

ESTTA Tracking number: **ESTTA1375537**Filing date: **08/06/2024**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	91284555
Party	Plaintiff Mobilemoney, Inc.
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Signature	/Sarah Van Buiten/
Date	08/06/2024
Attachments	Rebuttal Notice of Reliance No 1.pdf(505470 bytes)

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

MOBILEMONEY, INC.,

Opposer,

v.

REVERSE ATM LLC,

Applicant.

Opposition No.: 91284555

Application Serial No. 97/056,344

Trademark: REVERSE ATM

**OPPOSER'S NOTICE OF RELIANCE ON
DISCOVERY DEPOSITION – REBUTTAL
(37 C.F.R. § 2.120(k))**

Pursuant to Rule 2.120(k) of the Trademark Rules of Practice, 37 C.F.R. § 2.120(k), and Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) § 704.09, Opposer MOBILEMONEY, Inc. (“Opposer”) hereby makes of record and notifies Applicant Reverse ATM LLC (“Applicant”) of its reliance on the deposition of Lawrence Dunnwald, who testified as a Rule 30(b)(6) representative of Opposer on December 14, 2023, as follows:

1. A true and correct copy of testimony provided at Page 33, line 3, through Page 36, line 10, and Page 55, line 25, through Page 56, line 25, which is attached hereto as **Exhibit 98**. Opposer submits this response for sake of rebutting Applicant’s claim that “Opposer conducted competitive intelligence about Applicant in 2020.” (See 22 TTABVue ¶ 1(c).) Opposer must rely on this testimony because Applicant submitted a portion of the discovery deposition that is incomplete or misleading without the context of additional testimony. Specifically, Applicant has omitted the portions of the transcript in which Mr. Dunnwald testified that he had no knowledge of Applicant until the day of deposition, and these portions render Applicant’s portrayal of Mr. Dunnwald’s testimony inaccurate.

//

//

Dated: August 6, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is one of the attorneys for Opposer Mobile**Money**, Inc., in the above-captioned Opposition proceeding and that on the date which appears below, she caused a copy of the foregoing **OPPOSER’S NOTICE OF RELIANCE ON DISCOVERY DEPOSITION – REBUTTAL (37 C.F.R. § 2.120(k))** to be served on Applicant’s counsel below by email:

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Dated: August 6, 2024
Irvine, California

/Sarah Van Buiten/
Sarah Van Buiten

Exhibit 98

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

MOBILEMONEY, INC.,)
)
OPPOSER,)
)
VS.) No. 91284555
)
REVERSE ATM, LLC,)
)
REGISTRANT.)
_____)

C O N F I D E N T I A L
(PURSUANT TO PROTECTIVE ORDER, THIS TRANSCRIPT HAS BEEN
DESIGNATED CONFIDENTIAL - ATTORNEYS' EYES ONLY)

DEPOSITION OF LAWRENCE DUNNWALD, 30(B)(6)
THURSDAY, DECEMBER 14, 2023

JOB NO. 6346827

REPORTED BY: D'ANNE MOUNGEY, CSR 7872

1 A I believe going on two years, two-and-a-half
2 years.

3 Q Are you familiar with Reverse ATM, Inc., the
4 applicant in this proceeding?

5 MR. OINES: Just object; vague.

6 Unless I'm wrong, I think it's Reverse ATM,
7 LLC.

8 MR. GOLLA: You're correct. I just said
9 "Inc."

10 MR. OINES: I just want to make sure we're
11 talking about the same entity.

12 BY MR. GOLLA:

13 Q Yeah. Reverse ATM, LLC, the company.

14 A It's the first I heard of Reverse ATM, LLC,
15 so no.

16 Q Today are you familiar with Reverse ATM, LLC?

17 A Now that you have mentioned it today, that's
18 the first I've heard of it, yes.

19 Q You had no knowledge of Reverse ATM, LLC
20 prior to today?

21 A You asked if I knew of a -- who owns or
22 whatnot. I don't.

23 Q I'll be more clear.

24 When did you first become aware of the
25 applicant Reverse ATM, LLC?

1 MR. OINES: Vague and calls for speculation.
2 Larry, if you know, you can answer.

3 THE WITNESS: I don't know much about Reverse
4 ATM, LLC. I'm assuming it's owned by Ready Credit.

5 BY MR. GOLLA:

6 Q Did you have any contact -- when was your --
7 strike that.

8 When was your first contact with Reverse ATM,
9 LLC?

10 MR. OINES: Calls for speculation.

11 THE WITNESS: Again, to be honest, until
12 right now I didn't know there was a company Reverse ATM,
13 LLC.

14 BY MR. GOLLA:

15 Q Are you aware that you filed notice of
16 opposition against -- strike that.

17 Are you aware that MobileMoney, Inc. filed
18 this notice of opposition against Reverse ATM, LLC?

19 A It was -- I guess I was under the assumption
20 that this was Ready Credit and that they were trying to
21 form an LLC called Reverse ATM, so I haven't studied
22 Reverse ATM, LLC whatsoever.

23 Q So prior to today, you thought you were
24 dealing with -- solely with Ready Credit corporation,
25 not Reverse ATM, LLC; correct?

1 A Correct, yeah.

2 Q So you're familiar with Ready Credit, Inc.;
3 correct?

4 A Yes.

5 Q When did you first learn about Ready Credit,
6 Inc.?

7 A I didn't readily know Ready Credit, but I had
8 seen their kiosk in the airport.

9 Q What airport?

10 A Orange County.

11 Q About what time period was that?

12 A No idea. Maybe ten years ago. Maybe eight
13 years ago. I don't know.

14 Q Do you know the company Cash 2 Card?

15 A I don't know the company Cash 2 Card. It may
16 have been a company that Ready Credit purchased.

17 Q Do you know that Ready Credit owns Reverse
18 ATM, LLC?

19 A No.

20 Q Do you know that Cash 2 Card is a division of
21 Reverse ATM, LLC?

22 A I don't know the inner workings of Ready
23 Credit. I haven't really driven into -- I haven't
24 driven into how they operate.

25 I know they made a couple acquisitions or at

1 least made one acquisition, and I was assuming that was
2 Cash 2 Card. I could be wrong.

3 Q We're just trying to find out your
4 understanding.

5 A Yeah.

6 Q When was your first interaction with Ready
7 Credit or Reverse ATM, LLC, to your knowledge?

8 A Again, Reverse ATM, if I was dealing with
9 them, I did not -- I was assuming that everything rolled
10 up to Ready Credit.

11 And so I met a couple of the officers of
12 Ready Credit at a convention, ATM convention. That may
13 have been two years ago.

14 Q Where is that convention?

15 A I don't recall specifically. I go to too
16 many of them. It may have been in Vegas. I don't know
17 for sure.

18 Q Are you -- do you know what you discussed
19 with Ready Credit representatives at that convention?

20 A They discussed the business a little bit and
21 then they discussed their patent. I believe they did a
22 lot more talking than I did.

23 Q Do you know if you saw anything from Reverse
24 ATM at that convention?

25 A No.

1 A In the articles -- in a lot of these articles
2 it refers -- it has Ready Credit and Cash 2 Card in the
3 same article. They call them Cash -- they would call
4 them Cash 2 Card kiosk or people would quote them as
5 Cash 2 Card kiosk.

6 Q As of December 1st, 2020, or December of
7 2020, you had done some investigation of Ready Credit;
8 correct?

9 A Yes.

10 Q As of December 1st, 2020, you had done some
11 investigation of Cash 2 Card; correct?

12 A I would assume so, yes. They're in the
13 articles.

14 Q As of December 1st, 2020, you had done some
15 investigation of XTM; correct?

16 A I had spoken to XTM, yes.

17 Q Have you spoken to Ready Credit as of
18 December 1st, 2020?

19 A I don't believe so. The first introduction
20 to Ready Credit was at the ATMIA, where I physically
21 spoke to them.

22 Q Had you spoke to Cash 2 Card?

23 A I spoke to -- or Cash 2 Card, I don't believe
24 so.

25 Q Had you spoke to Reverse ATM, LLC?

1 A Again, I did not know there was a company
2 Reverse ATM, LLC until today.

3 Q Do you know if you spoke to anyone at Reverse
4 ATM, LLC in 2020?

5 MR. OINES: Objection; asked and answered
6 and vague.

7 THE WITNESS: I don't recall. I don't recall
8 talking to anyone at Reverse ATM. Who knows.

9 At these conventions I talk to all kinds of
10 people. There could have been an officer, someone with
11 Reverse ATM that -- I don't know who that is. I
12 couldn't give you a name.

13 BY MR. GOLLA:

14 Q You were attending conventions regarding the
15 mobile money business in 2020?

16 A Yeah. I've been attending conventions for
17 years.

18 Q When did you start attending conventions
19 related to MobileMoney?

20 A I can't recall. No idea. It's a 27-year
21 history, so...

22 Q Fair.

23 Do you know if Reverse ATM sent you a
24 nondisclosure agreement in 2020?

25 A No idea.

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California Code of Civil Procedure

Article 5. Transcript or Recording

Section 2025.520

(a) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition when the Original transcript of the testimony for each session of the deposition is available for reading, correcting, and signing, unless the deponent and the attending parties agree on the record that the reading, correcting, and signing of the transcript of the testimony will be waived or that the reading, correcting, and signing of a transcript of the testimony will take place after the entire deposition has been concluded or at some other specific time.

(b) For 30 days following each notice under subdivision (a), unless the attending parties and the deponent agree on the record or otherwise in writing to a longer or shorter time period, the deponent may change the form or the substance of the answer to a question, and may either approve the transcript of the deposition by signing it, or

refuse to approve the transcript by not signing it.

(c) Alternatively, within this same period, the deponent may change the form or the substance of the answer to any question and may approve or refuse to approve the transcript by means of a letter to the deposition officer signed by the deponent which is mailed by certified or registered mail with return receipt requested. A copy of that letter shall be sent by first-class mail to all parties attending the deposition.

(d) For good cause shown, the court may shorten the 30-day period for making changes, approving, or refusing to approve the transcript.

(e) The deposition officer shall indicate on the original of the transcript, if the deponent has not already done so at the office of the deposition officer, any action taken by the deponent and indicate on the original of the transcript, the deponent's approval of, or failure or refusal to approve, the transcript. The deposition officer shall also notify in writing the parties attending the deposition of any changes which the deponent timely made in person.

(f) If the deponent fails or refuses to approve the transcript within the allotted period, the

deposition shall be given the same effect as though it had been approved, subject to any changes timely made by the deponent.

(g) Notwithstanding subdivision (f), on a reasonable motion to suppress the deposition, accompanied by a meet and confer declaration under Section 2016.040, the court may determine that the reasons given for the failure or refusal to approve the transcript require rejection of the deposition in whole or in part.

(h) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition under this section, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

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VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the deposition officer. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the deposition officer and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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