

ESTTA Tracking number: **ESTTA1109748**

Filing date: **01/22/2021**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	FINCHECK INC.		
Entity	Corporation	Citizenship	Massachusetts
Address	119 BRAINTREE ST. SUITE 510 BOSTON, MA 02134 UNITED STATES		
Attorney information	WILLIAM SCOTT GOLDMAN GOLDMAN LAW GROUP 1300 PENNSYLVANIA AVE., N.W.; STE. 700 WASHINGTON, DC 20004 UNITED STATES Primary Email: trademarks@branding-law.com 202-880-9200		
Docket Number			

Applicant Information

Application No.	88392661	Publication date	01/12/2021
Opposition Filing Date	01/22/2021	Opposition Period Ends	02/11/2021
Applicant	Yodlee, Inc. 3600 BRIDGE PARKWAY, SUITE 200 REDWOOD CITY, CA 94065 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 2017/09/13 First Use In Commerce: 2017/09/13 All goods and services in the class are opposed, namely: Downloadable computer software for aggregation of banking, financial, investment and personal records and information; downloadable computer software for accessing online and electronic data and for converting and transferring that data to and for use in connection with computersoftware programs, personal and business electronic devices, mobile and smart phones, tablets and other computer software applications; downloadable computer software for aggregating, processing and analyzing data for the purpose of providing customized recommendations in the field of finance; downloadable computer software for financial management and financial and e-commerce transactions
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Fraud on the USPTO	In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	FINCHECK		
Goods/Services	Financial services software and applications.		

Attachments	Opposition_88392661.pdf(885822 bytes)
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Signature	/william scott goldman/
Name	WILLIAM SCOTT GOLDMAN
Date	01/22/2021

1 WILLIAM SCOTT GOLDMAN
2 GOLDMAN LAW GROUP, PLLC
3 1300 Pennsylvania Ave., NW; Ste. 700
Washington, DC 20004
(202) 880-9200

4 Attorney for
5 FINCHECK INC.
6 Opposer

7 **UNITED STATES PATENT AND TRADEMARK OFFICE**
8 **TRADEMARK TRIAL AND APPEAL BOARD**

9 FINCHECK INC.

Opposition No.:

10 Opposer,

OPPOSER'S NOTICE OF OPPOSITION

11 vs.

12 Yodlee, Inc.

13 Applicant.

14
15 **NOTICE OF OPPOSITION**

16 FINCHECK INC. ("OPPOSER"), believes that it would be damaged by registration of the mark
17 "FINCHECK" shown in U.S. Trademark Application Serial No. 88392661, and hereby opposes
18 same. As grounds of opposition it is alleged as follows:

19
20 1a. Yodlee, Inc. ("APPLICANT") seeks to register the designation "FINCHECK"
21 ("APPLICANT MARK") as a trademark for *Downloadable computer software for aggregation of*
22 *banking, financial, investment and personal records and information; downloadable computer software for*
23 *accessing online and electronic data and for converting and transferring that data to and for use in connection*
24 *with computer software programs, personal and business electronic devices, mobile and smart phones, tablets*
25 *and other computer software applications; downloadable computer software for aggregating, processing and*
analyzing data for the purpose of providing customized recommendations in the field of finance; downloadable
computer software for financial management and financial and e-commerce transactions.

1 1b. On or about April 18, 2019, APPLICANT filed at the United States Patent and Trademark
2 Office U.S. Trademark Application Serial No. 88392661, claiming first use in commerce on
3 September 13, 2017.

4 1c. In the January 12, 2021 issue of the Patent and Trademark Office Official Gazette pertaining
5 to trademarks and service marks, the said APPLICANT MARK was published for opposition.

6 2a. OPPOSER FINCHECK INC. is the sole owner of the trademark “FINCHECK” used by
7 OPPOSER and/or under its direct supervision and control, in connection with financial services
8 software and applications.

9 2b. Beginning prior to April 18, 2019 and APPLICANT’s date of filing for the above-noted U.S.
10 Trademark application Serial No. 88392661 and continuing thereafter without interruption or
11 abandonment, OPPOSER has used, and/or supervised the use of, the said OPPOSER’S MARK
12 throughout the United States and worldwide.

13 2c. Beginning at least as early as October 20, 2016, and continuing thereafter without
14 interruption or abandonment, OPPOSER has used, and/or supervised and controlled the use of
15 said OPPOSER’S MARK in commerce within the United States and worldwide for its financial
16 services software and applications (*See Exhibits A-C*).

17 2d. As a result of all such use, employment, display and other activity of and with the said
18 OPPOSER’S MARK, said OPPOSER’S MARK has become distinctive of the financial services
19 software and applications of OPPOSER.

20 2e. As a result of all such use, employment, display and other activity of and with the said
21 OPPOSER’S MARK, OPPOSER has developed substantial valuable goodwill and commercial
22 reputation with respect to the said OPPOSER’S MARK, all of which goodwill and commercial
23 reputation inures to the benefit of OPPOSER.

24 3a. The said APPLICANT MARK (“FINCHECK”) is identical to the said OPPOSER’S MARK
25 (“FINCHECK”) in appearance, sound, connotation, and commercial impression.

1 3b. The said APPLICANT MARK is confusingly similar to the said OPPOSER'S MARK as to
2 create a likelihood of confusion.

3 4a. OPPOSER's dates of first use in commerce of its said OPPOSER'S MARK predate both
4 APPLICANT's date of first use and APPLICANT's filing date of its said APPLICANT MARK.

5 4b. OPPOSER has priority in time and right as to its said OPPOSER'S MARK, specifically
6 priority over APPLICANT as to APPLICANT's claim as to the said APPLICANT MARK.

7 4c. The said OPPOSER'S MARK and the said APPLICANT MARK are identical; the channels
8 of trade employed by OPPOSER and APPLICANT are unrestricted. The only significant
9 difference is that OPPOSER has used said OPPOSER'S MARK since at least as early as October
10 20, 2016, which is significantly before APPLICANT filed its application on April 18, 2019, to
11 register the said APPLICANT MARK, alleging first use in commerce on September 13, 2017.

12 5a. Upon information and belief, APPLICANT adopted its "FINCHECK" mark in bad faith, with
13 full and/or constructive knowledge of the prior use of OPPOSER'S MARK, and with the intent
14 to capitalize on the high recognition and broad appeal of OPPOSER'S MARK.

15 5b. Upon information and belief, APPLICANT is attempting to create source confusion with
16 OPPOSER.

17 5c. APPLICANT submitted the specimen of use attached herewith as Exhibit D in support of its
18 application.

19 5d. However, a recent search of both the Google Play Store and Apple's App Store indicates no
20 record of APPLICANT's goods available for download under the FINCHECK mark. (*See*
21 Exhibits E-F).

22 5e. Upon information and belief, APPLICANT has abandoned use of the FINCHECK mark,
23 assuming it was ever using said mark in the first place.

24 5f. Upon information and belief, APPLICANT's filing was made in bad faith and constitutes
25 false representation of fact.

1 6a. On April 18, 2019 APPLICANT signed a declaration in support of its application, stating in
2 pertinent part:

3 “The signatory believes that the applicant is the owner of the trademark/service mark sought to
4 be registered; To the best of the signatory’s knowledge and belief, no other persons, except, if
5 applicable, concurrent users, have the right to use the mark in commerce, either in the identical
6 form or in such near resemblance as to be likely, when used on or in connection with the
7 goods/services of such other persons, to cause confusion or mistake, or to deceive; The signatory
8 being warned that willful false statements and the like are punishable by fine or imprisonment, or
9 both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize
10 the validity of the application or any registration resulting therefrom, declares that all statements
11 made of his/her own knowledge are true and all statements made on information and belief are
12 believed to be true” (the “Declaration”).

13 6b. Upon information and belief, at the time APPLICANT, signed and filed its application and
14 the supporting Declaration before the USPTO on April 18, 2019, APPLICANT knew or acted in
15 a reckless disregard of the truth as to APPLICANT’s right to use the “FINCHECK” mark in
16 commerce because such claims were false or misleading with an intent to deceive the USPTO
17 and were material statements.

18 6c. The USPTO accepted and relied on APPLICANT’s false and misleading material statements
19 in its Declaration when approving Application Serial No. 88392661 for publication on January
20 12, 2021.

21 6d. Upon information and belief, but for APPLICANT’s false and misleading material
22 statements regarding its right to use the “FINCHECK” mark in commerce, the USPTO would
23 not have approved Application Serial No. 88392661 based on Section 1(a) of the Lanham Act,
24 and it would not have allowed the mark to be published.

25 6e. Upon information and belief, APPLICANT, in making such false and misleading material
statements concerning its right to use the “FINCHECK” mark in commerce, intended to deceive

1 the USPTO and procure a registration to which it was not entitled, and thus committed fraud on
2 the USPTO.

3 7a. If APPLICANT is permitted to use and register the said APPLICANT MARK as specified in
4 the application herein opposed, any defect, objection or fault found with APPLICANT's goods
5 marketed under the said APPLICANT MARK would necessarily reflect upon and seriously
6 injure the goodwill and commercial reputation which OPPOSER has established for its financial
7 services software and applications in conjunction with which the said OPPOSER'S MARK is
8 used.

9 7b. If APPLICANT is permitted to use and register the said APPLICANT MARK as specified in
10 the application herein opposed, confusion, mistake, and deception in trade resulting in damage
11 and injury to OPPOSER likely would be caused.

12 8. If APPLICANT is permitted to use and register the said APPLICANT MARK as specified in
13 the application herein opposed, such use and registration will have a diluting effect on
14 OPPOSER'S rights in the said OPPOSER'S MARK. The use by APPLICANT of the said
15 APPLICANT MARK may eventually deprive the said OPPOSER'S MARK of all
16 distinctiveness, since such use and registration will blur the ability of the said OPPOSER'S
17 MARK to serve as an identification of source.

18 9. If APPLICANT were granted the registration herein opposed, APPLICANT would thereby
19 obtain at least a prima facie exclusive right to the use of the said APPLICANT MARK. Such
20 registration would be a source of damage and injury to OPPOSER and would wrongfully and
21 improperly hinder not only OPPOSER'S present use, but also OPPOSER'S rightful future use of
22 the said OPPOSER'S MARK.

23 10. APPLICANT is not the owner of the mark shown in U.S. Trademark Application Serial No.
24 88392661 because OPPOSER is the sole owner of the said OPPOSER'S MARK, and all
25 variations thereof, and has granted no license, right, or title in the same to APPLICANT.
Therefore, APPLICANT is not entitled to the registration or use of the said APPLICANT

1 MARK because OPPOSER has prior and exclusive right to the registration and the exclusive use
2 of the said OPPOSER'S MARK.

3 WHEREFORE, OPPOSER requests that this Opposition be sustained, that U.S. Trademark
4 Application Serial No. 88392661 be rejected, that the said APPLICANT MARK be refused
5 registration, and that the Trademark Trial and Appeal Board grant such other and further relief as
6 may be deemed appropriate.

7 Respectfully submitted,

8 **FINCHECK INC.**

9 Opposer

10 Date: January 22, 2021

11 By: /William Scott Goldman/

12 William Scott Goldman

13 **GOLDMAN LAW GROUP, PLLC**

14 1300 Pennsylvania Ave., NW; Ste. 700

15 Washington, DC 20004

16 (202) 880-9200

17 Attorney for Opposer

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on January 22, 2021, a true and complete copy of OPPOSER’S NOTICE OF OPPOSITION was filed electronically with the TTAB and was served on counsel for APPLICANT by forwarding said copy on January 22, 2021, via electronic mail to:

Martin R. Greenstein
TechMark a Law Corporation
4820 Harwood Road, 2nd Floor
San Jose CA 95124
PTOMail@TechMark.com

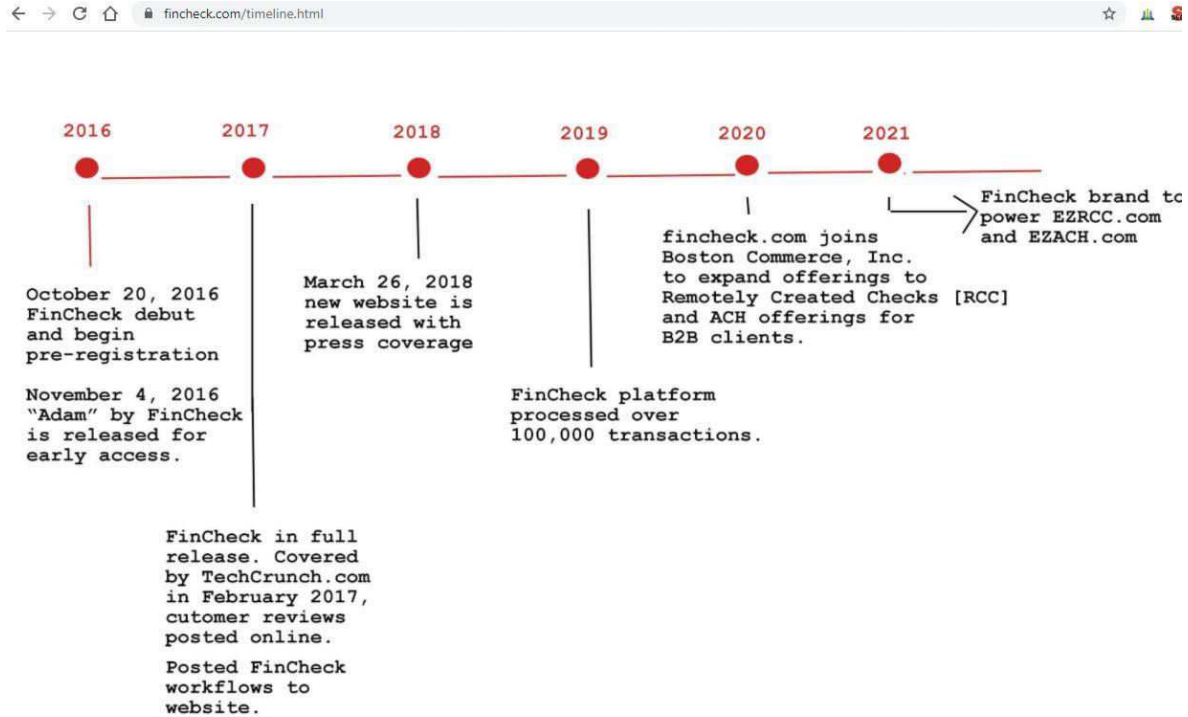
Attorney for Applicant
Yodlee, Inc.

/William Scott Goldman/
WILLIAM SCOTT GOLDMAN
GOLDMAN LAW GROUP, PLLC
Attorney for OPPOSER
FINCHECK INC.
Date: January 22, 2021

EXHIBIT A

01/17/2021

www.fincheck.com



NEWS COVERAGE:

November 24, 2016 - [FinCheck at the Singapore Fintech Festival](#)

February 8, 2017 [FinCheck](#) Start Up Buzz Begins

Summer 2017 [FinCheck](#) Promoted by Founder

September 15, 2017 [FinCheck](#) Banking Strategies

October 25, 2017 [FinCheck](#) Stands Out

<https://www.fincheck.com/timeline.html>

EXHIBIT B

01/17/2021

www.irishtechnews.ie



VIEW FROM ASIA: A SUCCESSFUL SINGAPORE FINTECH FESTIVAL.

SIMON COCKING x NOVEMBER 24, 2016

[BANKING](#) [BUSINESS](#) [DATA](#) [FEMALE FOUNDERS](#) [FINTECH](#) [FUTURE TRENDS](#) [MENTORING](#) [START UPS](#)



Listen to this article

5:29

*Picture from the Women in Tech panel. Left to Right: Erika Irish Brown, Global Head of Diversity & Inclusion, Bloomberg LP
Susan Hwee, Head of Group Technology and Operations, UOB
Ruth Polachek, CEO and Co-Founder, [FinCheck](#) with Moderator Sharanjit Leyl, News Presenter, BBC at the far right end.*

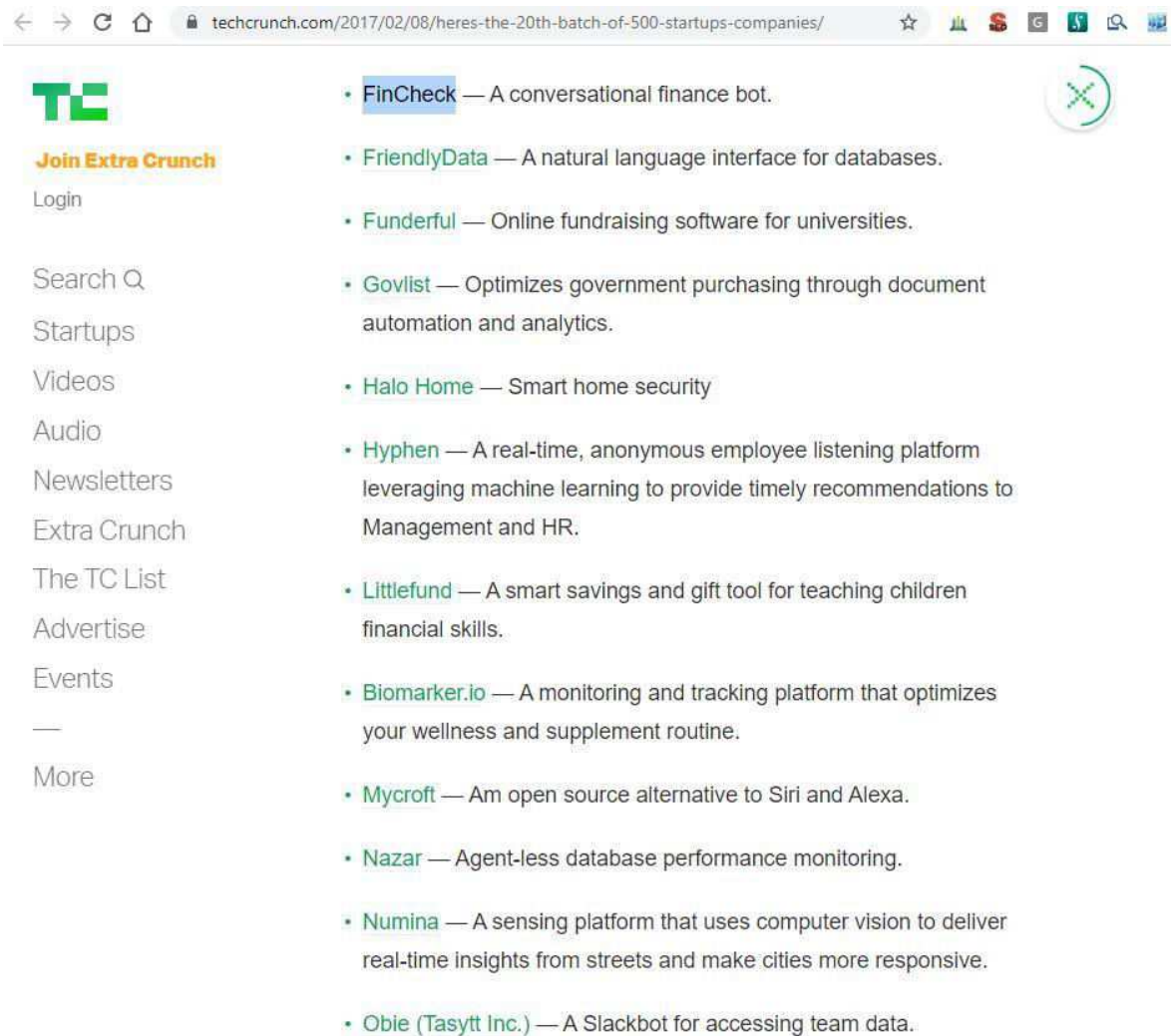
Latest post from [Caroline Bowler](#) in Singapore, see more by her [here](#).

<https://irishtechnews.ie/view-from-asia-a-successful-singapore-fintech-festival/>

EXHIBIT C

01/17/2021

www.techcrunch.com



The screenshot shows a web browser window with the URL techcrunch.com/2017/02/08/heres-the-20th-batch-of-500-startups-companies/. The page features the TechCrunch logo (TC) and navigation links: "Join Extra Crunch", "Login", "Search Q", "Startups", "Videos", "Audio", "Newsletters", "Extra Crunch", "The TC List", "Advertise", "Events", and "More". The main content is a list of startups, each with a brief description:

- **FinCheck** — A conversational finance bot.
- **FriendlyData** — A natural language interface for databases.
- **Funderful** — Online fundraising software for universities.
- **Govlist** — Optimizes government purchasing through document automation and analytics.
- **Halo Home** — Smart home security
- **Hyphen** — A real-time, anonymous employee listening platform leveraging machine learning to provide timely recommendations to Management and HR.
- **Littlefund** — A smart savings and gift tool for teaching children financial skills.
- **Biomarker.io** — A monitoring and tracking platform that optimizes your wellness and supplement routine.
- **Mycroft** — An open source alternative to Siri and Alexa.
- **Nazar** — Agent-less database performance monitoring.
- **Numina** — A sensing platform that uses computer vision to deliver real-time insights from streets and make cities more responsive.
- **Obie (Tasytt Inc.)** — A Slackbot for accessing team data.

<https://techcrunch.com/2017/02/08/heres-the-20th-batch-of-500-startups-companies/>

EXHIBIT D

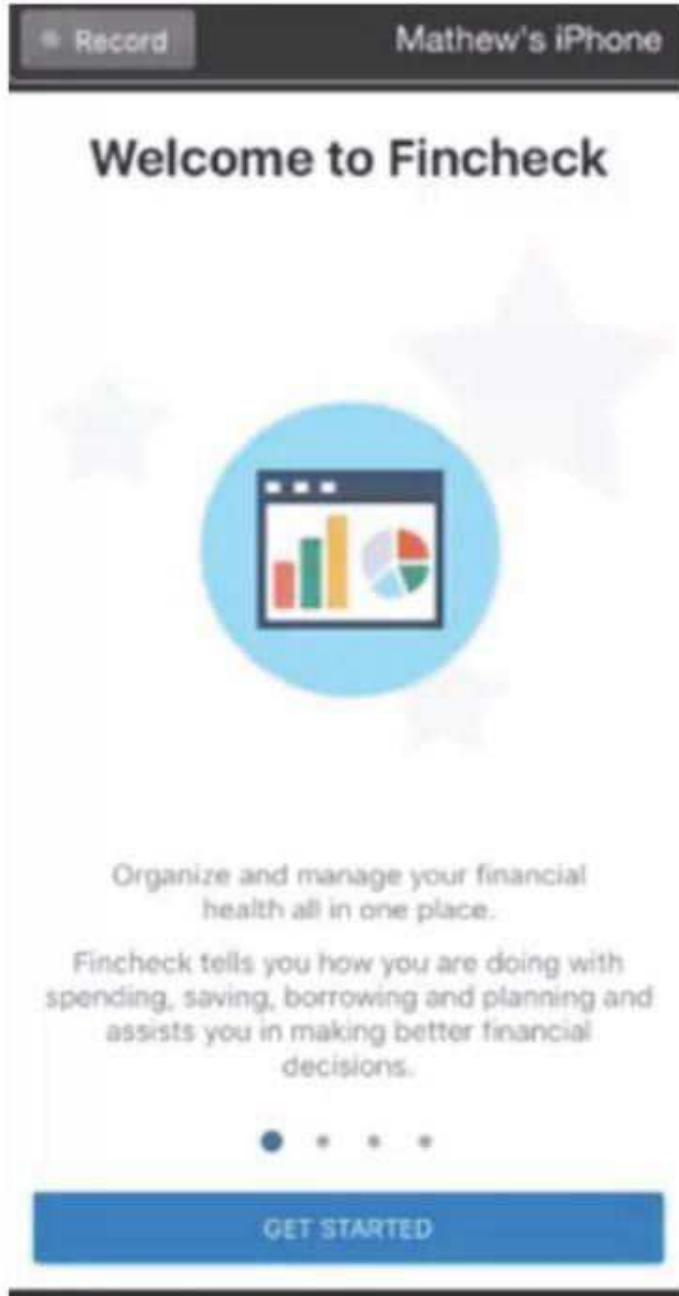


EXHIBIT E

01/17/2021

www.apple.com

The screenshot shows a web browser window with the URL apple.com/us/search/fincheck?src=globalnav. The search bar contains the text "fincheck". Below the search bar, there are navigation tabs for "Explore", "Accessories", "Support", and "Apple Stores". The search results section shows "0 results found" and a message: "Use the tabs above to see more results or try another search term." Below this, there are two buttons: "Search iTunes" and "Search Trailers". At the bottom, there is a section titled "Search Results" with a grid of links organized into columns: "Shop and Learn", "Apple Store", "For Education", "For Healthcare", and "Account".

Search Results

Shop and Learn	Apple Store	For Education	For Healthcare	Account
Mac	Find a Store	Apple and Education	Apple in Healthcare	Manage Your Apple ID
iPad	Shop Online	Shop for College	Health on Apple Watch	Apple Store Account
iPhone	Genius Bar		Health Records on iPhone	iCloud.com
Apple Watch	Today at Apple	For Business		
TV	Youth Programs	Apple and Business	Apple Values	About Apple
Music	Apple Store App	Shop for Business	Accessibility	Newsroom
iTunes	Refurbished and Clearance	Government	Education	Apple Leadership
HomePod	Financing	Shop for Government	Environment	Job Opportunities
iPod touch	Apple Trade In	Shop for Veterans & Military	Inclusion and Diversity	Investors
Apple Card	Order Status		Privacy	Events
Accessories	Shopping Help		Supplier Responsibility	Contact Apple
Gift Cards				

More ways to shop: Find an [Apple Store](#) or [other retailer](#) near you. Or call 1-800-MY-APPLE.

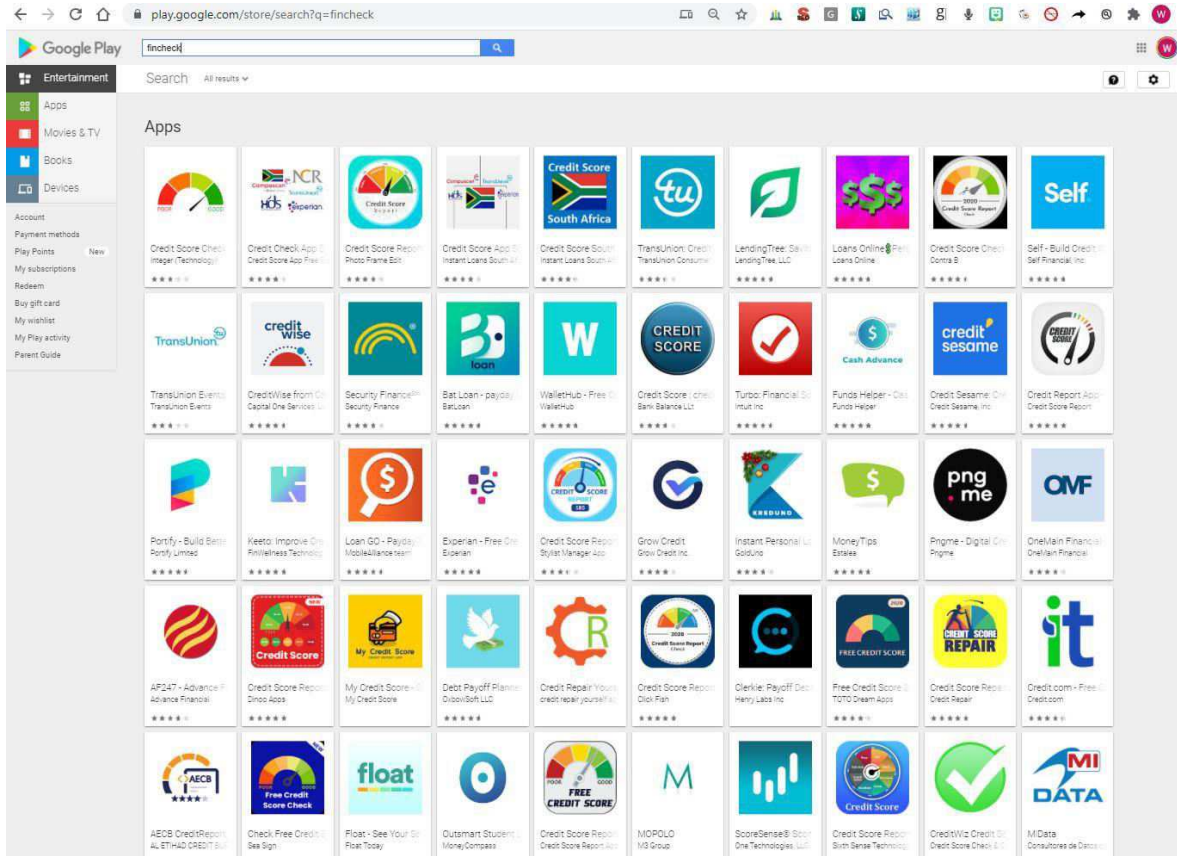
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<https://www.apple.com/us/search/fincheck?src=globalnav>

EXHIBIT F

01/17/2021

www.play.google.com



<https://play.google.com/store/search?q=fincheck>