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Subject: U.S. TRADEMARK APPLICATION NO. 86386935 - MOX - N/A - SU - Request for Reconsideration Denied - Return to TTAB

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UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 86386935

MARK: MOX

CORRESPONDENT ADDRESS:

KONRAD GATIEN

STUBBS ALDERTON & MARKILES, LLP

1453 3RD ST PROMENADE STE 300

SANTA MONICA, CA 90401-3454

GENERAL TRADEMARK INFORMATION:

http://www.uspto.gov/trademarks/index.jsp

VIEW YOUR APPLICATION FILE

APPLICANT: Malauzai Software, Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO:

N/A

CORRESPONDENT E-MAIL ADDRESS:

uspto@stubbsalderton.com

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 9/19/2016

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. *See* 37 C.F.R. §2.63(b)(3); TMEP §§715.03(a)(ii)(B), 715.04(a). The following requirement(s) and/or refusal(s) made final in the Office action dated April 21, 2016 are maintained and continue to be final: Sections 1 & 45 Refusal, Specimen does not show the mark in use with the applied for services. *See* TMEP §§715.03(a)(ii)(B), 715.04(a).

The examining attorney has added to the record: dictionary definitions of what bank and banking mean; examples of national banks in America and what their services look like; and a screenshot of applicant's About webpage. As noted in the definitions and supported by national banks' websites the service of banking involves the custody, loan, exchange or issuance of money. Applicant's specimens do not show use of these services, but rather the design, development and offering of software tailored for banking institutions. Succinctly, applicant goods and services are software for banks, not banking. This is borne out in applicant's specimens of record and the attached screenshot from applicant's website. Applicant's first specimen notes that they have made changes to how they present banking solutions as appearing on electronic devices, this is not the same thing as offering a checking account. It is offering a software solution for banks to present their services to consumers. The second set of specimens are identical to the first. The most recent specimens use language like "schedule a demo" terms normally associated with software not banking; as well as the top of the first page noting "[t]he MOX platform is an application management system designed to provide remote device and application management." On the left side of the first page the applicant notes that their software offers the functions normally associated with banks, however the MOX mark isn't associated with those goods and services and those goods and services still do not show use of the mark with banking services. Therefore, in the present case, applicant's request has not resolved all the outstanding issue(s), nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue(s) in the final Office action. In addition, applicant's analysis and arguments are not persuasive nor do they shed new light on the issues. Accordingly, the request is denied.

If applicant has already filed a timely notice of appeal with the Trademark Trial and Appeal Board, the Board will be notified to resume the appeal. *See* TMEP §715.04(a).

If no appeal has been filed and time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to (1) comply with and/or overcome any outstanding final requirement(s) and/or refusal(s), and/or (2) file a notice of appeal to the Board. TMEP §715.03(a)(ii)(B); *see* 37 C.F.R. §2.63(b)(1)-(3). The filing of a request for reconsideration does not stay or extend the time for filing an appeal. 37 C.F.R. §2.63(b)(3); *see* TMEP §§715.03, 715.03(a)(ii)(B), (c).

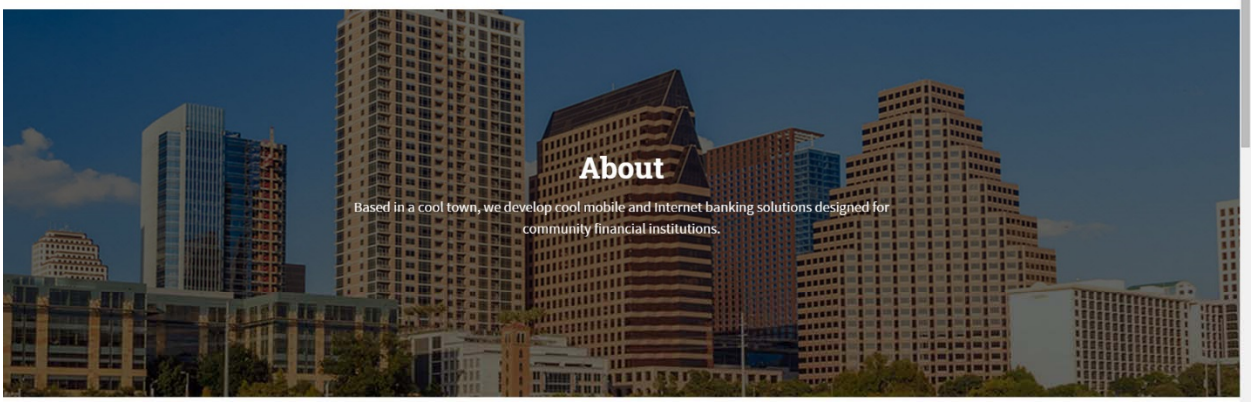
/Charles H Hiser IV/

Examining Attorney

Law Office 112

(571) 272-7526

charles.hiser@uspto.gov



Our Story

Malauzai Software is a privately-held software development company that was formed in 2009 to participate in the mobile banking revolution. Today, we build a suite of mobile and online banking solutions for community banks and credit unions. Our products are designed to create an exceptional and consistent experience across channels and are available to support your entire financial institution, from consumers, businesses to employees.

What makes us unique is our core vision and mission. Our goal is to arm community financial institutions with innovative technology and services to compete and win in the digital space. How do we do it? Our people. Our team is always growing. We are dedicated and passionate about delighting our customers and have the most experienced developers, designers, engineers and senior leaders in the industry. As a company built on deep industry knowledge, our strong partnerships and experienced board enables us to go fast and scale our business to grow with you.

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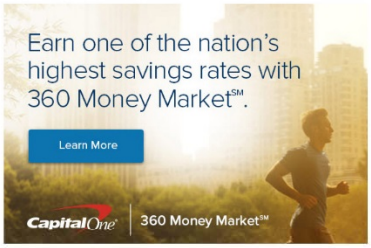

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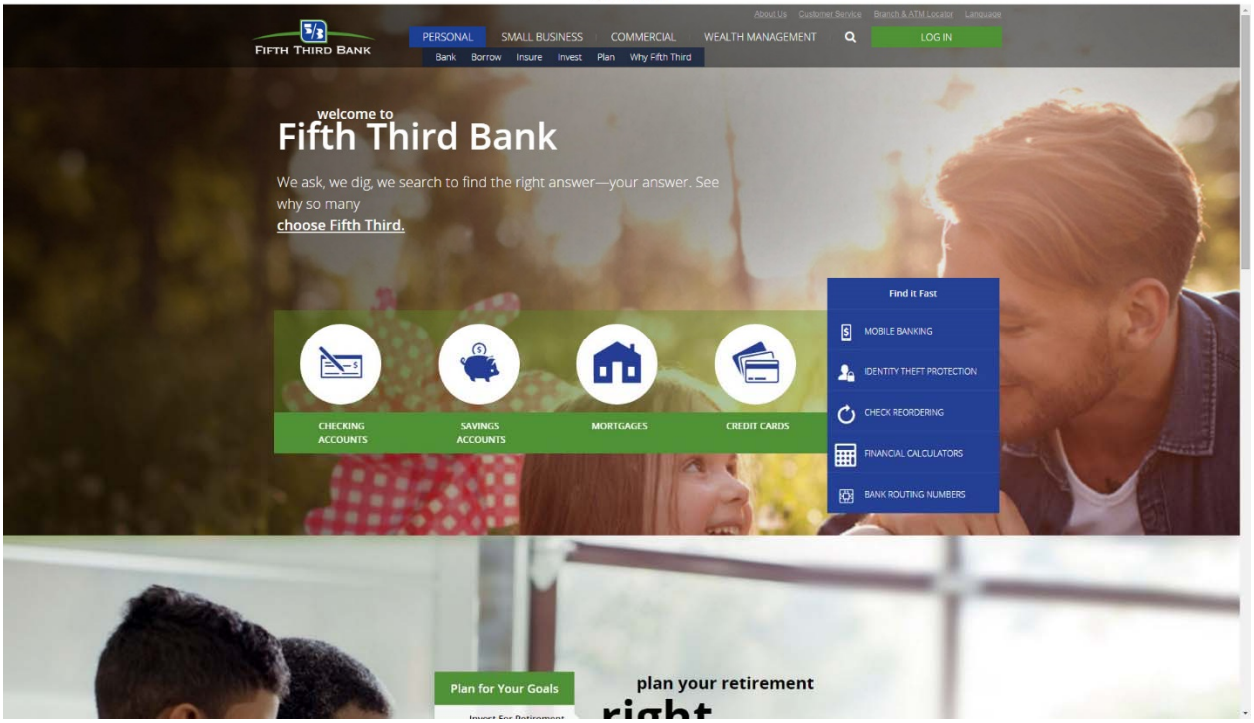

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bankable
bank acceptance

bank

noun

Definition of BANK

1 **a :** an establishment for the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds
b *obsolete :* the table, counter, or place of business of a money changer

2 **:** a person conducting a gambling house or game; *specifically :* DEALER

3 **:** a supply of something held in reserve: as
a : the fund of supplies (as money, chips, or pieces) held by the banker or dealer for use in a game
b : a fund of pieces belonging to a game (as dominoes) from which the players draw

4 **:** a place where something is held available <memory *banks*>; *especially :* a depot for the collection and storage of a biological product <a blood *bank*>

Origin and Etymology of BANK

Middle English, from Middle French or Old Italian; Middle French *banque,* from Old Italian *banca,* literally, bench, of Germanic

Other Economics Terms

actuary, compound interest, globalization, indemnity, portfolio, rentier, stagflation, usurer

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bank [1] (bängk)

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n.

1. A piled-up mass, as of snow or clouds; a heap: *a bank of thunderclouds.*
2. A steep natural incline.
3. An artificial embankment.
4. often **banks**
   a. The slope of land adjoining a body of water, especially adjoining a river, lake, or channel.
   b. A large elevated area of a sea floor.
5. *Games* The cushion of a billiard or pool table.
6. The lateral inward tilting, as of a motor vehicle or an aircraft, in turning or negotiating a curve.

v. **banked, bank·ing, banks**

v.tr.

1. To border or protect with a ridge or embankment.
2. To pile up; amass: *banked earth along the wall.*
3. To cover (a fire), as with ashes or fresh fuel, to ensure continued low burning.
4. To construct with a slope rising to the outside edge: *The turns on the racetrack were steeply banked.*
5.
   a. To tilt (an aircraft) laterally and inwardly in flight.
   b. To tilt (a motor vehicle) laterally and inwardly when negotiating a curve.
6. *Games* To strike (a billiard ball) so that it rebounds from the cushion of the table.
7. *Sports* To play (a ball or puck) in such a way as to make it glance off a surface, such as a backboard or wall.

v.intr.

1. To rise in or take the form of a bank.
2. To tilt an aircraft or a motor vehicle laterally when turning.

[Middle English, of Scandinavian origin.]

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bank [2] (bängk)

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n.

1.
   a. A business establishment in which money is kept for saving or commercial purposes or is invested, supplied for loans, or exchanged.
   b. The offices or building in which such an establishment is located.
2. *Games*
   a. The funds of a gambling establishment.
   b. The funds held by a dealer or banker in certain games, especially gambling games.
   c. The reserve pieces, cards, chips, or play money in some games, such as poker, from which the players may draw.
3.
   a. A supply or stock for future or emergency use: *a grain bank.*
   b. *Medicine* A supply of human fluids or tissues, such as blood, sperm, or skin, that is stored in a facility for future use.
4. A place of safekeeping or storage: *a computer's memory bank.*

v. **banked, bank·ing, banks**

v.tr.

1. To deposit in a bank.
2. To store for future use.

v.intr.

1. To transact business with a bank or maintain a bank account.
2. To operate a bank.

Phrasal Verb:

bank on

To have confidence in; rely on.

[Middle English *banke*, from French *banque*, from Old Italian *banca*, bench, moneychanger's

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Pronunciation:
bank /baNGk/

Main definitions of ***bank*** in English: bank[1] bank[2]

bank[2]

NOUN

1 A financial establishment that invests money deposited by customers, pays it out when required, makes loans at interest, and exchanges currency.
'I paid the money straight into my bank'
+ More example sentences + Synonyms

1.1 A stock of something available for use when required.
'a blood bank'
'building a bank of test items is the responsibility of teachers'
+ More example sentences

1.2 A site or receptacle where something may be stored.
'the computer's memory bank'
+ More example sentences

1.3 The store of money or tokens held by the banker in some gambling or board games.
+ Example sentences

1.4 The person holding the store of money or tokens in a game; the banker.
+ Example sentences

1.5 *British* A site or receptacle where something may be deposited for recycling.
'a paper bank'
+ More example sentences

VERB

[WITH OBJECT]

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Definition of *banking* in English:

banking

NOUN

The business conducted or services offered by a bank.

'with this account, you are entitled to free banking'

'a 23-year career in banking'

+ More example sentences + Synonyms

Pronunciation:
banking / baNGkiNG/

WORD OF THE DAY
barathea
NOUN

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bank·ing (bāng'kĭng)

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n.

1. The business of a bank.
2. The occupation of a banker.

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Simple Definition of BANKING

Popularity: Bottom 30% of words

: the business of operating a bank

Source: Merriam-Webster's Learner's Dictionary

Examples: BANKING in a sentence

Full Definition of BANKING

: the business of a bank or a banker

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Examples of BANKING in a sentence

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He chose *banking* as a career.

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