they can be wagered at the gaming device. (*Id.*,

[0035].) (See claim element [1.7]; E1006, [0035].) By transferring the funds after

approval, Sommer thus teaches responding to the gaming computing system with an

approval of the request. (E1001, ¶¶263-264.)

3. Claim 6

Sommer refers to gaming account (green) as a "player account" that contains funds "to be wagered directly at [a] gaming device" during "wagering," and thus comprises a wagering account and/or a casino level player account. (E1006, [0035], Fig. 2; E1001, ¶¶255-266.)
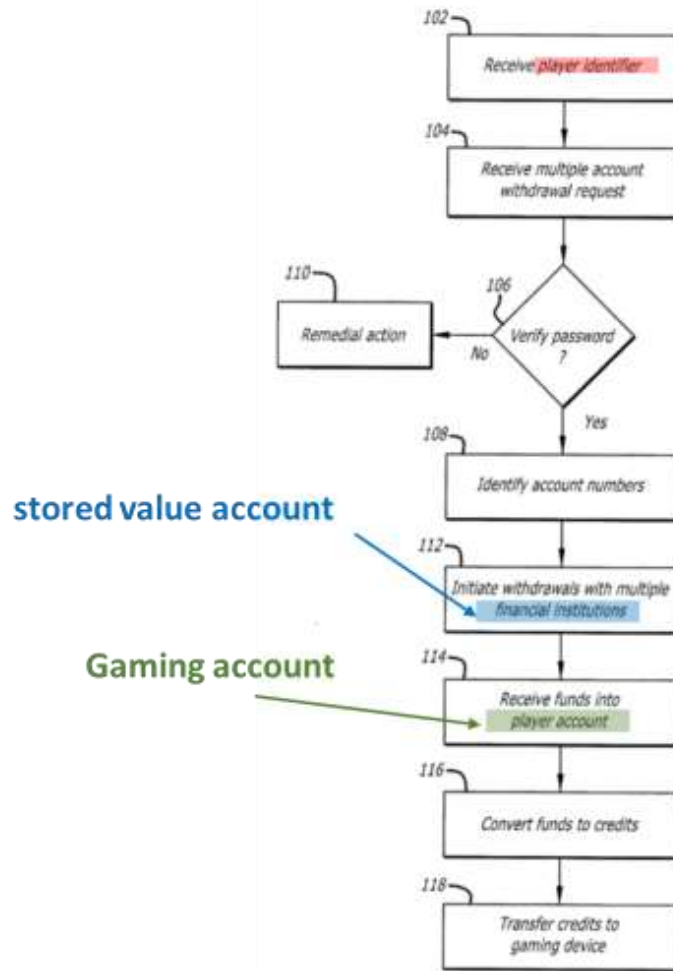
FIG. 2

4.   Claim 7

Sommer teaches a transfer of funds from a player's stored value account to his/her gaming account, and defines "funds" as "money and other assets that are electronically traded for *in real time*." (E1006, [0020]; claim element [1.7]; E1001, ¶¶267-268.)   Sommer also teaches communicating with the player's financial institution via "IFX protocol" (E1006, [0034]), which a POSA would understand occurs in substantially real time. (E1001, ¶252,269.) A POSA would understand and immediately envisage this disclosure to mean that the balance of the gaming account is increased and the balance of the stored value account is decreased in substantially real-time in order to make funds immediately available to a player for gaming. (E1001, ¶270.)

Alternatively, it would have been obvious to a POSA to make funds transferred from the stored value account to the gaming account available in substantially real-time as electronic fund transfers in the gaming industry at the time of filing the '809 Patent were well known to be done in substantially real-time given the advances in cashless gaming, the ease of electronic fund transfers performed by banking systems, and the desire to make transferred funds available immediately to a player for gaming. (E1001, ¶271.)

5. **Claim 8**

Sommer's player card used at the gaming device includes a "unique identifier issued by the gaming establishment." (E1006, [0003].) The casino uses the unique identifier to "track the player's wagering activity" so that the casino can provide the player with a "promotion, gift, and advertisement." (*Id.*, [0003], [0021], [0026].) A POSA would understand and immediately envisage this to be a loyalty program of the gaming environment. (E1001, ¶¶272-273.)

6. **Claim 9: The computer-based method of claim 1, further comprising: subsequent to receiving the player identifier, sending, by the transaction facilitator to the gaming computing system an indication of the account balance of the stored value account.**

Sommer's "gaming server [*transaction facilitator*] stores account number and financial institution information [*i.e., stored value account*] related to the player identifier." (E1006, [0030].) Sommer teaches that after receiving the player identifier, transaction facilitator utilizes account information to display on the gaming device the table below showing account balances of one or more of the player's stored value accounts. (E1006, [0030], [0038]; E1001, ¶¶274-277)

TABLE 1

Account Name	Balance	Withdrawal
Chase 1	$1,000.00	$
Citibank 1	$2,000.05	$
Wells Fargo 1	$3,050.11	$
Total	$4,050.16	$

To do so, the transaction facilitator necessarily sends the stored value account balance to the gaming device, part of the gaming computing system. (*Id.*; *see also* Claim [1.1].)

7. Claim 10

a. [10.0]

To the extent the preamble is limiting, Sommer teaches a computerized method of gaming and funding a player account. (*See* Claim [1.0].) Sommer's uses a computer in the form of gaming server to transfer funds into a player's account at a financial institution. (*See* Claim [1.0]; E1006, [0027], [0069]; E1001, ¶278.)

b. [10.1]

As shown in Fig. 5 below, Sommer teaches loading player funds from the player's casino/***gaming account*** (green) into the ***stored value account*** (blue). (E1006, [0069], [0070], Fig. 5; E1001, ¶¶281-282.)
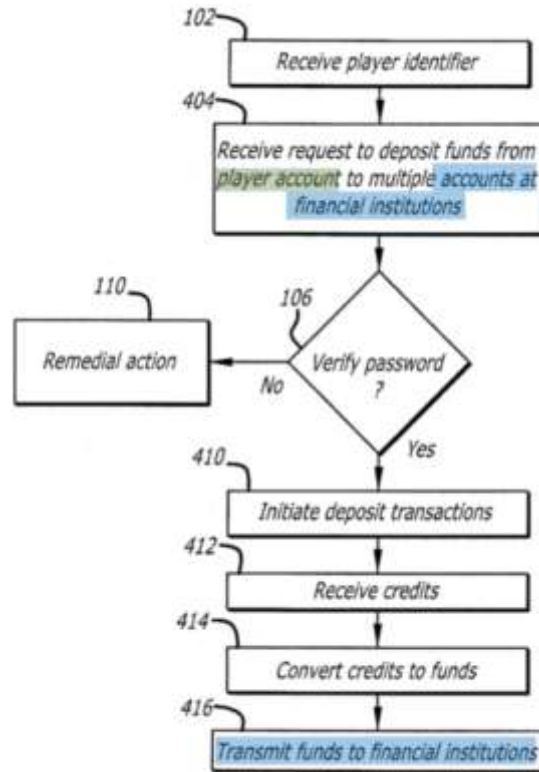
FIG. 5

As shown below in Fig. 1A, a player initiates the load request from a gaming device in the casino. (E1006, [0069], [0072]; E1001, ¶¶285-287.) Sommer refers to the entirety of Fig. 1A as the "Casino System", which includes components such as gaming device, slot management system and casino management system (E1006, [0005]; Fig. 1A) A POSA would immediately envisage that these elements are associated with a *casino computing system* (yellow) to monitor and manage gaming machines, player accounts and player wagering activities. (E1001, ¶283.) Alternatively, it would be obvious to a POSA that the gaming device, slot management system and casino management system include a casino computing system in view of the state of the art, and particularly the use of computer games

such as slot machines or video poker tracked closely by casino computer systems, at

the time of filing of the '809 Patent. (E1001, ¶284.)
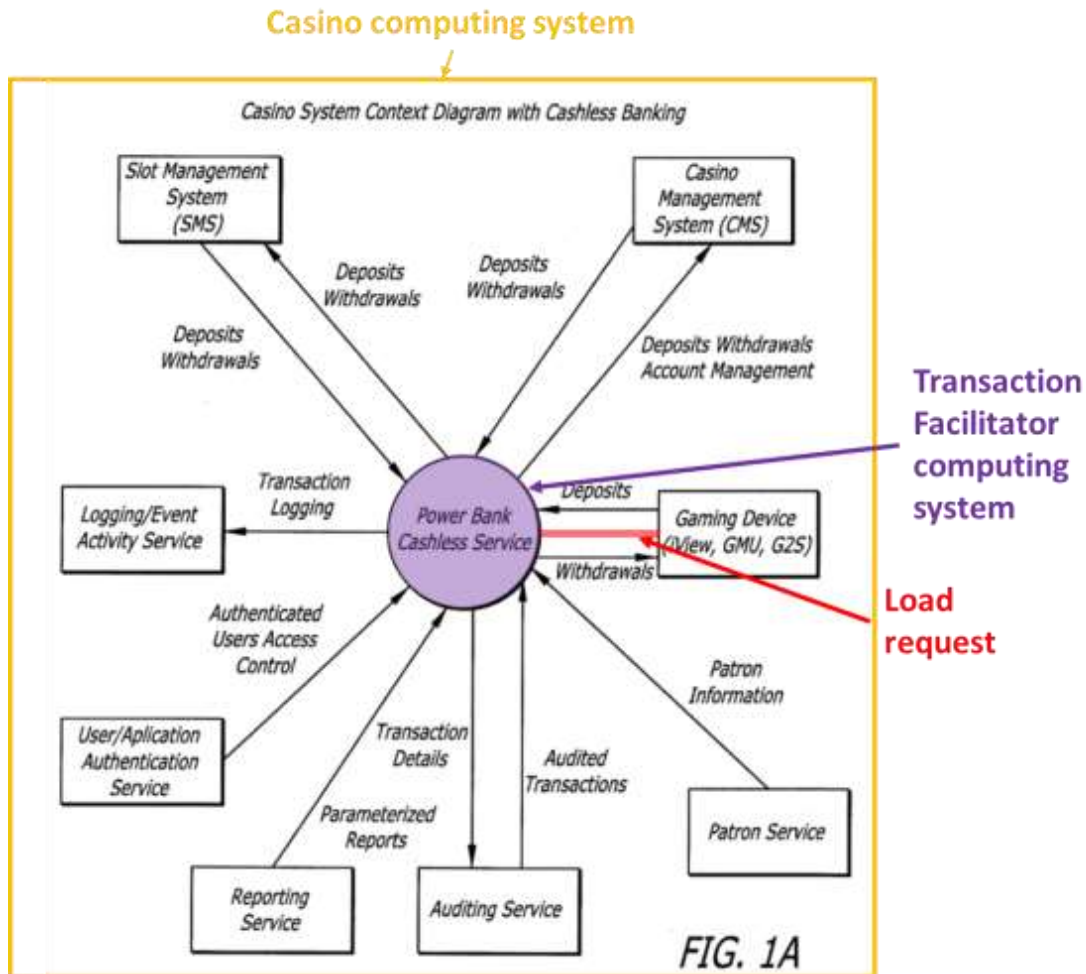
For the reasons in claim elements [1.4] and [1.5] above, Sommer's ***stored***

value account is associated with a ***stored value payment vehicle***. (E1001, ¶281.)

As shown in Fig. 1A above, Sommer teaches that a player initiates the ***load***

request (red) to transfer a player's funds by swiping his/her card at a gaming device.

(See Claim elements [1.4], [2.1]; E1006, [0069].) As described above in this claim

element, a POSA would understand and immediately envisage that the gaming

device is part of the casino computing system, and the load request necessarily comes from the casino computing system. (*Id*., E1001, ¶283, 287.)

For the reasons in claim element [1.1] above, and as shown in Fig. 1A above, Sommer's PowerBank gaming server (purple) is the ***transaction facilitator computing system***. The PowerBank gaming server accepts load requests and facilitates fund transfers and communications between a player, various accounts, and the casino. (*See* Claim [1.7]; E1006, [0069]-[0070]; E1001, ¶¶286-287.) The transaction facilitator computing system receives requests to load player funds to the stored value account(s). (See claim element [1.1]; E1006, [0069], [0070], Fig. 1A; E1001, ¶¶286-287.) Sommer thus discloses that a player sends a load request to transfer player funds to a stored value account from the casino computing system to the transaction facilitator computing system. (*Id*.; E1001, ¶¶279-287.)

c. **[10.2]**

Sommer discloses this element for the same reasons as element [1.6] in Claims 1 and 9. (E1001, ¶288.)

d. **[10.3]**

Sommer teaches that when a player wins at a gaming device associated with the casino computing system, the player can transfer the "sum of the credits" won into her/his stored value account. (E1006, [0069].) The PowerBank transaction facilitator computing system receives and converts the sum of credits from the

gaming device into funds for transmission to stored value account(s). (E1006,
[0071]; E1001, ¶290.)   A POSA would understand that the "sum of credits"
constitutes ***player funds information***, including a ***total value of the player funds*** to
be transferred. (E1001, ¶290.)

e.   **[10.4]**

Sommer shows below in Fig. 5 that after receiving player funds information,
Sommer's transaction facilitator computing system communicates with the financial
institution which houses the player's stored value account. (E1006, [0071], Figs.
1A, 5; E1001, ¶¶291-293.)
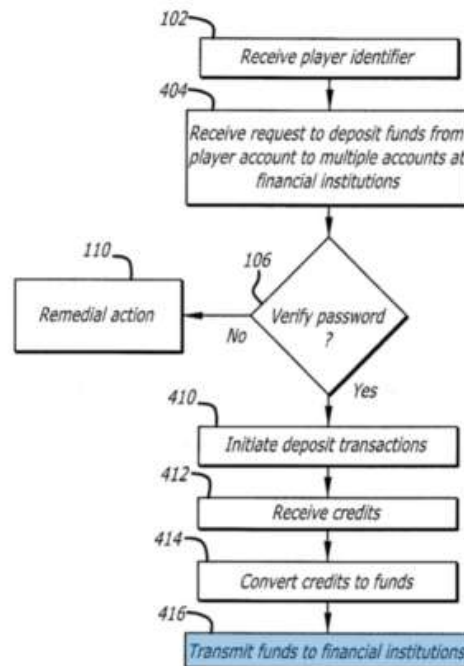
FIG. 5

As explained in Claim element [1.6], a POSA would understand and
immediately envisage that Sommer's financial institution (*issuer processor*) must

have a computer system to receive such funding communications, and that the *issuer*

processor computing system is the mechanism by which the financial institution and

stored value account receive communications. (E1006, [0034], [0035]; E1001,

¶¶291-293.)

FIG. 1A
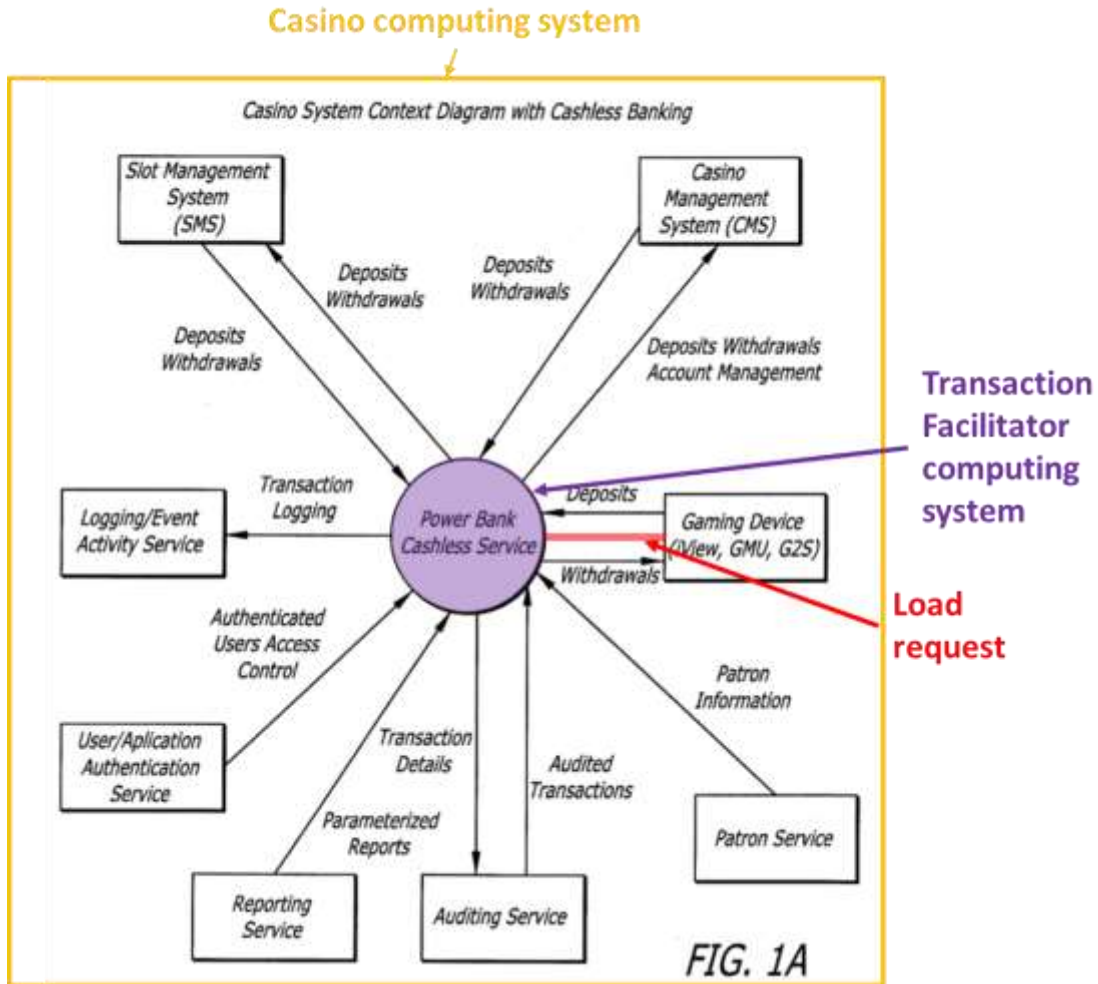
When, as Sommer teaches and is shown in Fig. 5 above, the player transfer

funds from the player/gaming account to the stored value account, the balance of the

stored value account necessarily increases by the total value of the player funds

transferred. (*See* Claim element [1.7]; E1006, [0071]; E1001, ¶293.) A player cannot transfer more than he/she has available. (*Id.*)

f. [10.5]

Sommer discloses this element for the same reasons as Claim 7. (E1001, ¶295.) A POSA would understand and immediately envisage that the new balance of the stored value account is available for access by the stored value payment vehicle in substantially real-time in order to make funds immediately available to a player for use anywhere that the stored value account normally allows. (E1001, ¶296.)

Alternatively, it would have been obvious to a POSA to make funds transferred into the stored value account from the player's casino/gaming account available in substantially real-time as electronic fund transfers in the gaming industry at the time of filing the '809 Patent were well known to be done in substantially real-time given the advances in cashless gaming, the ease of electronic fund transfers performed by banking systems, and the desire to make transferred funds available immediately to a player for spending with a credit or debit card linked to the stored value account. (E1001, ¶297.) Additionally, it is well known to a POSA that funds stored in a debit account like are accessible in real time by a user's debit card. (*Id.*)

8.   Claim 11

As explained in claim element [10.1] and as shown in Fig. 1A below, Sommer's casino computing system is associated with the casino's gaming devices. (E1006, [0022], [0069]-[0071]; E1001, ¶299.)

FIG. 1A
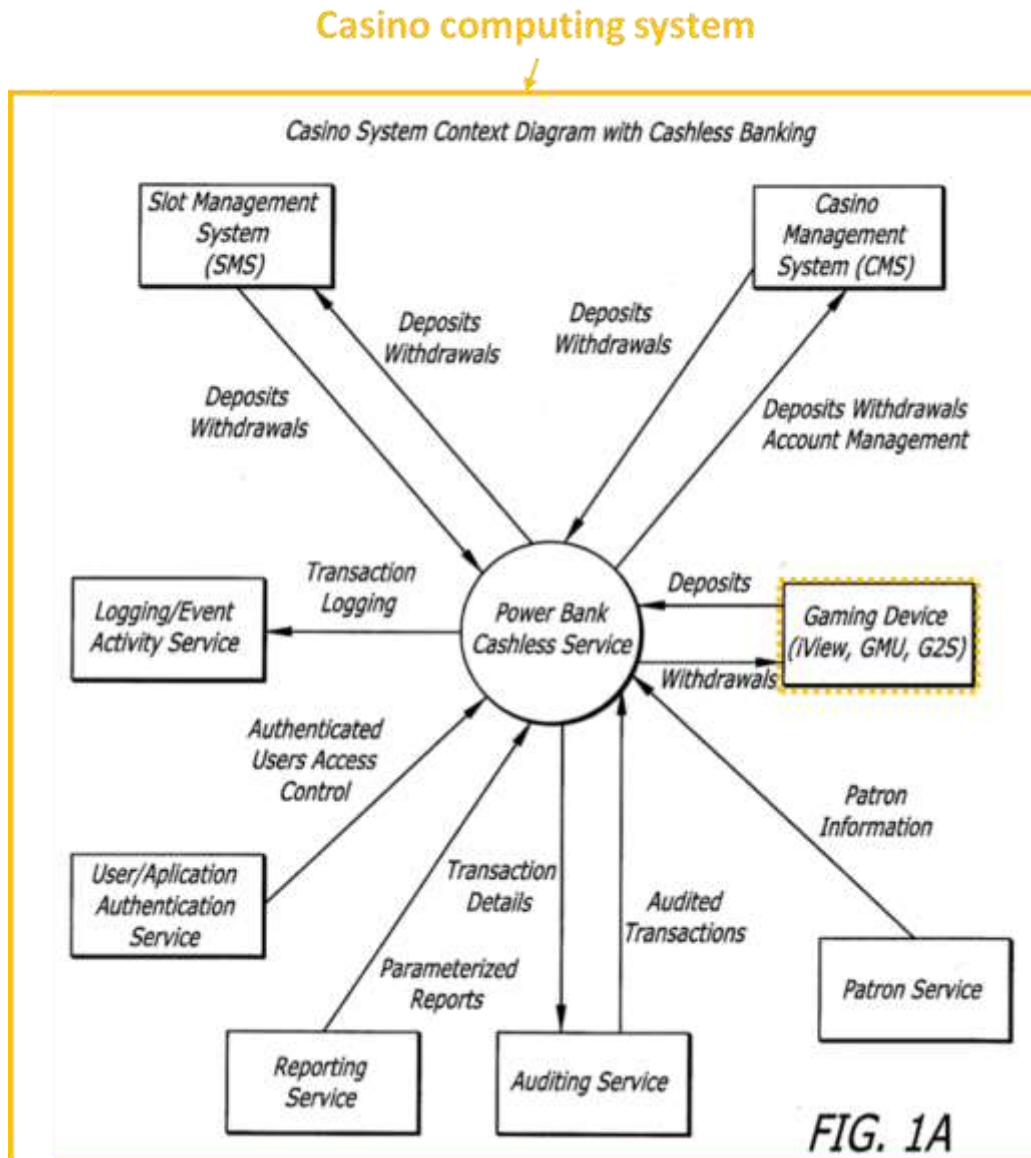
A POSA would also immediately envisage that Sommer's reference to "gaming device" includes a casino cage, a casino table game, a casino pit, a casino sports book and an online casino. (E1006, [0023]; E1001, ¶300.)

9. Claim 14

Sommer teaches that the gaming server moves credits from the gaming device into the player/gaming account (step 412), and then converts the credits into funds (step 414) before transferring those funds to the player's stored value account. (E1006, [0071]; claim element [10.1].) This is similar to the '809 Patent's teaching that player-sourced funds can include gaming credits that are transferred to the stored value account. (E1002, 16:32-38, 6:36-44; Ex. 1001, ¶301.) Sommer thus discloses that player funds to be transferred comprise player-sourced funds tendered to the casino. (E1001, ¶¶301-302.)

10. Claim 15

Referencing Sommer's Fig. 5, "the player may have won a substantial jackpot" such that the "sum of the credits have encouraged the player to make a deposit of funds" to the player's stored value account(s). (E1006, [0069].) Fig. 6 of Sommer also describes transferring player funds from the jackpot to the player's stored value account(s). (*Id.*, [0072]-[0074]; E1001, ¶¶303-304.)

11. Claim 16

    a.   **[16.1] The computer-based method of claim 15, comprising: receiving, by the transaction facilitator computing system,**

> **jackpot information, wherein the jackpot information comprises at least a jackpot identifier;**

As shown in Fig. 6, Sommer's "gaming server [*transaction facilitator computing system*] monitors each game to determine if a jackpot has been won at the gaming device (step 204). If a jackpot has been won at the gaming device (step 204), the gaming server can use the player identifier and a pre-authorization from the player to determine if the jackpot is greater than the balance owed on the entire player's accounts (step 506)." (E1006, [0073], Fig. 6.) The player identifier is needed to process the jackpot, and thus constitutes a jackpot identifier. (*Id.*; E1001, ¶¶305-306.)
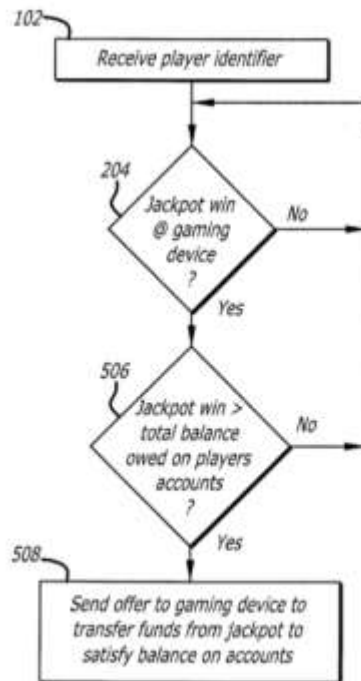
FIG. 6

> b.   **[16.2] subsequent to an authentication of the jackpot information, causing, by the transaction facilitator**

> **computing system, an increase of the balance amount of the stored value account based on the jackpot amount.**

Sommer teaches that after the pre-authorization from the player, "the gaming server [*transaction facilitator computing system*] can then send an offer to the player via the gaming device to transfer funds from the jackpot to satisfy the balance on all the open financial accounts associated with the player identifier (step 508). If the player accepts the offer, then the system can automatically transfer funds to the financial institutions [*stored value account*]" thus increasing the balance of the stored value account based on the jackpot amount. (E1006, [0074]; E1001, ¶307.)

12. Claim 17

a. [17.0]

To the extent the preamble is limiting, Sommer discloses this element for the same reasons as claim elements [1.5] and [10.0] in Claims 1 and 10. (E1001, ¶308.) Sommer's stored value account is associated with a stored value payment vehicle. (See claim element [10.1]; E1001, ¶¶281,308.)

b. [17.1]

Sommer discloses this element for the same reasons as claim elements [1.7] and [10.1]. (E1001, ¶309.) The request to load player sourced funds to a stored value account occurs when a player swipes his/her player card at the gaming device within the casino computing system. (E1006, [0022], [0069]; E1001, ¶309.)

c.   [17.2]

Sommer discloses this element for the same reasons as claim elements [1.2], [1.4], [1.5], [1.6] and [10.2]. (E1001, ¶¶310-313.) Sommer's stored value account has a first available balance [1.6], which is associated with both the stored value payment vehicle and the player identifier obtained from the player card information. (E1006, [0018], [0020], [0029], [0030], [0032]; claim element [10.5]; E1001, ¶¶310-313.)

d.   [17.3]

Sommer discloses this element for the same reasons as claim elements [10.3] and [10.4]. (E1001, ¶315.) Sommer's fund transfer request is initiated at the gaming device that is part of the casino computing system (see [10.1] and [17.1]). This request communicates the fund transfer with the player's financial account (*issuer processor computing system*, see [1.6] and [10.4]) to increase the first available balance in the stored value account (blue) to a second available balance based on amount of funds in the player's casino/gaming account (*i.e., a total value of the funds to be loaded*). (See claim element [10.4] and [17.1], E1001, ¶315.)
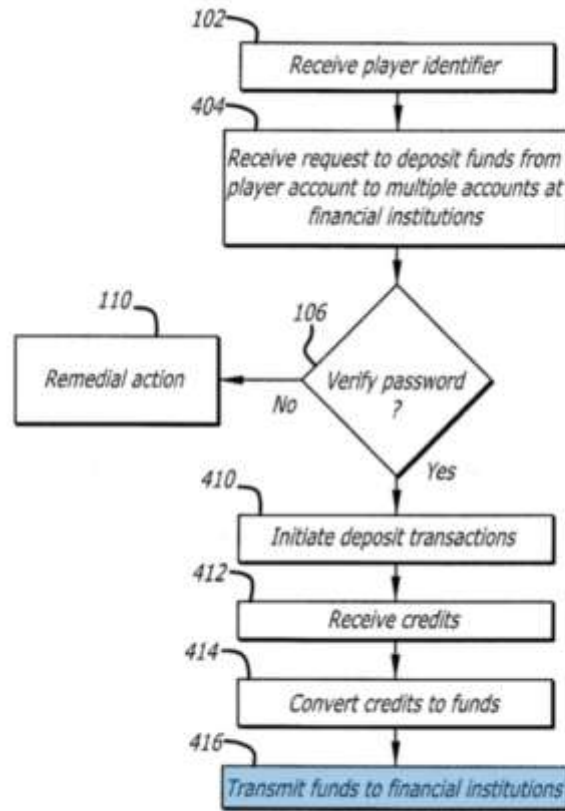
FIG. 5

13. Claim 18

Sommer's casino computing system includes gaming devices, which are computing devices in that they are "electronic devices that provide for wagering games" (E1006, [0023]; *see* claim element [10.1]; E1001, ¶317.) Smith's example computing devices are typically unattended, but each must be either attended or unattended. (E1001, ¶317.)

14. Claim 19

Sommer's system allows a player to make both withdrawals and deposits to/from various stored value accounts at financial institutions, e.g., checking, credit

card, or debit card accounts while at a gaming device associated with the casino computing system. (E1006, [0018], [0030], see claim elements [17.1]-[17.3], Figs. 2, 5). The gaming device displays the balances of these accounts:

TABLE 1		
Account Name	Balance	Withdrawal
Chase 1	$1,000.00	$_____
Citibank 1	$2,000.05	$_____
Wells Fargo 1	$3,050.11	$_____
Total	$4,050.16	$_____

(E1006, [0030], [0038]; E1001, ¶¶318-319.) This provides the player with "the most current information as to what quantity of funds the player has transferred, lost, and/or gained." (E1006, [0038].)

It would have been obvious to a POSA that a player could, from the gaming device and casino computing system, initiate a load request with fund source information to transfer funds between the stored value accounts. (E1001, ¶¶320-323.) Sommer's gaming server already stores the account information for stored value accounts in order to produce the Table of balances and facilitate electronic fund transfers. (E1006, [0029]; E1001, ¶320.) A POSA understands that a casino would want to provide a player with the convenience of performing fund transfers while at an access terminal or gaming device to ensure the player does not stop gaming, walk away to visit a cashier or ATM, or leave for another casino, thus resulting in revenue loss. (*Id.* at ¶320.)

Additionally, it is well-known to a POSA that various financial accounts have their own perks (e.g., frequent flier miles, cash back, etc.) A player may wish to game from and "reload" a particular account in order to obtain perks. (E1001, ¶321.)

A player may also wager excessively from one account, triggering a penalty (e.g., fee, reduction in credit rating) such that the player may want to replenish that account quickly from the gaming device. (E1001, ¶322.)

Moreover, it was well-known to a POSA at the time of the '809 Patent that some players keep "secret" stored value accounts for gaming to avoid detection by a spouse or others. A player may wish to transfer funds from a "known" account to a "secret" account for gaming, but leave any winnings in the "secret" account. (E1001, ¶323.)

15.   Claim 22

Sommer discloses this element for the same reasons as elements [1.7] and [2.1]. (E1001, ¶324.) Shown in Fig. 2 below, Sommer teaches that a player can transfer funds from stored value account (blue) to player's casino/gaming account (green). (E1006, [0022]; E1001, ¶324.) The player initiates the request by swiping or scanning a card at a gaming device, which is part of the casino computing system. (E1006, [0022]; E1001, ¶324.)   The casino computing system thus receives the player request to transfer a balance from the stored value account to a gaming account. (E1001, ¶324.)
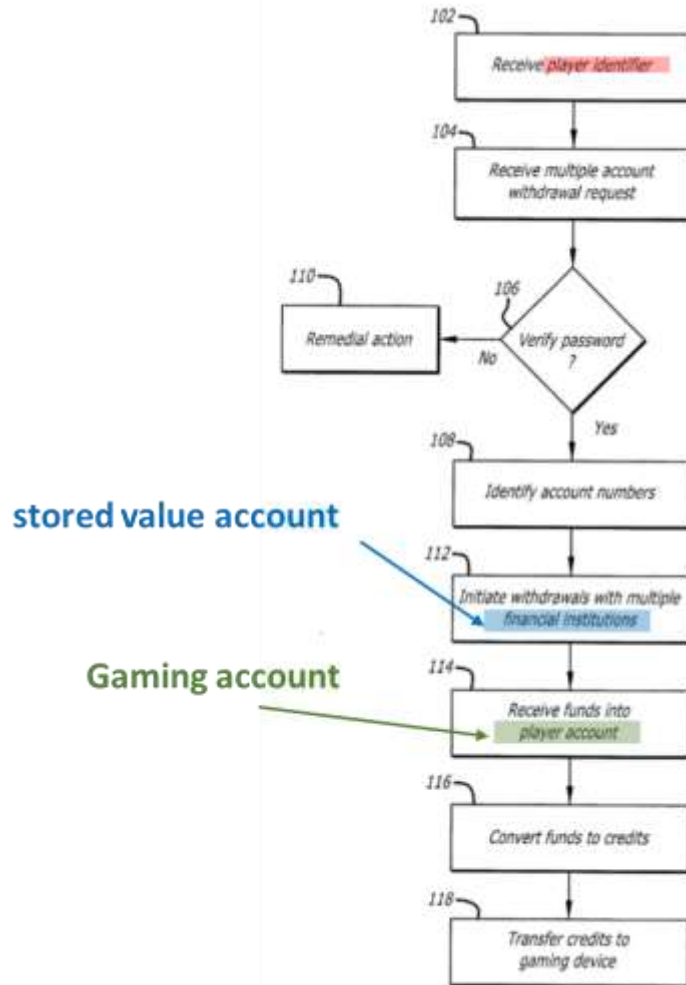
FIG. 2

16. Claim 23

Sommer discloses this element for the same reasons as claim elements [1.7] and [2.1]. (E1001, ¶325.) Players can "wager" funds from Sommer's player/gaming account; it is thus a *wagering account affiliated with a casino*. (E1006, [0023], [0035]; E1001, ¶326.) As explained relative to claim element [1.7], a player's request to transfer funds made at a gaming device associated with the casino computing system is communicated to the financial institution (*issuer processing*

computing system), thus causing the balance to be transferred from the stored value account to the wagering account. (E1006, [0034]-[0035]; E1001, ¶¶326-327.)

XI. SECONDARY CONSIDERATIONS OF NONOBVIOUSNESS

There are no secondary considerations known to Petitioner or alleged by Patent Owner. Should Patent Owner proffer any evidence of secondary considerations in its Preliminary Response, that evidence should not be considered for institution purposes, or Petitioner should be given leave to file a reply with rebuttal evidence. *See Garmin Int'l, Inc. v. Wis. Archery Prods., LLC*, IPR2018-01137, Paper 11 at 29 (P.T.A.B. Dec. 11, 2018).

XII. DISCRETIONARY DENIAL IS NOT WARRANTED
A. The Board Should Not Deny Institution Under 35 U.S.C. §325(d)

Advanced Bionics and §325(d) do not support discretionary denial because this Petition raises new grounds not previously considered and not substantially similar to any ground previously considered. The prosecution of the '809 patent was brief and cursory. The Examiner issued a first action allowance to all claims of the '809 Patent, but one. The rejection of this single claim was based on a reference that is not a basis of any ground for unpatentability in this Petition.

Smith was not cited or discussed during prosecution, and represents new prior art that materially affects patentability per Ground 1 of this Petition. Sommer was cited by Applicant, but Sommer was not discussed by the Examiner nor was it the basis of any rejection during prosecution. "The Board has frequently held that, when

a reference 'was neither applied against the claims nor discussed by the Examiner,' merely citing the reference during prosecution does not weigh in favor of exercising the Board's discretion under § 325(d) to deny a petition". *Weber, Inc. v. Provisur Technologies, Inc.*, IPR2019-01467, Paper 7 at 10 (PTAB Feb. 14, 2020) *see also Apple Inc. v. Qualcomm Inc.*, 91 IPR2018-01316, Paper 7 at 25 (PTAB. Jan. 18, 2019) ("The fact that neither [Applicant Admitted Prior Art] nor Majcherczak was the basis of rejection weighs strongly against exercising our discretion to deny under 35 U.S.C. § 325(d).") Also, no art comparable to Sommer was the basis of any rejection, so Sommer materially affects patentability per Ground 2.

B. **The Board Should Not Deny Institution Under 35 U.S.C. §314(a) Based Upon the *Fintiv* Factor Analysis**

1. **Factor 1 (possibility of stay) favors institution**

Petitioner and Patent Owner are involved in litigation. Petitioner intends to seek a stay pending IPR. The Western District of Texas has recently reversed course and granted motions to stay district court litigation pending IPR. *See, e.g., Gesture Technology Partners, LLC v. Apple Inc.*, 6:21-cv-00121, Order dated December 29, 2021; *Kirsch Research and Development LLC v. IKO Industries, Inc.,* et al., 6:20-cv-00317, Order dated October 4, 2021.

Petitioner also filed a motion to transfer the district court litigation to the U.S. District of Nevada. Nevada is the location of the Petitioner, the Patent Owner, and all relevant and key witnesses. The U.S. District Court for the District of Nevada

routinely grants motions to stay litigation pending IPR. *See, e.g., Unwired Planet, LLC v. Google, LLC*, 3:12-cv-00504, Order dated January 27, 2014; *Aevoe Corp. v. i-Blason LLC*, 2:15-cv-00149, Order dated January 7, 2016; *Applications in Internet Time, LLC v. Salesforce.com*, Inc., 3:13-cv-00628, Order dated June 7, 2016.)

2. Factor 2 (trial date) favors institution

The district court litigation is in its infancy. The Complaint was served on Petitioner on October 7, 2021. Patent Owner served preliminary infringement contentions on December 8, 2021, and Petitioner served preliminary invalidity contentions on February 2, 2022. Discovery does not commence until May 26, 2022.

Even if the case stays in Texas, Petitioner exercised diligence to file this petition promptly – only four months after service of the complaint. A 314(a) discretionary denial would effectively foreclose IPRs for patents asserted in the Western District of Texas due to its aggressive scheduling, and frustrate Congress's intent to establish an alternative venue for contesting patentability before the PTAB. *See MCM Portfolio, LLC v. Hewlett-Packard Co.*, 812 F.3d 1284, 1290-91 (Fed.Cir. 2015).

3. Factor 3 (investment in parallel proceedings) favors institution

This petition is filed over seven months before the one-year statutory bar date and at an early stage of the district court litigation. No substantive orders have been issued by the district court, no depositions have been taken, and fact and expert

discovery have not begun. The institution decision will come before the district

court and the parties invest significant efforts in determining obviousness in the

district court litigation, before the close of fact discovery (December 2022), before

the close of expert discovery (February 2023), and before the dispositive motion

deadline (March 2023).

If the district court case is transferred to Nevada, the court deadlines would be

even later, and further clear of the institution deadline and subsequent IPR

proceeding milestones.

4. Factor 4 (overlapping issues) favors institution

Petitioner challenges the patentability of 15 claims that are not asserted in the

district court (claims 1-2, 6-11, 14-16, and 23-26). This fact strongly "favors

institution." *Apple Inc. v. Maxell, Ltd.*, IPR2020-00204, Paper 11 at 17 (PTAB June

19, 2020).

Petitioner also stipulates that if IPR is instituted, it will not pursue in the

district court litigation any ground raised or that could have been reasonably raised

in this IPR. *Sotera Wireless, Inc. v. Masimo Corp.,* IPR2020-01019, Paper 12, 18-

19 (PTAB) (precedential) (finding that such a stipulation weighed strongly in favor

of not exercising discretion to deny institution). *See also PNC Bank N.A. v. United*

Services Automobile Association, IPR2021-01077, Paper 21 at 12-14 (PTAB Jan 24,

2022) (declining to exercise discretion to deny institution when such a stipulation was present even when only *Fintiv* factors 4 and 6 favored institution).

5. Factor 5 (overlapping parties) favors institution

The Board's institution decision would trigger IPR estoppel for Petitioner. A final written decision invalidating any claims would bind Patent Owner. Both would simplify issues before trial.

Even if overlapping parties were to weigh partially against institution, this factor would be outweighed by other factors because "it is far from an unusual circumstance that a petitioner" is also a district court defendant. *Sand Revolution*, Paper 24 at 12–13. Consequently, the Board has routinely found that other factors outweigh factor 5. *See, e.g., Apple Inc. v. Neodron Ltd.*, IPR2020-00778, Paper 10 at 20 (PTAB Sept. 14, 2020); *3Shape A/S v. Align Tech., Inc.*, IPR2020-00223, Paper 12 at 33-34 (PTAB May 26, 2020); *Samsung Elecs. Co. v. Dynamics Inc.*, IPR2020-00505, Paper 11 at 14–15 (PTAB Aug. 12, 2020).

6. Factor 6 (strength of petition and other considerations) favors institution

The strengths of the merits of the petition outweighs any inefficiencies borne of parallel litigation as institution would promote the AIA's objectives of providing an efficient alternative to litigation for claims that Patent Owner has asserted against defendants. Additionally, the claims of the '809 patent are unduly broad and should not have been allowed. The Examiner did not have key prior art (Smith), and the

Examiner should have done more with the prior art presented (Sommer). This Petition presents the precise scenario the AIA was designed to address.

XIII. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests *inter partes* review of claims 1-2, 6-11, 14-20, and 22-26 of the '809 Patent.

Dated: February 18, 2022   Respectfully submitted,

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Certificate of Service 37 CFR §§ 42.6(e) and 42.105(b)

The undersigned certifies that on February 18, 2022, I will cause true and

correct copies of the foregoing PETITION FOR INTER PARTES REVIEW OF U.S.

PATENT NO. 8,708,809, and all associated exhibits or appendices referred to

therein, to be served via FedEx Overnight to patent counsel of record at:

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Certificate of Compliance Pursuant to 37 C.F.R. § 42.24

This paper complies with the type-volume limitation of 37 C.F.R. § 42.24.

This paper contains 13,949 words, which includes all annotated words in the Figures,

but excludes the parts of the paper exempted by 37 C.F.R. § 42.24(a).

This paper also complies with the typeface requirements of 37 C.F.R. §

42.6(a)(ii) and the type style requirements of 37 C.F.R. § 42.6(a)(iii)&(iv).

Dated: February 18, 2022   Respectfully submitted,

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