

Financial Services

FinTech Alert: Financial Services Companies Rank High among Industries Seeking Blockchain Patents

Action Item: As blockchain continues to expand its reach into more industries, one industry in particular—financial services—is exploring innovative uses for the technology, especially in the area of payment processing. Innovation often leads to an increase in patent application filings, so to see some of the largest financial services companies among the top companies obtaining blockchain-related patents, according to recent data, is not surprising. Financial services companies employing blockchain technology, or thinking about doing so, should not overlook recent changes in the patent landscape.

Purchase, New York-based MasterCard International, ranked sixth on the list of companies receiving blockchain patents (Clarivate Analytics, November 8, 2017), recently saw its latest blockchain patent application published on November 9, 2017. Its “Instantaneous Payment Using Recorded Guarantees” invention (Application No. US20170323294; filed May 6, 2016) is related to the field of “recorded guarantees for payment transactions for verification by acquiring institutions to facilitate instantaneous payment to a merchant involved in the payment transaction, specifically the use of a blockchain or other third party network for verification of a guarantee associated with the payment transaction.”

MasterCard’s patent application comes off the heels of an earlier-published application by San Francisco’s Visa. Calling its invention, “Using Digital Signatures to Create Trusted Digital Asset Transfers” (Application No. US20170237554; published August 17, 2017), Visa’s application provides a generalized working definition of blockchain. Referring to a series of blocks, the application describes each block as part of a blockchain that includes an electronic record of one or more historical transactions, as well as its metadata. The blocks in the blockchain can be linked by including a reference to a previous block (e.g., a hash output of a previous block). This interrelationship provides what many find attractive in blockchain technology: new blocks in the blockchain may be algorithmically determined based on new transactions and previous blocks in the blockchain, and as a result, any tampering of data stored in previous blocks can be detected.

One of the obstacles facing blockchain patent applications, as with other software-related inventions, is the Supreme Court’s *Alice Corp. Pty Ltd. v. CLS Bank*, 134 S. Ct. 2347 (2014) decision, which addressed whether the claims of a patent are directed to patentable subject matter. Alice’s “abstract” test has been cited often in cases where computer software patent claims have

been found invalid. As a result, some approach software patent applications with understandable caution, and many may choose to protect their innovations as trade secrets instead of seeking patents.

Regardless of the approach, the growing number of blockchain patent filings in every country suggests that many companies continue to prioritize intellectual property protection as a key component of their efforts to capitalizing on emerging technologies. This trend is observable in other fields, including artificial intelligence (“AI”), Internet of Things (“IoT”), and robotics, which have also seen increased patent filings, especially outside the United States. Seeking patents for blockchain technologies may offer big rewards to those innovative companies working with, or planning to work with, blockchain. Issued patents potentially provide exclusivity, but even those patent applications that never lead to a patent can be useful, for example as a defensive tactic to allow a company the freedom to operate in a crowded market.

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