

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,
Petitioner,

v.

GoTV Streaming, LLC,
Patent Owner

Case: IPR2023-00758
U.S. Patent No. 8,478,245

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

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EXHIBIT LIST

No.	Description
1001	U.S. Patent No. 8,478,245 (“’245 <i>Patent</i> ”)
1002	Expert Declaration of Ben Bederson (“ <i>Bederson</i> ”)
1003	Curriculum Vitae of Benjamin B. Bederson, Ph.D.
1004	File History of U.S. Patent No. 8,478,245 (“’245 <i>FH</i> ”)
1004	(Corrected) File History of U.S. Patent No. 8,478,245
1005	U.S. Patent Application Publication No. 2007/0150617 (“ <i>Hariki</i> ”)
1006	U.S. Patent Application Publication No. 2003/0023755 (“ <i>Harris</i> ”)
1007	U.S. Patent No. 7,447,486 (“ <i>Tamura</i> ”)
1008	U.S. Patent No. 6,996,627 (“ <i>Carden</i> ”)
1009	U.S. Patent No. 6,669,564 (“ <i>Young</i> ”)
1010	U.S. Patent No. 6,732,183 (“ <i>Graham</i> ”)
1011	U.S. Patent No. 6,507,727 (“ <i>Henrick</i> ”)
1012	Webpage excerpt from Computer History Museum at https://www.computerhistory.org/tdih/april/6/ (last accessed March 29, 2023)
1013	https://www.webdesignerdepot.com/2009/05/the-evolution-of-cell-phone-design-between-1983-2009/
1014	Excerpts from Dan R. Olsen, Jr., Developing user interfaces (1998)
1015	Alok Sinha, Client-server computing, in Communications of the ACM, 35, 7 (1992)

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1016	Tim Berners-Lee, Robert Cailliau, Ari Luotonen, Henrik Frystyk Nielsen, and Arthur Secret, The World-Wide Web, Communications of the ACM 37, 876-82 (August 1994), available at http://dx.doi.org/10.1145/179606.179671
1017	Eric Kasten, HTML: A Gentle Introduction, Linux Journal (July 1995), available at https://www.linuxjournal.com/article/1081
1018	U.S. Patent Application Publication No. 2013/0124961 (“ <i>Linburn</i> ”)
1019	U.S. Patent No. 8,111,326 (“ <i>Talwar</i> ”)
1020	Docket Control Order, <i>GovTV Streaming, LLC v. Netflix, Inc.</i> , No. 2:22-cv-07556-RGK-SHK, Dkt. 61 (C.D. Cal. Feb. 13, 2023)
1021	Complaint in <i>GovTV Streaming, LLC v. Netflix, Inc.</i> , No. 2:22-cv-07556-RGK-SHK (C.D. Cal. October 17, 2022)
1022	U.S. Patent Application Publication No. 2003/0106022 (“ <i>Goodacre</i> ”)
1023	Webarchive.gov Zenzui
1024	Memorandum In Opposition To GoTV Streaming, LLC’s Motion For Judgment As A Matter Of Law
1025	Declaration of Stephen A. Marshall In Support of Petitioner's Unopposed Motion for Admission Pro Hac Vice
1026	Excerpts From Trial Transcript Day 2
1027	<i>Associated</i> , Cambridge Learner’s Dictionary (3rd ed. 2007)
1028	<i>From</i> , Merriam-Webster’s Collegiate Dictionary (11th ed. 2007)
1029	Deposition of Mr. Stuart Lipoff (April 2, 2024) (“ <i>Lipoff Dep.</i> ”)

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2002	GALAZZO, Timeline from 1G to 5G: A Brief History on Cell Phones (Sept. 21, 2020), available at https://www.cengn.ca/information-centre/innovation/timeline-from-1g-to-5g-a-brief-history-on-cell-phones/
2003	Media Mall – Games & Games – Motorola (March 23, 2006)
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2010	Renewed Stipulated Motion to Stay, Shenzhen Gooloo E-Commerce Co., Ltd. v. Pilot, Inc., No. 2-22-cv-02219 (C.D. Cal. Jan. 11, 2023) (Doc. 94)
2011	Klausner Time to Trial
2012	U.S. District Court — Judicial Caseload Profile Central Cal. (Mar. 31, 2023)

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2021	Netflix's JMOL re Infringement (Oct. 19 2023) (Dkt. 389)
2022	Declaration of Mr. Stuart Lipoff (“ <i>Lipoff</i> ”)
2023	Generate, FOLDOC
2024	Output, Tech Terms
2025	From, Merriam-Webster
2026	Customized, Merriam-Webster
2027	Application-Specific, Wiktionary
2028	Ticker, Merriam-Webster
2029	Dr. Benjamin Bederson Deposition Transcript (Jan. 10, 2024) (“ <i>Bederson Dep.</i> ”)

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No.	Description
2030	Second Declaration of Joshua S. Wyde
3001	Ex. 3001
3002	Ex. 3002

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LISTING OF CHALLENGED CLAIMS

Claim 1	
[1pre]	A method of rendering content on a wireless device, said method comprising:
1[a]	receiving an identification of a custom configuration of a plurality of rendering blocks of said wireless device,
1[b]	wherein said custom configuration is associated with an application and configures said plurality of rendering blocks to render content in a manner customized to said application;
[1c]	receiving compiled content generated in part from execution of said application
[1d]	wherein said compiled content comprises render commands expressed in a syntax that is generic to said wireless device;
[1e]	using a graphical user interface comprising said plurality of rendering blocks to generate renderable content based on said compiled content and said custom configuration; and
[1f]	rendering said renderable content on said wireless device, wherein said receiving compiled content comprises: receiving first compiled content specific to a first page of said application; and receiving second compiled content specific to a second page of said application
[1g]	wherein said custom configuration is applicable to both said first and second compiled content.

Claim 2	
[2]	A method as described in claim 1 wherein said using a graphical user interface comprising said plurality of rendering blocks to generate renderable content comprises: processing said compiled content using a reader of said wireless device; and issuing commands from said reader to individual rendering blocks of said graphical user interface based on said rendering commands of said compiled content.
Claim 3	
[3]	A method as described in claim 1 wherein said render able content comprises audio content and display content.
Claim 4	
[4]	A method as described in claim 1 wherein said compiled content is partially resultant from said application operating on a remote server.
Claim 5	
[5]	A method as described in claim 1 wherein said compiled content is specific to the rendering capabilities of said wireless device.
Claim 6	
[6]	A method as described in claim 1 wherein each of said plurality of rendering blocks operates specific to a wireless device type of said wireless device and each is instructed using a syntax that is generic to said wireless device type.
Claim 7	
[7]	A method as described in claim 6 wherein said custom configuration comprises a syntax that is generic regarding said wireless device type.

Claim 8	
[8]	A method as described in claim 1 wherein said custom configuration comprises configuration information and content specific to said application.
Claim 9	
[9]	A method as described in claim 1 wherein said custom configuration is one of a plurality of memory-stored custom configurations stored by said wireless device and wherein further said identifying said custom configuration comprises receiving an identifier that identifies said custom configuration.
Claim 10	
[10]	A method as described in claim 1 further comprising receiving and storing said custom configuration.
Claim 11	
[11]	A method as described in claim 1 wherein said plurality of rendering blocks of said graphical user interface comprises: a first block that controls the rendering of ticker information across a display screen of said wireless device; a second block that controls the rendering of button images on said display screen; and a third block that controls the rendering of audio on a speaker of said wireless device.
Claim 12	
[12pre]	A non-transitory computer usable medium comprising instructions therein that when executed by a processor implement a method of rendering content on a wireless device, said method comprising:
[12a]	receiving an identification of a custom configuration of a plurality of rendering blocks of said wireless device,

[12b]	wherein said custom configuration is associated with an application and configures said plurality of rendering blocks to render content in a manner customized to said application;
[12c]	receiving compiled content generated in part from execution of said application
[12d]	wherein said compiled content comprises render commands expressed in a syntax that is generic to said wireless device;
[12e]	using a graphical user interface comprising said plurality of rendering blocks to generate renderable content based on said compiled content and said custom configuration; and
[12f]	rendering said renderable content on said wireless device, wherein said receiving compiled content comprises: receiving first compiled content specific to a first page of said application; and receiving second compiled content specific to a second page of said application,
[12g]	wherein said custom configuration is applicable to both said first and second compiled content.
Claim 13	
[13]	A non-transitory computer usable medium as described in claim 12 wherein said using a graphical user interface comprising said plurality of rendering blocks to generate renderable content comprises: processing said compiled content using a reader of said wireless device; and issuing commands from said reader to individual rendering blocks of said graphical user interface based on said rendering commands of said compiled content.

Claim 14	
[14]	A non-transitory computer usable medium as described in claim 12 wherein said renderable content comprises audio content and display content.
Claim 15	
[15]	A non-transitory computer usable medium as described in claim 12 wherein said compiled content is partially resultant from said application operating on a remote server.
Claim 16	
[16]	A non-transitory computer usable medium as described in claim 12 wherein said compiled content is specific to the rendering capabilities of said wireless device.
Claim 17	
[17]	A non-transitory computer usable medium as described in claim 12 wherein each of said plurality of rendering blocks operates specific to a wireless device type of said wireless device and each is instructed using a syntax that is generic to said wireless device type.
Claim 18	
[18]	A non-transitory computer usable medium as described in claim 17 wherein said custom configuration comprises a Syntax that is generic regarding said wireless device type.
Claim 19	
[19]	A non-transitory computer usable medium as described in claim 12 wherein said custom configuration comprises configuration information and content specific to said application.

Claim 20	
[20]	A non-transitory computer usable medium as described in claim 12 wherein said custom configuration is one of a plurality of memory-stored custom configurations stored by said wireless device and wherein further said identifying said custom configuration comprises receiving an identifier that identifies said custom configuration.
Claim 21	
[21]	A non-transitory computer usable medium as described in claim 12 wherein said method further comprises receiving and storing said custom configuration.
Claim 22	
[22]	A non-transitory computer usable medium as described in claim 12 wherein said plurality of rendering blocks of said graphical user interface comprises: a first block that controls the rendering of ticker information across a display screen of said wireless device; a second block that controls the rendering of button images on said display screen; and a third block that controls the rendering of audio on a speaker of said wireless device.
Claim 23	
[23pre]	A wireless device operable to communicate with a remote server, said wireless device comprising:
[23a]	a transceiver coupled to a bus and operable to receive a custom configuration that is associated with an application,
[23b]	said transceiver also operable to receive compiled content generated in part from execution of said application and
[23c]	comprising a plurality of rendering commands expressed in a syntax that is generic to said wireless device;

[23d]	a memory coupled to said bus and operable to store said compiled content and said custom configuration;
[23e]	a processor coupled to said bus and operable to implement the following: a graphical user interface comprising a plurality of rendering blocks and operable to generate renderable content based on said compiled content and said custom configuration
[23f]	wherein said custom configuration is operable to configure said plurality of rendering blocks to render content in a manner customized to said application;
[23g]	an engine for reading said compiled content and responsive thereto for causing said graphical user interface to generate said renderable content based on said render commands;
[23h]	a display device coupled to said bus and operable to render a portion of said renderable content, wherein said compiled content comprises: a first compiled content specific to a first page of said application; and a second compiled content specific to a second page of said application, wherein said custom configuration is applicable to both said first and second compiled content.
Claim 24	
[24]	The wireless device as described in claim 23 wherein said engine is further operable to issue commands to individual rendering blocks of said graphical user interface based on said plurality of rendering commands of said compiled content.
Claim 25	
[25]	The wireless device as described in claim 23 further comprising an audio rendering device coupled to said bus and wherein said renderable content comprises audio content and display content.

Claim 26	
[26]	The wireless device as described in claim 23 wherein said compiled content is partially resultant from said application operating on a remote server.
Claim 27	
[27]	The wireless device as described in claim 23 wherein said compiled content is specific to the rendering capabilities of said wireless device.
Claim 28	
[28]	The wireless device as described in claim 23 wherein each of said plurality of rendering blocks operates specific to a wireless device type of said wireless device and each is instructed using a syntax that is generic to said wireless device type.
Claim 29	
[29]	The wireless device as described in claim 28 wherein said custom configuration is expressed in a syntax that is generic to said wireless device type.
Claim 30	
[30]	The wireless device as described in claim 23 wherein said custom configuration comprises configuration information and content specific to said application.
Claim 31	
[31]	The wireless device as described in claim 23 wherein said custom configuration is one of a plurality of memory-stored custom configurations stored in said memory.

Claim 32	
[32]	The wireless device as described in claim 23 wherein said plurality of rendering blocks of said graphical user interface comprises: a first block that controls the rendering of ticker information across said display screen of said wireless device; a second block that controls the rendering of button images on said display screen; and a third block that controls the rendering of audio on a speaker of said wireless device.
Claim 33	
[33]	The wireless device as described in claim 23 wherein said plurality of rendering blocks of said graphical user interface comprises: a first block that controls the rendering of a scroll bar on said display screen of said wireless device; a second block that controls the rendering of an input box on said display screen of said wireless device; and a third block that control the rendering of a text display region on said display screen of said wireless device.

I. INTRODUCTION

Petitioner submits this Reply to Patent Owner's ("PO") Response, Paper 21 ("POR") concerning Claims 1-33 ("challenged claims") of U.S. Patent No. 8,478,245. PO's arguments should be rejected and the challenged claims found unpatentable and cancelled for at least the reasons set forth in the IPR Petition, Paper 2 ("Petition" or "Pet.") and accompanying exhibits, the Board's decision granting institution of the IPR, Paper 10 ("Decision" or "Inst. Dec."), the deposition testimony of PO's expert, Stuart Lipoff, and the additional reasons below.

As explained below, PO's arguments with respect to the challenged claims should be rejected at least because they hinge on unsupportable proposed claim constructions and because the prior art cited in the Petition reads on the challenged claims.

II. CLAIM CONSTRUCTION

PO proposes claim constructions for three terms in the POR in an attempt to narrow the claims without sufficient support. These terms need no construction, and Petitioner has ascribed their plain and ordinary meaning.

A. “Customized to Said Application” Should Be Given Its Plain and Ordinary Meaning

Claims 1[b]/12[b]/23[f]

PO provides multiple narrow constructions – “tailored to,” “created for,” “consciously designed,” and “written for” an application – for the term “customized to said application” before settling on “created for” as PO’s proposed construction. *POR*, 20-21. However, for several reasons, this term needs no construction because POSITAs can readily understand its plain and ordinary meaning.

First, POSITAs reading the claim language can readily understand the plain and ordinary meaning of “customized to said application” from the expressly stated relationship between the custom configuration and the application. Specifically, the claims state that the “custom configuration is *associated with* an application.” It is this relationship that dictates how the custom configuration is applied to render content in a manner customized to the application. PO tellingly disregards the “associated with” language that precedes and gives meaning to the term “customized to said application.” The Federal Circuit has held that “[w]hile certain terms may be at the center of the claim construction debate, the context of the surrounding words of the claim also must be considered in determining the ordinary and customary meaning of those terms.” *ACTV, Inc. v. Walt Disney Co.*, 346 F.3d 1082, 1088 (Fed.

Cir. 2003). The specification confirms that no construction is needed for the claim term beyond what is already described in the claims, i.e., “associated with.” ’245 *Patent*, 18:41-43 (“The custom configuration customizes the look and feel of the content displayed on the wireless device from execution of the requested application.”). Furthermore, the plain and ordinary meaning of “associated” is “related to something.” Ex. 1027. Accordingly, the claim limitation only requires that the custom configuration be related to an application and render content consistent with the relationship between the custom configuration and the application.

Second, the ’245 *Patent* does not limit “customized to said application” to “created for” an application. The Federal Circuit has rejected narrow claim construction of a term when the patent failed to sufficiently set out the narrower meaning in the specification. In *Los Angeles Biomedical v. Eli Lilly & Co.*, the patent owner in the case argued two constructions, “constant level” and “steady state,” for “continuous long-term regimen.” 849 F.3d 1049, 1062 (Fed. Cir. 2017). The Court rejected the “steady state” construction because it was not disclosed in the specification and rejected “constant level” because that applicant had not “demonstrated a clear intention to limit the claim scope” by “set[ting] out [a] different meaning in the specification in a manner sufficient to give one of ordinary

skill in the art notice of the change from ordinary meaning.” *Id.* Here, the phrase “created for” is not used in the ’245 *Patent* specification. Therefore, as in *Los Angeles Biomedical*, PO’s narrow claim construction should be rejected in favor of its plain and ordinary meaning.

Third, while advocating for its already narrow construction, PO offers additional constructions that further narrow the scope, including “consciously designed for,” “tailored to,” “designed for” an application, and “made with the application in mind.” *POR*, 20-21. However, “customized to said application” should not be limited to any of these constructions. *Kara Tech. Inc. v. Stamps.com Inc.*, 582 F.3d 1341, 1348 (Fed. Cir. 2009) (“The patentee is entitled to the full scope of his claims, and we will not limit him to his preferred embodiment or import a limitation from the specification into the claims.”). The *POR* argues that the custom configuration must correspond to an individual application (*id.*, 21), but PO cannot negate the language of the claims themselves. The claims do not require that the custom configuration be *consciously designed* or created for an application. The patent simply discloses that there is a correspondence between a custom configuration and an application that allows for rendering content on a mobile device. ’245 *Patent*, 2:54-56, 7:59-62, 11:5-8, 18:41-43.

Ultimately, the claims tell us that the rendering blocks are configured to render content for the application to the extent that the custom configuration is “associated with” the application, which defines the relevant relationship between the custom configuration and the application, such that the rendering blocks will be customized. A claim construction is not necessary here because the scope of “customized to said application” is clear from the words of the claim, and those words should not be improperly or unnecessarily limited.

B. “Application” Should Be Given Its Plain and Ordinary Meaning

Claims 1[f]/12[f]/23[h] and 1[c]/12[c]/23[b]

PO attempts to construe “application” narrowly as “remote application,” but the arguments fail because PO ignores the claim language, takes Petitioner’s litigation positions out of context. *POR*, 22-31.

As an initial but important matter, PO’s proposed claim construction of “application” as “remote application” fails to construe the term “application” and merely adds a material limitation to it. This is blatantly improper. The Federal Circuit has held that “while proper claim construction requires an examination of the written description and relevant prosecution history to determine the meaning of claim limitations, *additional limitations may not be read into the claims.*” *Storage*

Tech. Corp. v. Cisco Sys. Inc., 329 F.3d 823, 828, 831 (Fed. Cir. 2003) (emphasis added). PO's limiting claim construction also fails for several other reasons.

First, PO is incorrect that any construction, let alone a limiting construction, is necessary. PO argues in part that the application must run remotely from the mobile device in order for the device to receive compiled content from the application. However, Claims 1, 12, and 23 do not require that a mobile device receive compiled content from an application. The claims are directed to "receiving compiled content," which only requires that compiled content be received from some source. In deposition, PO's expert could not point to any claim language that required the mobile device to receive compiled content transmitted by an application; instead, he stated that the compiled content "needs to be external to the wireless device" and "come from a source side of the information." *Lipoff Dep.*, 48:20-49:4.

There is no claim language that requires the mobile device to receive compiled content that is transmitted by an application, which even PO's expert cannot refute. Furthermore, even if a particular embodiment in the patent discloses a mobile device receiving compiled content from a remote application, it would be improper to import that embodiment into the claim. *Superguide Corp. v. DirecTV Enterprises, Inc.*, 358 F.3d 870, 875 (Fed. Cir. 2004) ("[A] particular embodiment appearing in

the written description may not be read into a claim when the claim language is broader than the embodiment.”). PO’s position that the “application” must run remotely from the mobile device is precisely what *Superguide Corp.* bars, namely, reading a narrow embodiment, such as the one disclosed in Fig. 5 of the ’245 Patent, into much broader claim language that only requires “receiving compiled content.” Reception of compiled content at a mobile device meets this claim limitation under the plain and ordinary meaning, without limitation on where the claimed application is located.

Second, claim differentiation further supports Petitioner’s position and PO is incorrect to argue otherwise. “[T]he presence of a dependent claim that adds a particular limitation gives rise to a presumption that the limitation in question is not present in the independent claim.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1315 (Fed. Cir. 2005). Claims 4, 15 and 26, which depend from independent Claims 1, 12, and 23, respectively, first introduce the limitation that the application resides on a remote server and gives rise to the presumption that the application is not required to be remote from the mobile device in the independent claims. This is confirmed by Claims 1 and 12 not even including the terms “server” or “remote.” The embodiment captured by Claim 23 includes a remote server but does not say that the mobile

device receives compiled content transmitted by the application. '245 Patent, 22:51-23:15.

Claim differentiation “can be overcome by *strong* contrary evidence such as definitional language in the patent or a clear disavowal of claim scope.” *Interdigital Commc’ns, LLC v. Int’l Trade Comm’n*, 690 F.3d 1318, 1324 (Fed. Cir. 2012) (emphasis added). The '245 Patent specification does not define the application as one that resides only on a remote server and the independent claims do not disavow that the application could reside elsewhere, other than on a remote server. This is fatal as “the presumption [of claim differentiation] is ‘especially strong’ in this case, because ‘the limitation in dispute is the only meaningful difference between an independent and dependent claim, and one party is urging that the limitation in the dependent claim should be read into the independent claim.’” *Id.*, 1324-25.

Third, contrary to PO’s argument, it is not necessary to limit “application” to “remote application” to avoid written description issues. It is settled law that “[e]ven when the specification describes only a single embodiment, the claims of the patent will not be read restrictively unless the patentee has demonstrated a clear intention to limit the claim scope using ‘words or expressions of manifest exclusion or restriction.’” *Hill-Rom Servs., Inc. v. Stryker Corp.*, 755 F.3d 1367, 1372 (Fed. Cir. 2014). The independent claims are purposefully broad and do not claim a remote

application in order to capture all possible locations of the application. '245 Patent, 20:29-36. This is confirmed by the dependent claims, 4, 15, and 26, which first require the application to be remote. Furthermore, POSITAs would have understood that the application can reside on a mobile device in one embodiment just as it can reside on a server in another. *Bederson*, ¶¶60, 91 (“Web browsers are client applications... a web browser can open a special kind of document written using Hypertext Markup Language (HTML) and render it.”). Therefore, PO’s attempt to limit the claims to one embodiment – where the application is remote – fails to observe the understanding of POSITAs and scope of known technologies at the time of the patent.

Fourth, PO relies on cherry-picked testimony in the district court trial to incorrectly argue that there is agreement that the claimed application must be executing remotely from the mobile device. At the district court, Petitioner was characterizing and addressing PO’s asserted infringement theory.¹ Petitioner’s

¹ Petitioner did not argue invalidity in the district court trial. Petitioner’s IPR position that the claimed “application” can reside on either the server or the mobile device is relevant to invalidity but unnecessary to Petitioner’s district court non-infringement defense.

statements during trial that the “application lives on the server” were made in the context of the infringement positions argued by Plaintiff at trial (i.e., the accused application is on a remote server) (*see, e.g.*, Ex. 1026, 28:8-17; 70:16-20) and related to explanations of why Petitioner could not infringe under those theories, not any assertions as to the scope of the claim in all contexts. This context is confirmed by both the PO’s and Petitioner’s experts testifying only on infringement at trial. Ex. 1026, 17:16-19; 246:11-14. Furthermore, the Board allows Petitioners to advance positions that are different from the district court proceedings. *Bumble Trading LLC v. KinectUS LLC*, IPR2021-00765, Paper 13, at 18 (PTAB Oct. 21, 2021) (“That there was an inconsistency between the Petition and what was argued initially in the [district court] action does not persuade us that there is a current substantive disagreement over the meanings of certain terms.”). Contrary to PO’s assertion that Petitioner now advances a position in conflict with that in the district court (Footnote 7, *POR*, 29), as in the Board-cited *Samsung Elecs. Co. case*² and the *Bumble Trading*

² *Samsung Elecs. Co. v. Smart Mobile Techs. LLC*, IPR2022-01248, Paper 13, at 58 (PTAB Jan. 24, 2023).

LLC case,³ Petitioner is advocating for a plain and ordinary meaning, unlike PO's limiting construction. PO is not only comparing Petitioner's positions from two separate proceedings, but also two completely different inquiries in those separate proceedings – non-infringement at the district court and invalidity at the PTAB – so the Board should reject PO's argument that both parties agree on the claimed “application” executing only on a remote server.

Fifth, PO is incorrect that POSITAs would have understood that the claimed application is remote because “Dr. Benjamin B. Bederson, has not stated that the application in the Patent-at-Issue could be local.” *Lipoff*, ¶102. To the contrary, Dr. Bederson expressly explained in his deposition that the application does not necessarily have to be remote and can reside on the mobile device. *Bederson Dep.*, 60:7-17.

Accordingly, a claim construction is not necessary here because the scope of “application” is clear from the words of the claims and the specification, and the term should not be improperly or unnecessarily limited to “remote application.”

³ *Bumble Trading LLC v. KinectUS LLC*, IPR2021-00765, Paper 13, at 18 (PTAB Oct. 21, 2021).

C. “Generated in Part From Execution of Said Application” Should Be Given Its Plain and Ordinary Meaning

Claims 1[c]/12[c]/23[b]

PO spends several pages addressing the construction of “generated in part from execution of said application,” but offers no coherent construction at any point. Rather than construe the term, PO instead advances the argumentative conclusion that “to meet this claim limitation the identified application must produce/output *some part* of the identified compiled content.” *POR*, 36 (emphasis in original). In essence, PO attempts to limit generation of compiled content such that the executing application is the immediate source of compiled content. To this end, PO argues that “from” should be read strictly as “source of,” to get around both the Petitioner’s and Board’s position that “from” in the context of the claims and specification means “upon.” *POR*, 32. PO also improperly attempts to group “in part” with the generated compiled content rather than the triggering event of execution. *POR*, 33-34. However, consistent with the Board’s Decision, a claim construction is not necessary here because the scope of the claim limitation is clear from the words of the claims themselves.

While PO argues that the specification does not teach that execution of the client software “generates” the compiled content as an initiating cause (*POR*, 34),

the specification, in fact, confirms Petitioner’s position. For example, the patent discloses that an application is initially executed in step 750 of Fig. 7. *’245 Patent*, 19:40-20:4. This execution step triggers a series of generation and transmission steps that ultimately lead to transmission of the compiled content to a client at step 780. *Id.* Additionally, the patent discloses that “[d]uring application execution, pages are generated for display on the wireless device.” *Id.*, 16:62-63. Even PO’s expert defined “generated” as a “side effect of the execution of an algorithm or program.” *Lipoff*, ¶94. This interpretation aligns with the specification and Petitioner’s argument that compiled content can be generated as a side effect of the application’s execution. PO cites nothing in the patent – neither in the claims nor the specification – to demonstrate that “generation” should be limited to immediate output of the compiled content by the executing application. Further, PO relies on the term “from” in isolation to support its position that the executing application is the source of the compiled content. However, the plain and ordinary meaning of “from” in the *context of the claim language* is the “stating point of an activity” or “upon.” Ex. 1028. Indeed, the claim recites “from execution of the application,” indicating toPOSITAs that the recited generation occurs upon execution, and not that the generated compiled content is “from” the application. To do so would read out the term “execution.” The Board agreed with this interpretation in the Decision. *Inst. Dec.*, 70.

Additionally, PO looks to the phrase “in part” to bolster its argument by suggesting that part of the compiled content must be output by the application, therefore requiring execution of the application on a server or other remote source of the compiled content. *POR* at 36. In other words, PO ties “in part” to “generated” so that the output (compiled content) must be the immediate result of execution of the application at the location where compiled content is created. Consistent with the Board’s interpretation, however, “in part” modifies the triggering action (execution of said application) such that the compiled content results at least due to the occurrence of the application execution. This is supported by the specification, which teaches that the compiled content for transmission to the mobile device is made when the application executes. *’245 Patent*, 16:62-63; 19:40-67. As PO recognizes, other content for the compiled content, such as third party stock information, is generated independently of application execution. *Id.*, 18:18-25. All that is required is that the execution of an application triggers generation of the compiled content.

Therefore, a claim construction is not necessary here because the scope of the claim term at issue is clear from the written description and the claims.

III. HARIKI IN COMBINATION WITH HARRIS RENDERS OBVIOUS CLAIMS 1-33

A1. In the *Hariki/Harris* System, UI Packages Work in Concert With the Web Server's Content to Properly Display Content on a Mobile Device

Claims 1[b]/12[b]/23[f]

PO applies its narrow claim constructions and ignores the common objectives of the '245 *Patent* and the prior art to assert that *Hariki*'s web server cannot be the claimed "application" because the UI content packages and the web server are not sufficiently related. *POR*, 38-42.⁴ However, PO's argument fails because *Hariki*'s objective is to display content-provider-supplied HTML content on a mobile device per the mobile device's corresponding UI content package so that the content has a certain look, which requires an association between the HTML content and the UI content packages. *Hariki*, ¶¶21, 24; *Bederson*, ¶¶126-129. Even under PO's flawed

⁴ It is undisputed that Petitioner offered two distinct scenarios in its Petition: one in which the web browser residing on a mobile device is the claimed "application," and another in which the web server residing on a server is the claimed "application." *Pet.*, 36-37; *Bederson Dep.*, 17:3-19:22, 59:2-7; *Bederson*, ¶¶60, 127; *Lipoff Dep.*, 43:10-15. PO incorrectly contends that Petitioner intermingles these scenarios. *POR*, 37-39.

claim construction proposals (*see* Section II.A), this limitation is obvious in view of *Hariki* and *Harris*.

The *Hariki/Harris* system discloses this broad claim limitation.⁵ Consistent with the Petition, the *Hariki/Harris* web server process that serves content to mobile devices (or “web server”) is considered the “application”; the converted resource of the UI content package (or “UI content package”) is the “custom configuration”; and the HTML pages or files are the “compiled content.” The claim limitations here require that the UI content packages be “associated with” the web server and render content in a manner customized to said application. Accordingly, as explained in Section II.A, the claim limitations only require that *Hariki*’s UI package be related to an application and render content consistent with the relationship between the UI package and the application.

⁵ In the Decision, the Board stated concerns the Petition did not provide sufficient basis to consider the web server as the application. *Inst. Dec.*, 65-66. The arguments provided herein further explain the Petition position that the web server can be the application. These arguments are responsive because they “simply expand[] on previously raised arguments.” *Rembrandt Diagnostics, LP v. Alere, Inc.*, Case No. 2021-1796, 11 (Fed. Cir. Aug. 11, 2023).

In *Hariki*, the UI authoring tool, which generates the UI content packages, and the web server do not just happen to reside on a common server. A content provider provides both the content and the corresponding UI content packages for different mobile devices. *Hariki*, ¶¶21, 24. *Hariki*'s objective is to enable the content provider to offer UI content packages to different types of mobile devices. *Id.*, ¶¶8, 9. This is similar to the '245 *Patent*'s objective, where vendors provide the custom configuration and application content for use on different wireless devices ('245 *Patent*, 2:21-24) and the custom configuration "customize[s] the appearance of content" and "preprogram[s] the plurality of rendering blocks to operate and look a certain way" (*id.*, 2:53-61). PO's expert confirms that "in order to practice the claim as it's written, the custom configuration needs to be there before the application starts sending content to the rendering blocks." *Lipoff Dep.*, 23:12-16. Therefore, POSITAs would have understood that *Hariki*'s content provider's intention is to display their HTML content on a mobile device per the mobile device's corresponding UI content package so that the content has a certain look. *Bederson*, ¶¶126-129; *see also Bederson Dep.*, 63:12-16 ("[Content provider] would understand [] that the UI skin would be sent to a client along with content such as HTML content from a server, and those things together would support the customization of that HTML content.").

Furthermore, to achieve *Hariki*'s objective, it would have been a matter of common sense for the UI content package to be applicable to and customized for the web-server-generated content because only then can the content be displayed in a certain way on a mobile device. *B/E Aerospace, Inc. v. C&D Zodiac, Inc.*, 962 F.3d 1373, 1379-1380 (Fed. Cir. 2020) (affirming "the Board's conclusion that the challenged claims would have been obvious because 'it would have been a matter of common sense' to incorporate a second recess [not expressly disclosed] in the Admitted Prior Art" to achieve the prior art's objective of maximizing airplane space). This is confirmed by Dr. Bederson's explanation that *Hariki*'s content providers – who create UI content packages embodying UI skins – would know that the UI skins would be used in combination with the server-produced HTML content to customize the HTML content for rendering on a client. *Bederson Dep.*, 62:6-21. Even PO's expert admits that it is possible for "two different programs [to] interact with each other that are not sold together [as part of a suite]." *Lipoff Dep.*, 35:3-6. Therefore, the UI content package is associated with the web server application and renders content that is accordingly related to the application.

A2. The HTML Files Sent to the Mobile Device Are Generated Upon Execution of the Web Browser and, Therefore, Hariki's Web Browser Reads on the Claimed "Application"

Claims 1[c]/12[c]/23[b]

Petitioner also presents a scenario in which the *Hariki/Harris* web browser is considered the "application"; the converted resource of the UI content package (or "UI content package") is the "custom configuration"; and the HTML pages or files are the "compiled content." PO counters that because the web browser in the *Hariki/Harris* system does not transmit HTML pages, it cannot be the claimed "application." *POR*, 43-46. PO's argument fails, however, because it presumes a limitation on the source of the transmission that is not present anywhere in the claims.

Whether the *Hariki* or *Harris* web browser transmits HTML files is irrelevant to the claim limitation at issue. As explained in Section II.B, Claims 1, 12 and 23 are directed to "receiving compiled content," which only requires that compiled content be received at a mobile device from some source such as *Harris'* MCF. *Harris*, ¶19. An application that resides on a mobile device and receives compiled content transmitted by a server meets this claim limitation. The *Hariki/Harris* system, therefore, reads on the claim limitations because a mobile device's web browser application receives HTML files (generated by the MCF) from a server, which is an external source. *Hariki*, ¶¶19, 21; *Pet.*, 37-38.

Furthermore, as explained in Section II.C, this claim limitation requires only that the compiled content is generated upon execution of the application. The *Hariki/Harris* web browser generates the HTML files, to some extent, when it identifies content for generation by the MCF. *Hariki*, ¶¶21, 38; *Harris*, ¶¶3, 7, 24. In other words, execution of the web browser on a mobile device in the *Hariki/Harris* system triggers content generation at the server. *Id.* PO’s expert confirmed this same interaction in the patent – upon receiving a web browser’s HTTP request, the server generates and transmits content to the browser. *Lipoff Dep.*, 51:10-52:5; *see also Bederson Dep.*, 40:9-13.

A3. The ’245 Patent’s Independent Claims Do Not Require That the Claimed “Application” Reside Remotely From the Mobile Device and, Therefore, *Hariki*’s Web Browser Reads on the Claimed “Application”

Claims 1[f]/12[f]/23[h] and 1[c]/12[c]/23[b]

Ignoring the plain claim language, PO improperly argues that *Hariki*’s web browser cannot be the claimed “application” because it resides locally on a mobile device and, therefore, cannot transmit HTML files to itself. *POR*, 46-48. However, PO’s arguments fail because Claims 1, 12, and 23 do not require that the mobile device receive compiled content from the “application” or preclude the web browser from being the “application.” *See* Sections II.B and III.A2. The *Hariki/Harris* web

browser application, which resides on a mobile device, receives multiple HTML files from a remote server, which reads on the claim limitation. *Hariki*, ¶21.

B. *Hariki*'s UI Content Packages Are Applicable to HTML Files Within the Web Browser

Claims 1[g]/12[g]/23[h]

Without providing sufficient evidence, PO argues that *Hariki*'s resource files are not applicable to HTML files within the browser. *POR*, 48-51. PO ignores the '245 Patent's and *Hariki*'s shared objective of using a custom configuration to render content properly on a mobile device.

While *Harris* discloses that the MCF generates HTML files, the applicability of the UI packages to the HTML files is disclosed by *Hariki* in the *Hariki/Harris* system. *Pet.*, 52. *Hariki*'s objective is to enable a content provider to offer UI content packages to different mobile devices. *Hariki*, ¶¶8, 9. To that end, the mobile device in *Hariki* uses UI content packages to customize its web browser to look a certain way. *Id.*, ¶¶19, 21, 24. This customization requires that the UI content package be applicable to the HTML files that are received from the web server and displayed in the web browser. *Id.*, ¶¶19, 41-42. POSITAs would have understood that customizing the application program environment using the UI content package would mean that the converted resources of the UI content package were applicable

to all HTML files displayed in the application. *Bederson*, ¶¶158-159. Dr. Bederson also confirmed in his deposition that “the resource profile is customized for a particular browser application that might know how to, for example, render one kind of image, but perhaps not another.” *Bederson Dep.*, 70:11-15. In the Decision, the Board agreed with Petitioner that the UI content package affects the content displayed on the web browser and is, therefore, applicable to the HTML files within the browser. *Inst. Dec.*, 89-90.

C. *Hariki*’s Engines Read HTML Files and the *Hariki/Harris* System Reads on Claim 23 and Its Dependent Claims

Claim 23[g]

PO’s assertion that *Hariki*’s engines cannot be the claimed “engine for reading” because the web browser reads compiled content (*POR*, 51-53) is based on a flawed reading and oversimplification of the *Hariki/Harris* system, and therefore fails. In *Hariki*, the Resource API and the web browser do not operate in a vacuum. *Hariki*, ¶¶19, 41, 43. A web browser receives various content and UI packages from a server that interacts with the Resource API. *Id.* The Resource API includes multiple engines – Flash, PNG, JPEG – and an engine selector for selecting between these engines based on the content type. *Id.*, ¶43. In order to process the content, the selector selects an appropriate engine that can read the content. For example, “the

flash engine 514 is invoked” for an applet and a “JPEG engine 518 is invoked” for a photograph. *Id.* Dr Bederson explains that “[t]he engines correspond to the reader, and [] work by processing any of the content that a server can send, including HTML files or images or any of the other content that would be transmitted to the mobile device.” *Bederson Dep.*, 75:1-6; *see also Pet.*, 44-45. Accordingly, the *Hariki*’s engines read the content, as claimed.⁶

D. *Hariki* in View of *Harris* Disclose All the Claims of the ’245 Patent

Contrary to PO’s unsupported assertion in the POR (*POR*, 53), all claims – independent and dependent – of the ’245 Patent are unpatentable under *Harris* in view of *Hariki* as explained in the Petition.

⁶ Petitioner explained how *Hariki*’s engines in a resource API process applicable resources using an appropriate playback format depending upon the type of data or program elements in the resource (*Hariki*, ¶43) while addressing claim 1[e] in the Petition (*Pet.*, 42-43), which is why claim 1[e] was referenced while addressing claim 23[g] (*Pet.*, 76).

E. *Hariki*'s Web Server Application Operates Remotely on a Remote Server and Serves Web Pages to Mobile Devices

Claims 4/15/26

Once again, PO mischaracterizes Petitioner's position by arguing that *Hariki* and *Harris* do not disclose the *web browser* residing on a remote server as expressly claimed in Claims 4, 15, and 26. *POR*, 53. Petitioner does not argue that the web browser is the claimed "application" for these claims, so PO's point is moot.

As explained in Section III.A1, the *Hariki/Harris web server* that resides on a remote server can be the "application" for Claims 4, 15, and 26. *Hariki* discloses that "server 102 can executes a web server process to serve web pages over network 110." *Hariki*, ¶21. The web server is executed on a remote server as shown in Fig. 1, where the server and client are separated by a telecommunications or Wide Area Network. *Id.*, ¶¶20, 21. Accordingly, the HTML pages are partially resultant from the web server application running on a remote server that is not part of the mobile device. *Bederson*, ¶167; *Pet.*, 56.

F. *Hariki*'s "Title Bars" Read on the Claimed "Ticker Information"

Claims 11/22/32

PO relies on an unreasonably narrow interpretation of "ticker information" to assert that *Hariki*'s "title bars" do not read on the term because they do not scroll.

POR, 54-55. However, PO's arguments fail because the claims do not require that the ticker scroll and PO only selects one possible function of a "ticker" from the specification to incorrectly apply the term in the claim.

Claims 11, 22, and 32 require only that a UI's rendering blocks comprise "a first block that controls the rendering of ticker information across a display screen." '245 Patent, 21:36-37. The claims do not require that the "ticker" scroll. The Federal Circuit has stated that "[i]t is a bedrock principle of patent law that the claims of a patent define the invention to which the patentee is entitled the right to exclude." *Innova/Pure Water, Inc. v. Safari Water Filtration Sys., Inc.*, 381 F.3d 1111, 1115 (Fed. Cir. 2004). Furthermore, the '245 Patent specification discloses a "ticker" as "display[ing] horizontal scrolling text, check box/radio button to enable selection/de-selection of items, rating control for rating content (e.g., movies)," and also as a "rendering block to display a horizontally scrolling text." '245 Patent, 8:35-37 and 9:44-45. In other words a "ticker" can be a variety of things such as a block that displays scrolling text, a check box, a rating control, or a radio button. *Hariki* discloses this limitation. *Hariki* explains that customization using the UI content package includes customizing a variety of elements such as title bars, buttons, and other elements. *Hariki*, ¶24. POSITAs would have understood that any of these elements could be the claimed "ticker." *Bederson*, ¶189; *Pet.*, 65-66.

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IV. CONCLUSION

The Board should find the challenged claims unpatentable and cancel them.

Dated: April 23, 2024

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that the foregoing Petitioner's Reply to Patent Owner's Response contains 5,312 words, excluding those portions identified in 37 C.F.R. §42.24(c), as measured by the word-processing system used to prepare this paper.

Aliza George Carrano
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CERTIFICATE OF SERVICE

I certify that on April 23, 2024, I caused a true and correct copy of the foregoing Petitioner's Reply to Patent Owner's Response to be served on the Patent Owner via electronic mail to Patent Owner's counsel of record below:

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