
To: VeriFone, Inc. (matm@nixonpeabody.com)
Subject: U.S. TRADEMARK APPLICATION NO. 77317019 - SECURE PUMPPAY - 105220/2
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UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/317019

MARK: SECURE PUMPPAY



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GENERAL TRADEMARK INFORMATION:
<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: VeriFone, Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO:

105220/2

CORRESPONDENT E-MAIL ADDRESS:
matm@nixonpeabody.com

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 11/18/2009

Applicant is requesting reconsideration of a final refusal issued/mailed March 6, 2009.

After careful consideration of the law and facts of the case, the examining attorney must deny the request for reconsideration and adhere to the final action as written since no new facts or reasons have been presented that are significant and compelling with regard to the point at issue.

Applicant argues that the mark does not immediately describe applicant's services. The mark is SECURE PUMPPAY. An average consumer would ascertain that this involves SECURE payments at the pump. [See previous definitions]. A term is merely descriptive if it conveys an immediate idea of the

ingredients, qualities, or characteristics of the identified goods and/or services. *See In re Steelbuilding.com*, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1422 (Fed. Cir. 2005); *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 1346, 57 USPQ2d 1807, 1812 (Fed. Cir. 2001). Applicant's services are "debit card, credit card, electronic payment transaction processing services and secure electronic payment transaction processing services; wireless debit card, credit card, and electronic payment transaction processing services and secure electronic payment transaction processing services; secure payment processing solutions, namely, providing electronic processing of debit and credit card transactions and electronic payments via electronic payment systems and software integrated into fuel dispensers". This mark is descriptive in connection with the identified services of electronic payment transaction services (i.e. secure payment at the pump).

Applicant argues that the mark is unitary. Examining attorney argues that the mark is a descriptive compound mark.

A "compound mark," which consists of two or more words combined to create a single word, is generic if the individual words are generic and retain their generic meaning within the compound mark. *In re Gould Paper Corp.*, 834 F.2d 1017, 1018-19, 5 USPQ2d 1110, 1111-12 (Fed. Cir. 1987) (holding SCREENWIPE generic for computer and television screen cleaning cloths); *Cummins Engine Co. v. Cont'l Motors Corp.*, 359 F.2d 892, 894-95, 149 USPQ 559, 561 (C.C.P.A. 1966) (holding TURBODIESEL generic for internal combustion engines); *Turtle Wax, Inc. v. Blue Coral, Inc.*, 2 USPQ2d 1534, 1536 (TTAB 1987) (holding WASHWAX generic for car washing concentrate that leaves a wax-like coating); TMEP §1209.01(c)(i).

"A mark may be merely descriptive even if it does not describe the 'full scope and extent' of the applicant's goods or services." *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004) (citing *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 1346, 57 USPQ2d 1807, 1812 (Fed. Cir. 2001)); TMEP §1209.01(b). It is enough if the term describes only one significant function, attribute or property. *In re Oppedahl*, 373 F.3d at 1173, 71 USPQ2d at 1371; TMEP §1209.01(b).

A "compound mark," which consists of two or more words combined to create a single word, is merely descriptive if (1) the individual words are descriptive and retain their descriptive meaning within the compound mark, and (2) the compound mark has no unique or incongruous meaning as applied to the goods and/or services. *See In re Cox Enters.*, 82 USPQ2d 1040, 1043 (TTAB 2007) (holding THEATL the equivalent of THE ATL, a common nickname for the city of Atlanta, merely descriptive of publications featuring news and information about Atlanta); *In re Tower Tech, Inc.*, 64 USPQ2d 1314, 1317-18 (TTAB 2002) (holding SMARTTOWER merely descriptive of highly automated cooling towers); *In re Entenmann's, Inc.*, 15 USPQ2d 1750, 1751 (TTAB 1990) (holding OATNUT merely descriptive of bread containing oats and hazelnuts), *aff'd per curiam*, 928 F.2d 411 (Fed. Cir. 1991); TMEP §1209.03(d). This is the case with PUMPPAY. This is a combination of two descriptive words.

Further, applicant's own website describes SECURE PUMPPAY as rugged reliable "pay at the pump" solution, and "payment solutions for existing fuel dispensers", along with a picture of someone paying at the pump.

Accordingly, applicant's request for reconsideration is *denied*. The time for appeal runs from the date the final action was issued/mailed. 37 C.F.R. Section 2.64(b); TMEP Section 715.03(c). If applicant has already filed a timely notice of appeal, the application will be forwarded to the Trademark Trial and Appeal Board (TTAB).

If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

/Dezmona J. Mizelle-Howard/
Dezmona J. Mizelle-Howard
United States Patent and Trademark Office
Law Office 110
571.272.9368

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

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VERIFONE MAKES PAYMENT AT THE PUMP SECURE

Verifone Holdings, Inc. today unveiled its Secure PumpPAY solution for upgrading gas pump card payments to meet the Payment Card Industry (PCI) security standards.

Secure PumpPAY Offers First Complete PCI Security Compliant Solution with Support for Contactless Gas Pump Card Payments

Atlanta, GA - November 16, 2007 - (NACS Show 2007, Booth #1607) -Verifone Holdings, Inc. (NYSE: PAY) today unveiled its Secure PumpPAY solution for upgrading gas pump card payments to meet the Payment Card Industry (PCI) security standards.

The introduction of Secure PumpPAY marks the first time operators of an estimated 700,000 unsecure fuel dispensers in the U.S. and Canada will be able to protect themselves and their customers from fraud. Secure PumpPAY is a universal solution that works with pumps manufactured by virtually all US and most European suppliers and has already been installed at initial sites in Europe, Middle East, Asia and the U.S.

"Law enforcement and industry groups have identified fuel dispensers as an increasing target of criminal activity, but existing fuel dispensers in the U.S. do not meet payment card industry security requirements," said Douglas G. Bergeron, Chairman and CEO. "Secure PumpPAY is an easy-to-integrate, easy-to-upgrade, all-in-one solution to meet any need and protect retailers and their customers from card fraud."

According to Visa U.S.A., organized crime rings are increasingly targeting merchants to obtain magnetic stripe data and Personal Identification Numbers.

According to Visa U.S.A.'s organization of the risks and increasing targeting merchants to collect magnetic stripe data and personal identification numbers (PIN), often focusing on automated fuel dispensers. The major credit card associations have mandated that starting January 1, 2009, all new self-service pumps must have PCI-approved PIN-entry devices. Further, beginning July 1, 2010, all card transactions at pumps must be protected with advanced Triple DES encryption technology.

The Secure PumpPAY solution is anchored by the PCI-approved OP4100, which includes an ATM-style keypad and a card reader that accepts EMV chip and magnetic stripe credit and debit cards, as well as support for all major contactless payment schemes. The OP4100 will support Verifone's patent-pending technology to cryptographically mask account numbers and magnetic stripe data throughout the retailer's system, easing PCI compliance and rendering the card data useless to criminals if a retailer's network is breached.

Secure PumpPAY incorporates the OP 4100, printer and mounting kit; services including PCI certified installation, PCI assurance program; and a full range of support options. Secure PumpPAY supports existing two-wire connections to the pumps as well as Ethernet and Wireless communications to enable rich content to be delivered to the consumer at the pump. The wireless option simplifies installation for retailers who do not have Ethernet cables running to their pump islands.

Additional Resources:
www.securepump.com

About Verifone Holdings, Inc.

Verifone Holdings, Inc. ("Verifone") (NYSE: PAY) is the global leader in secure electronic payment solutions. Verifone provides expertise, solutions and services that add value to the point of sale with merchant-operated, consumer-facing and self-service payment systems for the financial, retail, hospitality, petroleum, government and healthcare vertical markets. Verifone solutions are designed to meet the needs of merchants, processors and acquirers in developed and emerging economies worldwide.



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VeriFone Secure PumpPAY Processes Over One Million Fuel Dispenser Card Transactions

Wed Sep 17, 2008 8:40am EDT

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Text [+]

SAN JOSE, Calif.--(Business Wire)-- VeriFone Holdings, Inc. (NYSE: PAY) announced today that its PCI-approved fuel dispenser payment system, Secure PumpPAY, has securely processed more than one million transactions during consumer field trials. Responding to the alarming increase in credit and debit card fraud events at the gas pump, petroleum retailers are moving quickly to integrate this secure payment solution and ensure protection for their customers and their brands.

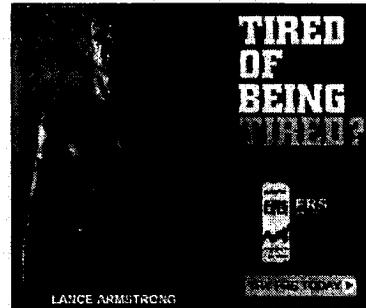
Secure PumpPAY offers petroleum retailers a cost effective security solution by upgrading existing fuel dispensers with card payment technology that meets current Payment Card Industry standards, including Triple Data Encryption Standard (TDES) requirements that have been mandated by Visa for every existing pump by July 2010.

"As a retailer, we have an obligation to protect our customers, and Secure PumpPAY not only guards against payment card fraud, but also protects our company brand," said John Strickland, president of Wayne Oil in North Carolina. "Secure PumpPAY is the only commercially available product for card security at unattended outdoor gas pumps."

Secure PumpPAY is supported by seven of the top 10 major oil brands and is the only PCI-approved solution that includes a PCI encrypted PIN pad and TDES encryption. The solution also supports patent pending technology that cryptographically masks all customer account information at the card reader, rendering compromised data useless to criminals.

In addition to meeting the current Visa mandates, Secure PumpPAY offers additional security features including a tightly sealed housing unit that shields all cables against skimmer installation. A polymer tactile keypad prevents keyboard overlay skimmers from being installed, and a privacy guard around the keypad shields the consumer's PIN entry from surreptitious cameras.

"The rapid adoption of this secure payment option proves that



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petroleum retailers understand the immediate need for added site security to protect their customers and their brands," said Jeff Wakefield, VeriFone vice president of marketing, Integrated Systems. "They understand that real security, not just compliance, is critical and where they need to focus their efforts and spending. They don't want to have to throw away a simple TDES upgrade when they are breached or new requirements are announced. Secure PumpPAY future proofs their investment for them."

Secure PumpPAY also provides petroleum retailers with a large color display on which they can run bright, attention-getting promotions to customers while they are filling up their tanks, increasing in-store sales. The solution also includes a fast, high-resolution graphics-enabled thermal receipt printer that can display store logos or bar coded receipts and includes a wider paper roll.

VeriFone's Secure PumpPAY is a compact, powerful solution for petroleum stations, convenience stores and supermarkets that need to upgrade their existing fuel dispensers with a PCI-approved payment solution. Purpose-built for use in tough outdoor conditions such as exposure to adverse weather and petroleum and diesel splashes, it is constructed from a rugged and durable polymer and can be retrofitted to existing dispensers from Wayne, Gilbarco, Bennett and Tokheim. In addition, an optional built-in contactless reader will support all U.S. contactless payment schemes.

Additional Resources: www.securepumpay.com

About VeriFone Holdings, Inc. (www.verifone.com)

VeriFone Holdings, Inc. ("VeriFone") (NYSE: PAY) is the global leader in secure electronic payment solutions. VeriFone provides expertise, solutions and services that add value to the point of sale with merchant-operated, consumer-facing and self-service payment systems for the financial, retail, hospitality, petroleum, government and healthcare vertical markets. VeriFone solutions are designed to meet the needs of merchants, processors and acquirers in developed and emerging economies worldwide.

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Sent: 11/18/2009 11:09:11 AM
Sent As: ECOM110@USPTO.GOV
Attachments:

IMPORTANT NOTICE REGARDING YOUR TRADEMARK APPLICATION

Your trademark application (Serial No. 77317019) has been reviewed. The examining attorney assigned by the United States Patent and Trademark Office ("USPTO") has written a letter (an "Office action") on 11/18/2009 to which you must respond (*unless the Office letter specifically states that no response is required*). Please follow these steps:

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2. Contact the examining attorney who reviewed your application if you have any questions about the content of the Office letter (contact information appears at the end thereof).

3. Respond within 6 months, calculated from 11/18/2009 (*or sooner if specified in the Office letter*), using the Trademark Electronic Application System (TEAS) **Response to Office Action form**. If you have difficulty using TEAS, contact TEAS@uspto.gov.

ALERT:

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