

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GOOD TECHNOLOGY SOFTWARE, INC.,  
Petitioner,

v.

MOBILEIRON, INC.,  
Patent Owner.

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Case IPR2015-01090  
Patent 8,731,529 B2

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Before JUSTIN BUSCH, JENNIFER MEYER CHAGNON, and  
JASON J. CHUNG, *Administrative Patent Judges*.

CHUNG, *Administrative Patent Judge*.

DECISION  
Institution of *Inter Partes* Review  
*37 C.F.R. § 42.108*

I. INTRODUCTION

Petitioner, Good Technology Software, Inc., filed a Petition to institute an *inter partes* review of claims 1–14 (“the challenged claims”) of U.S. Patent No. 8,731,529 B2 (“the ’529 patent”). Paper 1 (“Pet.”). Patent

Owner, MobileIron, Inc., filed a Preliminary Response pursuant to 35 U.S.C. § 313. Paper 6 (“Prelim. Resp.”).

We have authority to determine whether to institute an *inter partes* review. 35 U.S.C. § 314; 37 C.F.R. § 42.4(a). Upon consideration of the Petition and the Preliminary Response, and for the reasons explained below, we determine that the information presented shows a reasonable likelihood that Petitioner would prevail with respect to claims 1, 2, 4–7, 9–12, and 14. *See* 35 U.S.C. § 314(a). Accordingly, we institute an *inter partes* review.

*A. Related Matters*

The ’529 patent is involved in a district court proceeding, *Good Technology Corp. v. MobileIron, Inc.*, Case No. 5-12-cv-05826-PSG (N.D. Cal.). Pet. 1; Paper 5, 2.

*B. The Asserted Grounds*

Petitioner identifies the following as asserted grounds of unpatentability:

<b>Reference(s)</b>	<b>Basis</b>	<b>Challenged Claims</b>
Mehta (Ex. 1003) <sup>1</sup>	§ 102(b) <sup>2</sup>	1–14
Mehta and Herschberg (Ex. 1005) <sup>3</sup>	§ 103(a)	4, 9, and 14
Clare (Ex. 1004) <sup>4</sup>	§ 102(b)	1–3, 5–8, and 10–13
Clare and Mehta	§ 103(a)	1–3, 5–8, and 10–13

### C. *The '529 Patent*

The claims of the '529 patent are directed to managing mobile applications on mobile devices. Ex. 1001, Abs. The '529 patent explains associating a user profile with each user using a mobile device. *Id.* at 11:31–33, 11:44–46. The '529 patent describes a user profile that includes various user attributes. *Id.* at 11:31–33. The '529 patent further describes filtering the applications in a catalog of applications according to primary attributes within the user profile. *Id.* at 13:20–21. In response to the filtering, the '529 patent discusses returning a list of applications from the catalog of applications. *Id.* at 13:9–11, Fig. 7. The user clicks on an icon to select the application for installation on the mobile device. *Id.* at 12:56–13:1.

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<sup>1</sup> U.S. Patent Pub. No. 2002-0131404 A1, Sept. 19, 2002.

<sup>2</sup> The relevant sections of the Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, took effect on March 18, 2013. Because the application from which the '529 patent issued was filed before that date, our citations to Title 35 are to its pre-AIA version.

<sup>3</sup> U.S. Patent Pub. No. 2003-0022657 A1, Jan. 30, 2003.

<sup>4</sup> U.S. Patent No. 7,409,208 B1, filed Aug. 5, 2008.

*D. The Challenged Claims*

Petitioner challenges claims 1–14. Pet. 4. Claims 1, 6, and 11 are independent. Claim 1 is illustrative and reproduced below:

1. A method, comprising:

responsive to a request for a set of applications available for installation on a mobile device, accessing a user profile associated with a user with which the request is associated;

filtering a catalog of applications based at least in part on a user attribute of the user determined based at least in part on the user profile to select a set of applications; and

returning the set of applications in response to the request;

wherein the returned set of applications is provided to an enterprise mobile device application management interface configured to display the set of applications to the user via the application management interface and to provide the ability for the user to select, via the application management interface, one or more of the displayed applications for installation on the mobile device.

II. ANALYSIS

*A. Claim Construction*

In an *inter partes* review, the Board construes claim terms in an unexpired patent using their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b); *In re Cuozzo Speed Techs., LLC*, 793 F.3d 1268, 1275–79 (Fed. Cir. 2015). The claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). The Office must apply the broadest reasonable meaning to the claim language, taking into account any

definitions presented in the specification. *Id.* (citing *In re Bass*, 314 F.3d 575, 577 (Fed. Cir. 2002)). The “ordinary and customary meaning” is that which the term would have to a person of ordinary skill in the art in question. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007).

Petitioner proposes an express construction for “policy.” Pet. 10–11. Patent Owner argues that “policy” should be given its plain and ordinary meaning. Prelim. Resp. 6–9. “Policy” is recited in independent claim 6.

The parties proposed constructions are summarized as follows:

<b>Term</b>	<b>Petitioner’s Proposed Construction</b>	<b>Patent Owner’s Proposed Construction</b>
“Policy”	“A rule that may be used to filter an application catalog based on one or more attributes of a user and/or a user’s device.”	Plain and ordinary meaning

Upon review of the claims and specification of the ’529 patent, we preliminarily ascribe the plain and ordinary meaning to “policy” because Petitioner’s construction is too narrow. Specifically, Petitioner’s “policy” construction is redundant to other phrases recited in claim 6. For purposes of this decision, we need not, and therefore do not, provide an explicit construction of “policy.”

*B. Obviousness of Claims 1–3, 5–8, and 10–13 in view of Clare and Mehta*

*1. Clare (Ex. 1004)*

Clare describes providing users with a personalized catalog of applications that are available for downloading. Ex. 1004, Abs. In addition, Clare discusses establishing user specific preferences and storing the resultant user preferences in a database. *Id.* When a user operates their mobile device to download applications, the system filters the listings of available applications according to the user’s preferences within the user’s profile. *Id.* As a result, the user can quickly browse the catalog of available applications for selecting and downloading applications. *Id.*

*2. Mehta (Ex. 1003)*

Mehta discusses downloading applications to a mobile device. Ex. 1003, Abs. Further, Mehta describes a subscriber profile may include user attributes such as the subscriber’s “levels of service.” *Id.* ¶ 84. A Mobile Application System analyzes the subscriber profile, a device profile, and an application profile to filter applications and provides a list of the filtered applications. *Id.* ¶ 67; Fig. 4. The subscriber may select one of the applications from the list to download and install on the mobile device using the Handset Administration Console. *Id.* ¶ 63.

*3. The Parties’ Contentions for Claims 1, 2, 5–7, and 10–12*

Petitioner asserts that the subject matter of claims 1, 2, 5–7, and 10–12 would have been obvious in view of Clare and Mehta under 35 U.S.C. § 103(a). Pet. 57–60. Petitioner provides a limitation-by-limitation analysis

of where each limitation of claims 1, 2, 5–7, and 10–12 is allegedly taught in Clare and Mehta. *Id.*

The present record supports the contention that Clare and Mehta teach a request for a set of applications for installation on a mobile device and filtering a catalog of applications based on a user attribute within a user profile to select a set of applications as required in claims 1, 6, and 11. Pet. 16–28, 43–52; Ex. 1003 (multiple paragraphs and figures cited in petition); Ex. 1004 (multiple paragraphs and figures cited in petition). The present record also supports the contention that Clare and Mehta teach displaying the set of applications to the user via an application management interface and the user selecting one or more of the displayed applications for installation on the mobile device as required in claims 1, 6, and 11. Pet. 16–28, 43–52; Ex. 1003 (multiple paragraphs and figures cited in petition); Ex. 1004 (multiple paragraphs and figures cited in petition).

Petitioner relies on Clare’s user creating a user profile and storing the user profile on a database to meet the limitations of claims 2, 7, and 12. Pet. 52–53; Ex. 1004 (multiple paragraphs and figures cited in petition). Petitioner relies on Clare’s filtering and providing programs that are compatible with a particular model of mobile station 5 to meet the limitations of claims 5 and 10. Pet. 55–56; Ex. 1004, 13:44–46.

Petitioner also relies on Mehta’s interrogating a data repository to access a subscriber profile that corresponds to a requesting subscriber to meet the limitations of “user directory store” as recited in claims 2, 7, and 12. Pet. 29–30; Ex. 1003 ¶¶ 72–73, 108. Petitioner relies on Mehta’s filtering and providing programs that are compatible with a device profile using a model identifier of a mobile station to meet the limitation of “mobile

device profile that comprises one or more of a model identifier” as recited in claims 5 and 10. Pet. 32–34; Ex. 1003 (multiple paragraphs and figures cited in petition).

Patent Owner contends Petitioner’s asserted rationale for combining Clare and Mehta is deficient. We begin with Petitioner’s contentions regarding the rationale for combining the references, followed by a discussion of Patent Owner’s contentions.

Petitioner concludes that one of ordinary skill in the art would recognize combining Clare’s downloading of mobile applications based on user attributes within a user profile and Mehta’s analogous downloading and installation of mobile applications based on user attributes within a user profile, creates “predictable variations” of two individual systems to modify the software of one system to implement the related functions of the other system. Pet. 57–60; Ex. 1006 (Declaration of Dr. Robert Akl) (multiple paragraphs cited in petition).

Patent Owner argues that there is no motivation to combine Clare and Mehta because Petitioner fails to point to any disclosure in Clare and Mehta that would support extending one with the other. Prelim. Resp. 33–34. We disagree with Patent Owner because “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007). In addition, “[i]f a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability.” *Id.* at 417.

Patent Owner further argues Petitioner has not established that Clare teaches “filtering a catalog of applications based at least in part on a user attribute of the user determined based at least in part on the user profile to

select a set of applications” as recited in claim 1 (and similarly recited in claims 6 and 11) because Clare merely teaches filtering the applications based on user entered selection criteria. Prelim. Resp. 27–31.

We disagree with Patent Owner because Clare teaches if a user has a profile, the server filters and organizes the applications according to one or more preferences (e.g., the claimed user attribute) defined by the profile (e.g., the claimed attribute being determined based at least in part on the user profile). Pet. 46; Ex. 1004, 11:17–20.

Patent Owner contends Petitioner has not established that Mehta teaches “installation” as recited in claims 1, 6, and 11 because Mehta merely teaches downloading rather than installation. Prelim Resp. 19–22. We disagree with Patent Owner because Mehta explicitly teaches “installation” of applications on the subscriber’s wireless device. Pet. 25; Ex. 1003 ¶ 63.

We have reviewed the proposed ground of obviousness over Clare and Mehta against claims 1, 2, 5–7, and 10–12 and we are persuaded, at this juncture of the proceeding, that Petitioner has established a reasonable likelihood of prevailing in its challenge to claims 1, 2, 5–7, and 10–12 on this ground.

#### 4. *The Parties’ Contentions for Claims 3, 8, and 13*

Petitioner also asserts that the subject matter of claims 3, 8, and 13 would have been obvious in view of Clare and Mehta under 35 U.S.C. § 103(a). Pet. 57–60. Petitioner provides a limitation-by-limitation analysis of where each limitation of claims 3, 8, and 13 is allegedly taught in Clare and Mehta. *Id.*

Patent Owner disputes Petitioner has not established that Clare teaches the limitation “the user profile comprises . . . and . . . the catalog of applications is filtered based at least in part on . . . enterprise group identifiers” (the “enterprise group identifiers limitation”) because Clare’s group identifiers are preference groups, rather than user groups. Prelim. Resp. 31–33. Petitioner refers to Clare’s storing a user profile in a database and that the user profile may comprise group attributes to argue that Clare teaches the enterprise group identifiers limitation. Pet. 53–55; Ex. 1004, 13:5–7, Fig. 3. Moreover, Petitioner alleges the discussion in Clare of Qualcomm using a binary runtime environment for wireless teaches associating a software compatibility attribute with a company or enterprise. Pet. 54–55; Ex. 1004, 1:45–48. We agree with Patent Owner.

A cited portion of Clare relied upon by Petitioner teaches group identifiers, but fails to teach the enterprise group identifiers limitation because it does not filter the catalog of applications based on the identifiers. Pet. 53–55; Ex. 1004, 13:5–7, Fig. 3. The background section of Clare, to which Petitioner points for the discussion of Qualcomm using a binary runtime environment for wireless as teaching attributes being associated with an enterprise, is an entirely different section of Clare. Pet. 54–55; Ex. 1004, 1:45–48. We are not persuaded that Petitioner’s combination of the discussion of runtime environments in the background section with the later disclosure of user profiles and group identifiers, which may be used to filter the catalog of applications, meets the enterprise group identifiers limitation. Even if Petitioner’s combination of two different sections of Clare were proper, which it is not, the mere statement in Clare that “Qualcomm products, *for example*, utilize the binary runtime environment

for wireless” (emphasis added) fails to teach or suggest “*enterprise* group identifiers” because other companies could still use binary runtime environment products, such that no particular enterprise is necessarily identified by its use of this particular runtime environment. Ex. 1004, 1:45–48.

Patent Owner also contends that Petitioner has not established Mehta teaches the enterprise group identifiers limitation because Mehta fails to teach filtering a catalog of applications based on such an enterprise group identifier, as recited in the claims. Prelim. Resp. 22–25. Petitioner argues Mehta’s subscriber’s “service plan,” “subscriber group,” and an enterprise such as a bank negotiating with the carrier to setup a service in which the enterprise’s customers can download the enterprise’s applications teaches the enterprise group identifiers limitation. Pet. 30–31; Ex. 1003 ¶¶ 84, 109, 125. We agree with Patent Owner.

The cited portions of Mehta relied upon by Petitioner teach a “service plan” and “subscriber group” and reference Figure 17 as illustrating the application of the subscriber group. Ex. 1003 ¶¶ 84, 109 (citing Fig. 17). Figure 17 of Mehta illustrates a flow diagram, wherein a subscriber requests an application for download (step 1705) to determine if the subscriber group authorizes downloading the requested application (step 1706). In addition, Petitioner cites to paragraph 125 of Mehta, which discusses separate subject matter from paragraphs 84 and 109 of Mehta and does not even refer to “service plans” or “subscriber groups.” See Prelim. Resp. 24. Thus, the cited portions of Mehta do not teach or suggest the applications are “filtered based at least in part on . . . enterprise group identifiers.”

Patent Owner contends also that Petitioner has not established Mehta teaches the alternate limitation that applications are “filtered based at least in part on . . . the role [of a user]” because a trial user does not fall under the broadest reasonable interpretation of “role.” Prelim. Resp. 25. Petitioner argues Mehta’s “subscriber group” defines “roles” because the system allows certain subscribers to use an application on a subscription basis or trial basis, and does not allow others to use the application. Pet. 31; Ex. 1003 ¶ 147. We agree with Patent Owner.

Because the Specification of the ’529 patent does not define “role,” we construe role according to its ordinary meaning as “a function or part performed especially in a particular operation or process.” Merriam-Webster’s Collegiate Dictionary 1012 (10<sup>th</sup> ed. 1999). The cited portions of Mehta relied upon by Petitioner teach allowing certain subscribers to use an application on a subscription basis or trial basis, and not allowing others to use the application. We are not persuaded the cited portions of Mehta relied upon by Petitioner teach or suggest “the user profile comprises . . . a role” because a user with a certain type of subscription does not fall under the broadest *reasonable* interpretation of “role.”

We have reviewed the proposed ground of obviousness in view of Clare and Mehta against claims 3, 8, and 13, and we are not persuaded that Petitioner has established a reasonable likelihood that Petitioner would prevail in its challenge to claims 3, 8, and 13 on this ground.

*C. Obviousness of Claims 4, 9, and 14 in view of Mehta and Herschberg*

*1. Herschberg (Ex. 1005)*

Herschberg discusses managing application provisioning to wireless devices. Ex. 1005, Abs. An administrative manager assigns certain applications as “required applications” for downloading to a particular user’s device. *Id.* ¶¶ 88–89. In addition, Herschberg discusses notifying the user of a required application upgrade. *Id.* ¶ 150.

*2. Petitioner’s Mapping of Mehta and Herschberg*

Petitioner relies on Mehta’s default applications, system defined applications, and notifying the subscriber of an application update to meet the limitations of claims 4, 9, and 14. Pet. 31–32; Ex. 1003 ¶¶ 67, 110, 113; Fig. 4. Petitioner also relies on Herschberg’s downloading required applications upgrades and notifying the users of the upgrades to meet the limitations of claims 4, 9, and 14. Pet. 37–40; Ex. 1005 ¶¶ 87–89, 150.

Petitioner concludes that one of ordinary skill in the art would have combined Mehta’s downloading and installation of mobile applications based on user attributes within a user profile with Herschberg’s downloading required application upgrades and notifying the user of the upgrades to provide additional ways of identifying applications and notifying users of the same. Pet. 39–40; Ex. 1006 (multiple paragraphs cited in petition). Patent Owner does not make arguments, at this time, regarding the merits of this ground of unpatentability against challenged claims 4, 9, and 14.

We have reviewed the proposed ground of obviousness over Mehta and Herschberg against claims 4, 9, and 14 and we are persuaded, at this

junction of the proceeding, that Petitioner has established a reasonable likelihood of prevailing in its challenge to claims 4, 9, and 14 on this ground.

*D. Anticipation of Claims 1–3, 5–8, and 10–13 by Clare*

Petitioner asserts that claims 1–3, 5–8, and 10–13 are anticipated by Clare. Pet. 41–57.

Independent claims 1, 6, and 11 recite “installation.” Petitioner argues that Clare’s software downloading discloses “installation.” Pet. 41–52; Ex. 1004 (multiple columns and figures cited in petition). However, Clare merely discloses downloading and executing an application, rather than installing an application, and neither the Petition nor Dr. Robert Akl’s Declaration address this deficiency. Pet. 41–52; Ex. 1004 (multiple columns and figures merely disclose downloading); Ex. 1006 ¶¶ 172, 192–194. Moreover, downloading and executing an application does not necessarily imply installation of an application.

We have reviewed the proposed ground of anticipation by Clare against claims 1–3, 5–8, and 10–13, and we are not persuaded that Petitioner has established a reasonable likelihood that Petitioner would prevail in its challenge to claims 1–3, 5–8, and 10–13 on this ground.

*E. Patent Owner’s Additional Arguments for Denying the Petition*

We have considered Patent Owner’s arguments that the Petition was filed for improper purposes and should be denied because: Petitioner is harassing Patent Owner; Petitioner is adding negotiating leverage; and Petitioner is attempting to circumvent a 35 U.S.C. § 315(b) time bar to challenging the parent of the ’529 patent (U.S. Patent No. 8,359,016). Prelim. Resp. 9–10. We disagree with Patent Owner, and decline to exercise

our discretion to deny the present Petition on these grounds. Nothing in 35 U.S.C. §§ 311–319 or 37 C.F.R. § 42.101 prevents Petitioner from filing this petition for *inter partes* review. Unlike in covered business method patent review, a Petitioner for *inter partes* review is not required to have been sued for or charged with infringement in order to file a petition. *Compare* 37 C.F.R. § 42.101, *with* 37 C.F.R. § 42.302. In addition, a 35 U.S.C. § 315(b) time bar to challenging the parent '016 patent does not prevent Petitioner from filing a petition challenging the '529 patent, because the '529 patent is a different patent than the parent '016 patent.

We also have considered Patent Owner's argument that the Petition should be denied under 35 U.S.C. § 325(d) because Petitioner's references and invalidity arguments were previously presented to the Patent Office. Prelim. Resp. 10–12. Although 35 U.S.C. § 325(d) *permits* the Board to reject a petition merely for the reason that the same or substantially the same prior art or arguments were considered previously in another proceeding before the Office, it does not *require* the Board to do so. In this case, we decline to exercise our discretion to reject the Petition under 35 U.S.C. § 325(d).

*F. Remaining Grounds Challenging the Claims of the '529 Patent*

Pursuant to 35 U.S.C. § 316(b), rules for *inter partes* proceedings were promulgated to take into account the “regulation on the economy, the integrity of the patent system, the efficient administration of the Office, and the ability of the Office to timely complete proceedings.” The promulgated rules provide that they are to “be construed to secure the just, speedy, and inexpensive resolution of every proceeding.” 37 C.F.R. § 42.1(b). As a

result, and in determining whether to institute an *inter partes* review of a patent, the Board, in its discretion, may “deny some or all grounds for unpatentability for some or all of the challenged claims.” 37 C.F.R. § 42.108(b).

We have considered Patent Owner’s arguments that the Petition improperly presents vertically and horizontally redundant grounds, and as such, the Board only should consider one challenge. Prelim. Resp. 12–14. Based on the record before us, Patent Owner’s arguments are moot, as we exercise our discretion and decline to institute review based on any of the other asserted grounds advanced by Petitioner that are not identified below as being part of the trial. *See, e.g.*, Pet. 4; 37 C.F.R. § 42.108(a).

### III. CONCLUSION

For the foregoing reasons, based on the information presented in the Petition and the Preliminary Response, we are persuaded that there is a reasonable likelihood that Petitioner would prevail in showing the unpatentability of claims 1, 2, 4–7, 9–12, and 14 of the ’529 patent. We are not persuaded, however, that there is a reasonable likelihood that Petitioner would prevail in showing the unpatentability of claims 3, 8, and 13 of the ’529 patent.

At this stage of the proceeding, we have not made a final determination on the patentability of the challenged claims.

### IV. ORDER

Accordingly, it is

ORDERED that, pursuant to 35 U.S.C. § 314, an *inter partes* review of U.S. Patent No. 8,731,529 B2 is hereby instituted on the grounds that

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claims 1, 2, 5–7, and 10–12 are asserted to be unpatentable under 35 U.S.C. § 103(a) in view of Clare and Mehta, and claims 4, 9, and 14 are asserted to be unpatentable under 35 U.S.C. § 103(a) in view of Mehta and Herschberg;

FURTHER ORDERED that no other ground of unpatentability alleged in the Petition for any claim is authorized for this *inter partes* review; and

FURTHER ORDERED that pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial; the trial commences on the entry date of this decision.

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