

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,
PETITIONER,

v.

GOTV STREAMING, LLC,
PATENT OWNER.

CASE IPR2023-00759
PATENT 8,103,865

PATENT OWNER'S PRELIMINARY RESPONSE
37 C.F.R. § 42.107

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CURRENT EXHIBIT LIST¹

No.	Brief Description
1001	U.S. Patent No. 8,103,865
1002	Expert Declaration of Ben Bederson (“Bederson”)
1003	Curriculum Vitae of Benjamin B. Bederson, Ph.D.
1004	File History of U.S. Patent No. 8,103,865
1005	U.S. Patent Application Publication No. 2007/0150617 (“Hariki”)
1006	U.S. Patent Application Publication No. 2003/0023755 (“Harris”)
1007	U.S. Patent Application Publication No. 2003/0137539 (“Dees”)
1008	Reserved
1009	U.S. Patent No. 7,447,486 (“Tamura”)
1010	U.S. Patent No. 6,996,627 (“Carden”)
1011	U.S. Patent No. 6,669,564 (“Young”)
1012	U.S. Patent No. 6,732,183 (“Graham”)
1013	U.S. Patent No. 6,507,727 (“Henrick”)
1014	Webpage excerpt from Computer History Museum at https://www.computerhistory.org/tdih/april/6/ (last accessed March 29, 2023)
1015	https://www.webdesignerdepot.com/2009/05/the-evolution-of-cell-phone-design-between-1983-2009/
1016	Excerpts from Dan R. Olsen, Jr., Developing user interfaces (1998)
1017	Alok Sinha, Client-server computing, in Communications of the ACM, 35, 7 (1992)
1018	Tim Berners-Lee, Robert Cailliau, Ari Luotonen, Henrik Frystyk Nielsen, and Arthur Secret, The World-Wide Web. Communications of the ACM 37, 8 76-82 (August 1994), available at http://dx.doi.org/10.1145/179606.179671
1019	Eric Kasten, HTML: A Gentle Introduction, Linux Journal (July 1995),

¹ Relevant portions of exhibits may be highlighted to help the Panel locate cited sections.

No.	Brief Description
1020	U.S. Patent Application Publication No. 2013/0124961 (“Linburn”)
1021	U.S. Patent No. 8,111,326 (“Talwar”)
1022	Order re Scheduling Conference, <i>GoTV Streaming, LLC v. Netflix, Inc.</i> , 2:22-cv-07556 (C.D. Cal. issued Feb. 13, 2023) (Doc. 61)
1023	Complaint in <i>GoTV Streaming, LLC v. Netflix, Inc.</i> , No. 2:22-cv-07556-RGK-SHK (C.D. Cal. October 17, 2022)
1024	https://web.archive.org/web/20070406171650/http://www.zenzui.com/products.html
1025	Bert Boss, <i>A brief history of CSS until 2016</i> , W3 Blog (Dec. 17, 2016), https://www.w3.org/Style/CSS20/history.html
1026	Eric A. Meyer, <i>Cascading Style Sheets – The Definitive Guide</i> (O’Reilly, 2d ed. 2004)
1027	JavaScript, Wikipedia (Aug. 12, 2004), https://web.archive.org/web/20040812085853/http://en.wikipedia.org/wiki/JavaScript
1028	Document Object Model (DOM) Level 1 Specification Version 1.0, W3C Recommendation (Oct. 1, 1998), https://www.w3.org/TR/1998/REC-DOM-Level-1-19981001/DOM.pdf
1029	ECMAScript: A general purpose, cross-platform programming language, Standard ECMA-262 (June, 1997), https://www.ecma-international.org/wp-content/uploads/ECMA-262_1st_edition_june_1997.pdf
1030	Peter-Paul Koch, <i>The Document Object Model: an Introduction</i> , Digital Web Magazine (May 14, 2001), https://www.digital-web.com/articles/the_document_object_model/
2001	CAMPBELL-KELLY ET AL., <i>Mainframes to Smartphones: A History of the International Computer Industry</i> , Ch. 11 (Harvard Univ. Press 2015)

No.	Brief Description
2002	GALAZZO, Timeline from 1G to 5G: A Brief History on Cell Phones (Sept. 21, 2020), <i>available at</i> https://www.cengn.ca/information-centre/innovation/timeline-from-1g-to-5g-a-brief-history-on-cell-phones/
2003	Cingular MEdia Mall Games and Motorola Page (March 23, 2016), <i>available at</i> https://web.archive.org/web/20060323054853/http://www-xl.cingularextras.com/fuel/enduser/portal/endUserHTMLDir?c1=3&dc=0 and https://web.archive.org/web/20060323054841/http://www-xl.cingularextras.com/fuel/enduser/portal/endUserHTMLSelectPhone?makeName=motorola&dc=0
2004	Declaration of Joshua S. Wyde regarding authentication of exhibits (Aug. 17, 2023)

CLAIM LISTING²

	Limitation
[1pre]	1. A server implemented method for processing data for a wireless device, comprising:
[1a]	receiving from the wireless device a request for an application program, said request including an indication of a type of the wireless device;
[1b]	executing, in response to receiving said request, said application program to generate a wireless device generic template including a plurality of content items;
[1c]	sending a custom configuration to the wireless device, said custom configuration being specific to said application program;
[1d]	generating a page description based on said wireless device generic template and a capability of the wireless device,
[1e]	said page description having at least one discrete low level rendering command that is within said rendering capability of said wireless device but that is of a syntax that is wireless device generic; and
[1f.1]	sending said page description to the wireless device
[1f.2]	such that the wireless device is capable of presenting at least one content item from said plurality of content items using both said page description and said custom configuration.
[2]	2. The method of claim 1, wherein said wireless device generic template includes relative screen location and display object size information and is independent of screen dimensions of the wireless device.
[3]	3. The method of claim 1, wherein said wireless device generic template is substantially compliant with extensible markup language (XML) syntax.
[4]	4. The method of claim 1, wherein said at least one discrete low level rendering command of said page description is operable to be executed by a plurality of rendering blocks of a graphical user interface of the wireless device.

² As the Preliminary Response presents the claim listing in its body in fragments and grouped by limitation type, rather than in numerical order, all claim limitations are presented here together so the Panel may easily view them in order and in context. Patent Owner uses Petitioner's numbering designation for consistency, but has broken 1f and 12g into two sub-parts.

	Limitation
[5]	5. The method of claim 4, wherein said at least one discrete low level rendering command includes a physical screen position of a display element of said at least one content item.
[6]	6. The method of claim 4, wherein said at least one discrete low level rendering command includes: a specification of a location and a size of a screen area; and an identification of a rendering block from said plurality of rendering blocks of said graphical user interface to operate within said screen area.
[7]	7. The method of claim 6, wherein said at least one discrete low level rendering command includes parameters associated with said rendering block from said plurality of rendering blocks.
[8]	8. The method of claim 1, wherein said page description includes at least one display rendering command and at least one audio rendering command.
[9]	9. The method of claim 1, wherein said application program is wireless device generic and said wireless device generic template is a wireless device generic page description template.
[10]	10. The method of claim 1, wherein the wireless device is operable to configure a plurality of rendering blocks of a graphical user interface based on said custom configuration.
[11]	11. The method of claim 1, wherein said server stores a plurality of device profiles, said method further comprises: identifying a device profile from said plurality of device profiles associated with the wireless device based on said type of said wireless device.
[12pre]	12. A non-transitory processor-readable medium storing code representing instructions to cause a processor to:
[12a]	receive a request for an application program from a wireless device, said request including an indication of a type of the wireless device;
[12b]	execute said application program to generate a wireless device generic template including a plurality of content items;
[12c]	request, using said indication of said type of the wireless device, a device profile from a library of device profiles,
[12d]	said device profile providing an indication of a rendering capability of the wireless device;
[12e]	eliminate, using said device profile, at least one content item from said plurality of content items from said wireless device generic template to define a device specific template associated with the wireless device,
[12f]	said at least one content item being unsupported by the wireless device;
[12g.1]	translate said device specific template into

	Limitation
[12g.2]	a page description having at least one discrete low level rendering command that is within said rendering capability of the wireless device but that is of a syntax that is wireless device generic; and
[12h]	send said page description to the wireless device.
[13]	13. The non-transitory processor-readable medium of claim 12 , wherein said wireless device generic template contains relative screen location and display object size information independent of screen dimensions of the wireless device.
[14]	14. The non-transitory processor-readable medium of claim 12 , wherein said wireless device generic template is substantially compliant with extensible markup language (XML) syntax.
[15]	15. The non-transitory processor-readable medium of claim 12 , wherein said at least one discrete low level rendering command of said page description is operable to be executed by a plurality of rendering blocks of a graphical user interface of the wireless device.
[16]	16. The non-transitory processor-readable medium of claim 15 , wherein said at least one discrete low level rendering command includes a physical screen position of a display element of a content item from the plurality of content items.
[17]	17. The non-transitory processor-readable medium of claim 15 , wherein said at least one discrete low level rendering command includes: a specification of a location and a size of a screen area; and an identification of a rendering block from said plurality of rendering blocks of said graphical user interface.
[18]	18. The non-transitory processor-readable medium of claim 17 , wherein said at least one discrete low level rendering command includes at least one parameter associated with said rendering block from said plurality of rendering blocks.
[19]	19. The non-transitory processor-readable medium of claim 12 , wherein said page description includes at least one display rendering command and at least one audio rendering command.
[20a]	20. The non-transitory processor-readable medium of claim 12 , further comprising code representing instructions to cause said processor to: send, in response to said request, a custom configuration to said wireless device,
[20a]	the wireless device is operable to configure a plurality of rendering blocks of graphical user interface based on said custom configuration.

	Limitation
[31]	31. The method of claim 1 , wherein the sending the custom configuration to the wireless device is in response to receiving an indication from the wireless device that the custom configuration is not stored at the wireless device.
[34a]	34. The non-transitory processor-readable medium of claim 12 , further comprising code representing instructions to cause the processor to: send a custom configuration to the wireless device, said custom configuration being specific to said application program,
[34b]	the wireless device operable to present a content item from said plurality of content items using said page description and said custom configuration.

I. INTRODUCTION

The Board should decline to institute Netflix, Inc.’s (“Petitioner’s”) request for an *inter partes* review of U.S. Patent No. 8,103,865 (“’865 Patent” or “Patent-at-Issue”). Petitioner has not shown it is more likely than not that the only references Petitioner uses for the challenged independent claims, Hariki in view of Harris, renders the Patent-at-Issue’s claims obvious. For instance, the claims require receiving a request for an application program from a wireless device. However, neither Hariki nor Harris is concerned with providing applications. Instead, Hariki teaches a more efficient way of putting together a device “skin” that changes the appearance for a device and Harris teaches providing device specific web content for a device. The Patent-at-Issue’s claims also require the requested remotely running application to generate a wireless device generic template in response to the request. And Petitioner concedes Hariki does not disclose a generating such a template, arguing that Harris could be combined with Hariki to meet this limitation. Yet, Harris is silent with respect to how “WAX stylesheets” that Petitioner points to as the generic template are generated. In another example, the claims require sending the wireless device a “custom configuration” specifically for the requested “application program.” But Petitioner identifies Hariki’s UI skin resource files as the “custom configuration,” and these files are not used by Harris’ web server, Petitioner’s alleged “application.”

These, and other reasons why this Panel should deny institution are discussed in more detail herein.

II. OVERVIEW OF THE PATENT-AT-ISSUE

A. Family and Priority

The Patent-at-Issue was filed on August 1, 2007 and does not claim priority to an earlier application. Ex. 1001 at (22). As such, the effective priority date is the filing date, and the Patent-at-Issue's patentability should be judged under the pre-AIA statutes.

B. Historical Context

By 2005, people were beginning to “web surf” on their smartphones; however, the Internet capabilities of existing devices were primitive because phones’ internet interfaces were designed for low-bandwidth networks. Ex. 2001, 13–14. For instance, “3G,” launched in Japan by NTT DoCoMo in 2001, only had 2 Mbps data transferring capabilities on average, which allowed “the ability to surf the internet (basic HTML pages at the time).” Ex. 2002, at 2. 3G gave rise to new smartphone form factors, such as the Blackberry (launched in 2002) shown below.



Image of the BlackBerry 5810, *Id.*

Petitioner’s “state of the art” references—Carden, Tamura, Young, Graham, and Henrick, *see* Pet. 3–4 & n.3—confirm the situation. While Petitioner cites Carden for the proposition that “well before 2003” users could “experience content with a large amount of data, such as video and music, on their cellular phones,” Pet. 3–4 (citing Ex. 1010, 1:17–20), the citation does not support such a contention. Indeed, Patent Owner can find no discussion in Carden of cellular technology or users experiencing video and music over such a connection. The closest Carden comes to such a discussion is its contemplation of non-persistent connections such as connections via “dial up telephone lines.” *Id.* 5:65–67.

Tamura validates Carden, saying that while a user could download video or music, “radio base stations d[id] not have enough line or channel capacity for delivering such rich contents to users’ cellular phones.” Ex. 1009 1:21–24. Therefore, Tamura proposed that multiple mobile terminals could simultaneously receive the same content via a public channel to share bandwidth. *Id.* 16:56–67.

Likewise, Henrick notes that wireless devices are “unsuitable for transferring quality media.” Ex. 1013, 1:49–52. Therefore, Henrick proposes allowing a user to search for content on a wireless device, but sending the content to a “second device . . . a personal computer owned by the user that is connected to the Internet via an always-on connection, such as a cable modem.” *Id.* 2:12–19.

Young and Graham are primarily concerned with non-mobile computers. Young is simply discussing delivery of software, such as the game “Myst,” Ex. 1011, 1:16–24, that would run on “personal computers,” *id.* 9:12–16, and Graham discusses broadcasting audio/video to a “client 112 [that] represents a computer, such as a PC compatible computer, running a browser application 102 . . . [such as] Netscape Navigator,” Ex. 1012, 7:57–60.

“The smartphone market changed radically with the arrival of Apple’s iPhone in June 2007.” Ex. 2001, 12. The iPhone, shown below, was touted as “revolutionary” in that it was not just a phone and a music player, but an “Internet communicator” where the entire user interface of the iPhone was a touchscreen. *Id.*



Ex. 2002, at 2–3.

It was around this time, in August of 2007, that the Patent-in-Suit was filed. At this moment, the wireless device marketplace offered many different mobile devices, each with very different hardware-specific attributes. The Panel can view the variety by perusing the pictures in the first 74 pages of Petitioner’s Exhibit 1015. Therefore, game manufacturers would provide different versions of games based upon phone maker, model, and phone capabilities as seen in the Cingular Games page circa 2006:



Ex. 2003 at 5,7.

While personal wireless devices were becoming more powerful, such that

each device could run its own applications, interactions with servers were still very limited due to the primitive browser interfaces that were a legacy of the wireless networks' low bandwidths as described above.

Apple would not unveil its software development kit for the iPhone until March 2008 or launch its App Store until July of that same year. Ex. 2001, at 14. It was not until November 2007, that Google, T-Mobile, HTC, Qualcomm, and Motorola announced the formation of the Open Handset Alliance for the development of the Android operating system, and Google's own app store, Android Market, was not announced until August 2008. *Id.* 15. 4G wireless networks that had a minimum of 12.5 Mbps bandwidth were not commercially introduced until 2009. Ex. 2002, at 3.

C. Subject Matter

Circa August 1, 2007, wireless devices generally ran “application[s] locally.” Ex. 1001, 2:6–8. And there were multiple types of portable wireless devices, multiple manufacturers of each type of device, multiple models from each manufacturer, and multiple versions of each model. *Id.* 1:30–34. Each particular combination of type, manufacturer, model, and version of a device potentially had unique “device attributes” (i.e., rendering capability, display resolution, color capability, display size, etc.). *Id.* 1:34–38; 11:22–33; 11:45–58.

Therefore, developers that wished to write an application to run on multiple

devices and “fully utilize” each device’s attributes had to tailor versions of the application per device, building each one “from the ground up.” *Id.* 1:40–46; 54–57. Given that providers had to pay to develop, debug, and qualify every version of an application, *id.* 1:47–50, many software developers simply chose to limit their titles to a few platforms, *id.* 1:65–2:3.

Additionally, maintenance of an application (i.e., upgrades, updates, and patches to the code) across target platforms similarly required a costly per-device effort. *Id.* 2:4–10. And even if the application developer did provide updates, many users failed to install the update to the locally running applications because it was a “laborious process” of “navigating through multiple pages in order to determine whether an update [was] ready” and “actively initiat[ing] the update process.” *Id.* 2:10–17.

In light of the state of application development at the time, the Patent-at-Issue contemplates a method and system for rendering applications on a wireless device where: (1) the application “output . . . is device specific based on the wireless device attributes,” *id.* 2:27–28, with its own “look and feel,” *id.* 7:59–8:1; 10:58–60; 18:41–43; yet (2) the developers can still write a “generic application” being less concerned with “tailoring their applications for a given device type,” *id.* 2:28–29. Additionally, the claimed solution allows for developers to maintain applications centrally, “eliminating the need to update/patch each application on each wireless device.”

Id. 2:40–45.

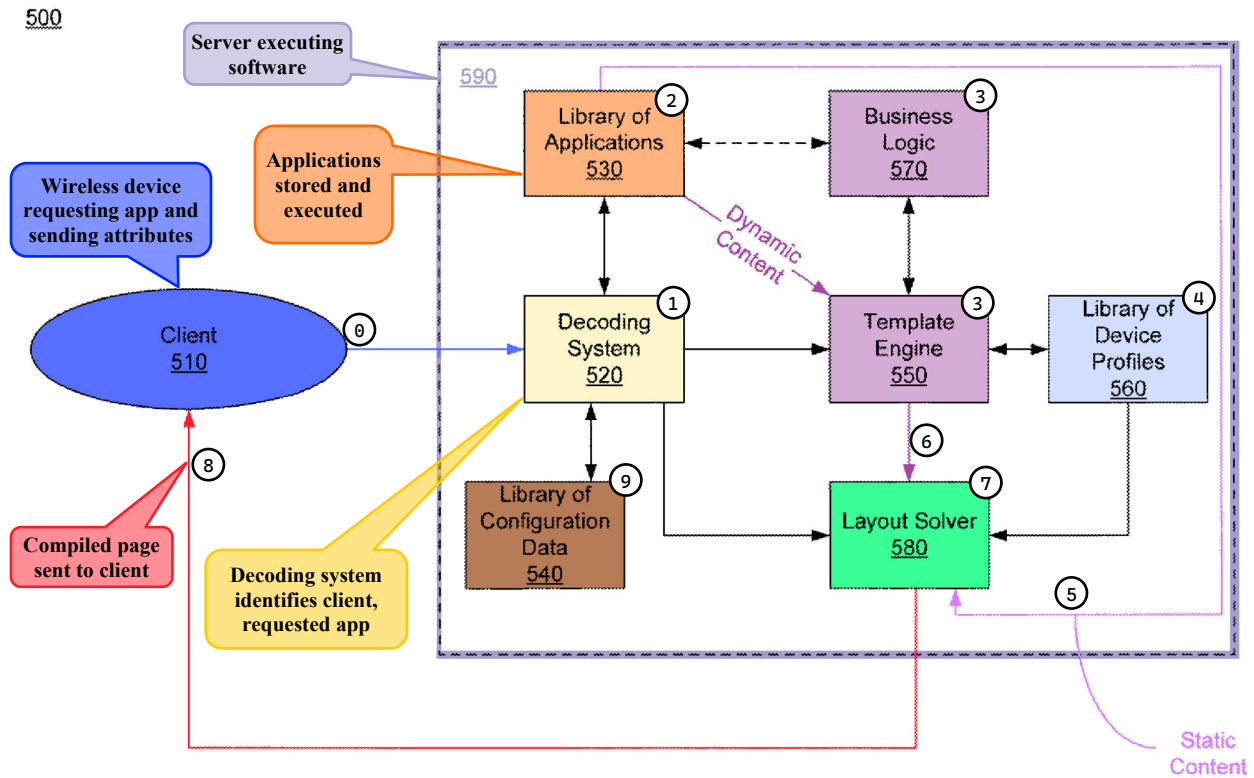
D. Invention as Illustrated through Embodiments

The following discussion recapitulates key concepts from the Patent-at-Issue specification using concrete examples.

1. Applications

In the Patent-at-Issue context, an application can be “defined by an application description file and a set of static resources, e.g., images, sounds, URLs, etc. The application description file describes all the screens of the application and the custom configuration of the application.” *Id.* 16:46–50. For example, an “application” may be all the screens, resources, and custom configurations to implement the Texas Hold’em Poker application. *Id.* 16:40–43.

The Patent-at-Issue’s applications are “stored” and “executed” “on the remote server,” *id.* 2:40–41; 2:66–67; 3:11–12; 5:58–60; 6:10–11; 16:45–46, in contradistinction to traditional applications that were downloaded and locally run on wireless devices. The generic applications may be stored in a library of applications 530 and executed on a remote server 590.



Ex. 1001 Fig. 5.³ At ① a client “request[s] an application [and] identif[ies] the client’s 510 type and its capabilities.” *Id.* 16:35–38. In response, at ①, the “decoding system” on the server “locate[s] and execute[s] the requested application.” *Id.* 16:40–43.

Upon execution, at ②, the application generates the pages “for display on the wireless device.” *Id.* 16:62–63. This page can contain only static content, such as “pictures or . . . pure text.” *Id.* 16:65–67. Or this page may be a “generic template describing the screen.” *Id.* 17:6–7.

In the case of the generic template page, at ③, a “template engine,” also

³ All color and annotations added to figures unless otherwise noted.

executing on the server, may first “merge[] screens of [the] application and dynamic data provided by the business logic” to “provide[] a high level template (e.g., extensible markup language (XML) format),” *id.* 17:9–27, and then consult the “library of device profiles,” at ④, to “eliminate content from its dynamic template output that is not supported by the client,” *id.* 17:28–40. For example, the template engine “may eliminate audio component[s] from the generic template output” when “the client 510 does not have audio capability,” or “eliminate big images” “when the client 510 is short in memory.” *Id.* 17:40–45.

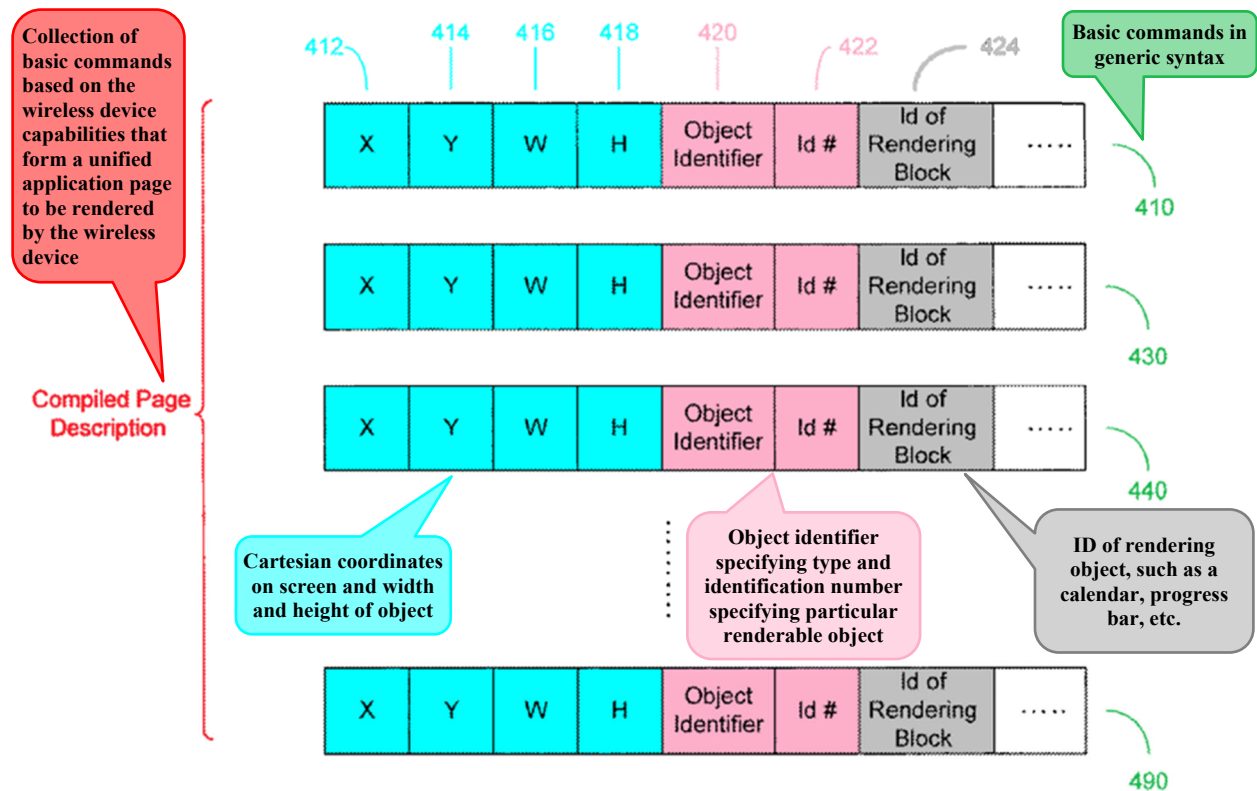
Whether the page is static (i.e., a “generic template supplied from 530,” at ⑤) or dynamic (i.e., a “template supplied from 550,” at ⑥), the generic application pages at this point “do not contain any specific or actual screen dimensions but rather only contain relative screen locations.” *Id.* 17:49–53. In this sense, they are “wireless device generic.” *Id.*

2. Compiled Content and Rendering Blocks

The Patent-at-Issue teaches that an application’s generic pages can be fed into a “layout solver,” at ⑦, that actually “translates the received information into a series of basic commands based on the client’s capabilities,” *id.* 17:54–60; 18:2–7, to create a “compiled page” that is sent to the wireless client device at ⑧, *id.* 18:12–15. Note that while the compiled page’s basic commands and their parameters are tailored to, and based on, the wireless device capabilities, the syntax of these

commands is still “device generic.” *Id.* 18:8–12.

The Patent-at-Issue illustrates what a compiled page for an application may look like:



Ex. 1001 Fig. 4. The compiled page contains a series of basic commands, including 410 to 490. Note that the compiled pages may now specify actual “Cartesian coordinates 412 and 414 of a screen region” as well as “the width 416 and the height 418 of the screen region.” *Id.* 16:4–9.

The basic commands can also include an “object identifier,” that specifies the type of “renderable component” to be displayed (e.g., a designator for “text, image, video, audio, and the like”) and an “identification number” that specifies the particular renderable component of the designated type to be rendered. *Id.* 13:26–

34; 15:62–64; 16:17–23.

The render commands found in the exemplary device specific page description also include the identifications of the “rendering blocks.” Rendering blocks are conceptually part of the wireless device’s graphical user interface (“GUI”) that are “preconfigured to operate and store data” and “perform discrete rendering operations.” *Id.* 2:53–54; 4:9–12; 7:21–25. That is, the rendering blocks “render content and enable a user to interact with the requested application.” *Id.* 8:22–24. Examples of a GUI’s rendering blocks include text; a text box; an image; a pop-up, drop-down or tabbed menu; audio/video controls; a scrolling ticker; check box/radio buttons; a rating panel; poll results; a drawing canvas; a hierarchical tree; scroll bars; a progress bar; a table; a calendar; and the like. *Id.* 8:27–45.

The specification also notes that not all components of a basic command are shown in Figure 4, and “that basic commands may further include other field components for additional information[,] e.g., immediate data, such as text.” *Id.* 16:27–29.

In sum, a “collection of basic commands . . . forms a single unified page to be rendered by the wireless device.” *Id.* 15:65–67.

3. Custom Configuration

As taught by the Patent-at-Issue, if the client requests to run an application, the decoding system can also “access a library of custom configuration data 540,”

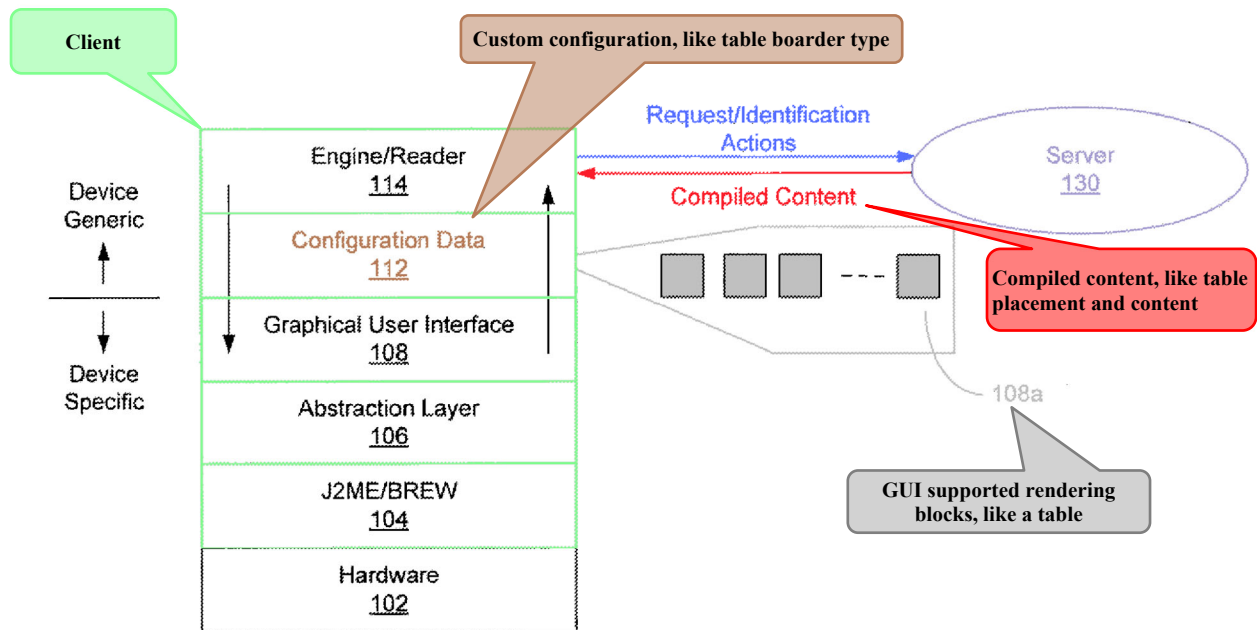
shown as ⑨ above, “to customize the appearance of the application” and “send the identified custom configuration to the client.” *Id.* 16:51–61.

The client can use the custom configuration to configure the GUI’s rendering blocks to set how they “operate and look” that—in aggregate—sets “the look and feel” of the application. *Id.* 7:59–66; 10:58–60; 18:41–43. For example, custom configuration data may configure the GUI rendering blocks’ fonts, colors, border thickness, images, background images, icon type/image, menu styles, sound, video, etc., *id.* 8:52–10:57, such as “customiz[ing] a ‘submit’ icon to look like an airplane flying away when pressed,” *id.* 7:63–65.

The custom configuration may be globally applicable to pages of an application. I.e., new application compiled content can be rendered using the GUI’s rendering blocks that were previously configured without the application sending new, or resending the previous, custom configuration data. *See, e.g., id.* 14:30–33 & Fig. 2B.

4. Client

The Patent-at-Issue refers to the software on the wireless devices that interacts with the server, displays application content, and detects user interaction with the application as the “client.” *Id.* 6:20–24. The client generally comprises the “software stack” conceptualized as residing at a higher level than the wireless device hardware as shown in “Blocks 104 through 114” below. *Id.* 6:61–63.



Ex. 1001 Fig. 1B. It is the client that “draw[s] the screen according to the description as specified by the received discrete low level basic commands and in accordance with the identified custom configuration.” *Id.* 13:34–37. Specifically, the client can configure rendering blocks with the configuration data, and then an engine/reader can process the compiled content to ultimately render the application’s pages. *Id.* 7:29–34; 18:63–19:4.

III. OVERVIEW OF THE CITED REFERENCES

A. Hariki

Hariki concerns “a mobile device UI configuration system that allows a UI skin package content provider to easily generate a new UI resource file for new or different mobile devices, and make these UI skin packages available for download and installation on user mobile devices.” Ex. 1005 [0008]. With these “UI skins,”

Hariki “provide[s] user interface (UI) customization capabilities that allow users to personalize their phones or mobile devices with custom ringtones, background displays (wallpaper), menu configurations, and the like,” *id.* [0005], to replace the “default user interface for each model of device,” *id.* [0007].

Specifically, Hariki contemplates a “user interface authoring tool” that “maintains a common database of resources for each mobile device model” “defined by device manufacturers.” *Id.* [0019]. The “resources comprise files, links to files, and/or data or program objects associated with the configurable aspect of the user interface for each mobile device.” *Id.* [0019]. “Thus, as shown in FIG. 2, a resource profile is provided for device A, and a resource profile is provided for device B. With reference to FIG. 1, these can correspond to resource profiles for mobile devices 108 and 109, respectively.” *Id.* [0031].

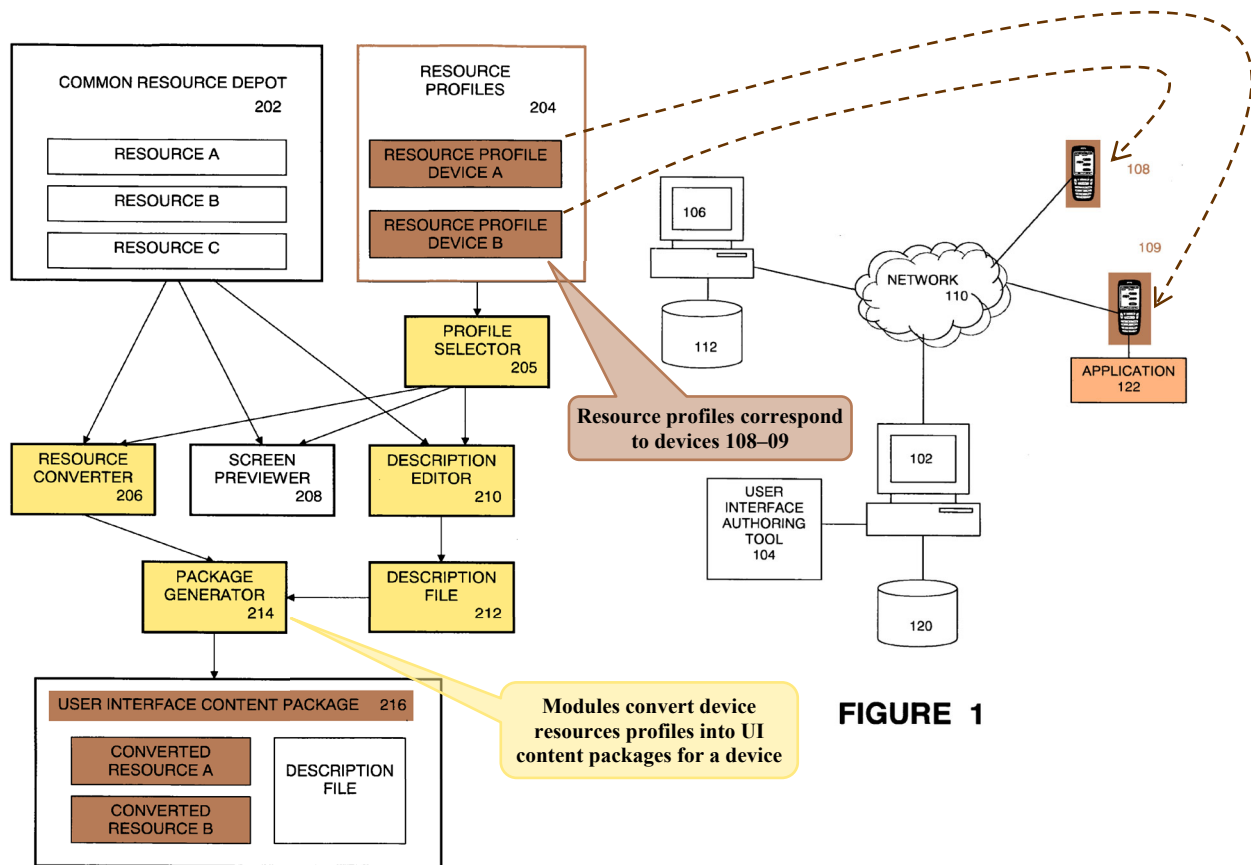


FIGURE 1

FIGURE 2

Ex. 1005 Figs. 1–2.

Hariki explains various “modules” (205–12) use the resource profiles for the devices to create a UI content package 216 for a device. Specifically, “[t]he profile selector 205 selects a resource profile 204 depending upon the device model selected by the content provider. The corresponding resource 202 for that model is then converted by resource converter 206.” *Id.* [0032]. “A description editor component 210 produces description files 212 . . . [and t]he description file 212 and the converted resource output from resource converter 206 are processed by a package generator component 214 . . . [that] takes the resource and description and creates a

UI content package 216.” *Id.* [0033].

Once created, “[t]he actual UI content package to be downloaded is generally selected by the user of the mobile device.” *Id.* [0044]. And “the user can change the UI content by changing the [device’s settings through the] setting application 504.” *Id.* With the skin in place, “one or more application programs 122 or software modules . . . access the resources provided by the UI content package.” *Id.* [0040]. That is, any application or program “can playback or perceive the image, video, sound files, etc. of the resources provided by the UI content package.” *Id.* In this way, “UI skins allow a user to customize the ‘look and feel’ or application program environment of a device by altering display and/or sound output aspects of the device, such as backgrounds, title bars, buttons, alert sounds, and so on.” *Id.* [0024].

B. Harris

Harris concerns “delivery of the same content to multiple mobile devices using different device protocols.” Ex. 1006 [0002]. To do this, Harris envisions a mobile content framework (“MCF”) that uses “a generic markup language, referred to as Wireless Abstract XML (hereafter WAX).” *Id.* [0007]. A designer may author pages “created in WAX originally,” or “content [may be] first translated in to WAX from the original language of the content provider.” *Id.* The content may be stored at any “content location” interfaced with the WAX server. *Id.* [0008].

Whatever the source and wherever the content resides, the MCF may translate

the “WAX language . . . to a requesting device’s native language . . . [or] from WAX to languages like WML, HDML and HTML.” *Id.* [0018]. For example, WAX element “<wax:button>” may be sent “as a ‘soft-key’ for WAP devices, but as a ‘link’ for devices which understand only HTML.” *Id.* [0030].

However, Harris also notes that “even when two devices employ the same language, there is no guarantee that they each interpret and render content the same way. For example, the way WML is rendered on Nokia devices is very different from the way it is rendered on devices from other manufacturers.” *Id.* [0003]. Therefore, “not only [does Harris] translate[] [WAX] into a specific language appropriate for the device, but . . . [the translation] is tailored based upon the attributes of the requesting device.” *Id.* [0018]. That is, the MCF may handle “the idiosyncrasies of each device,” such as considering the fact that Nokia’s WAP browser “does not display lists in the same fashion as the [WAP] browsers on phones from other manufacturers.” *Id.* [0017]. The MCF may even “address special characteristics of . . . devices (special character encodings, scripting languages, etc.),” *id.* [0028], by running the translated WAX files, for example intermediate HTML files, through “another level of processing in order to accommodate device requirements such as character encoding,” *id.* [0034].

Harris also teaches that, in one embodiment, an automated testing environment can make sure the content will be displayed correctly *before* the

translated device-specific files are deployed to a device. *Id.* [0035].

Ultimately, only the device-specific “customized content is . . . returned to the requesting device.” *Id.* [0024] & Fig. 3.

IV. LEVEL OF ORDINARY SKILL IN THE ART

Patent Owner generally concurs with Petitioner that a person of ordinary skill in the art (“POSITA”) would have an electrical/computer engineering degree or a degree in a closely related field. Pet. 9–10. And Patent Owner’s view is that the POSITA would have a couple of years’ experience in the “field of wireless communication systems” and “[m]ore particularly, . . . method[s] and system[s] for rendering applications on a wireless device.” Ex. 1001, 1:13–16. More education may substitute for less experience, and vice versa.

V. CLAIM CONSTRUCTION

Patent Owner has already explained in Sections II.C–D above beginning on page 6 many of the claim terms in view of the Patent-at-Issue’s discussion of its embodiments. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1315 (Fed. Cir. 2005) (en banc) (“[C]laims must be read in view of the specification.”). As such, Patent Owner will not repeat the discussion here.

Petitioner purports to give all claim terms their plain and ordinary meaning. Pet. 10. However, Petitioner’s “ordinary meaning” position is belied by the fact that Petitioner puts forth constructions for terms throughout the petition. *See, e.g.*,

Pet. 22 (defining “request for” as “accessing”); 28 (defining “wireless device generic template”); 35 and n.8 (explaining “page description” and intimating that “low level rendering command” is indefinite); and 37–38 (defining “wireless device generic” syntax). To the extent necessary, Patent Owner will likewise address Petitioner’s proposals as they arise in context.

VI. STATUTORY GROUNDS

While Petitioner says it puts forth two bases of unpatentability for *all* of the Patent-at-Issue’s claims, one for obviousness under 35 U.S.C. § 103 based on Hariki in view of Harris and one for obviousness under the same statute based on Hariki in view of Harris and Dees, Pet. 2, Petitioner does not use Dees for claims 1–4, 8–15, 19–20, 31, and 34, Pet. 66–77. Accordingly, Petitioner should have listed its grounds as follows:

Claims Challenged	35 U.S.C. §	Basis
1–20, 31, 34	103	Hariki in view of Harris
5–7, 16–18	103	Hariki in view of Harris and Dees

In this Preliminary Response, Patent Owner is limiting its arguments to deficiencies with respect to independent claims 1 and 12 that are common to all claims under both grounds. Because Petitioner does not use Dees to challenge these claims, Patent Owner will only discuss Hariki and Harris.

VII. HARIKI IN VIEW OF HARRIS FAILS TO RENDER ANY CLAIM OBVIOUS

A. Hariki or Hariki in View of Harris Fails to Disclose Limitations 1a/12a

[1a]/[12a] [receiving from the wireless device/receive] a request for an application program [from a wireless device], said request including an indication of a type of the wireless device;

1. Hariki's/Harris' Request for HTML Files Is Not a Request for an Application, and There Is No Request *for* a Web Server

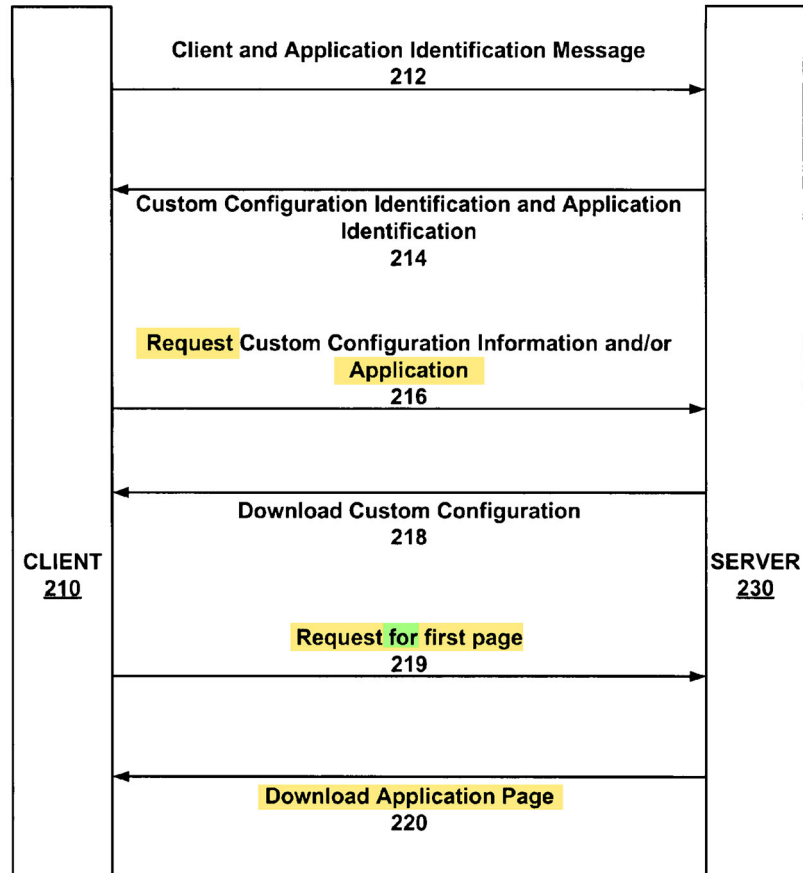
Petitioner identifies Hariki's wireless device's "request *to* the web server . . . to access . . . HTML files" as a "request *for* an application program." Pet. 22. It is ambiguous whether Petitioner is identifying a "web server" or "HTML files" as the "application," although Petitioner refers to "the web server process" as the recited "application" in Petitioner's discussion of limitation 1b. *Id.* 29 (saying Harris "discloses . . . executing an *application, such as the web server process*, (i.e., 'executing said application program to generate')").

If Petitioner is identifying "HTML files," Hariki does not tie the traditional "application programs" Hariki's server can transmit to the mobile device to the "HTML files." For limitation 1b, Petitioner misleadingly places an ellipsis in a citation to Hariki to make it seem like the "application programs" can be "web pages" (emphasis as in original; only highlighting added):

Pet. 29 (citing Ex. 1006 [0021])	Ex. 1006 [0021]
<i>Hariki</i> discloses “server computer 102... provides content data, application programs, diagnostic tools, program components, or any other content or executable objects to the mobile device 108 For example, server 102 can execute[] a web server process to serve web pages.”	“[S]erver computer 102 . . . provides content data, application programs, diagnostic tools, program components, or any other content or executable objects to the mobile device 108. The content provider computer can be a World-Wide Web (WWW) server that stores data in the form of web pages and transmits these pages as Hypertext Markup Language (HTML) files over the Internet 110 to the mobile devices 108 and 109, or other client computer on the network. For example, server 102 can executes [sic] a web server process to serve web pages over network 110.”

As seen, the removed content discusses a web server that serves Hypertext Markup Language (HTML) files. The discussion regarding serving web pages following the ellipse is referring to this web server, not “application programs.”

If Petitioner is identifying the application as a “web server”—as it appears Petitioner is in limitation 1b, Pet. 29—*Hariki* also does not disclose receiving from a wireless device a request for a “web server.” The Patent-at-Issue’s specification makes clear that “for” does not mean “addressed to,” but “to obtain,” noting that a “request *for* first page,” such as the page in limitation 1d/12d, results in “the server 230 send[ing] the requested application content (e.g., the first page of the *requested* application).” Ex. 1001, at 13:12–14 & Fig. 2A.



Id. Fig. 2A (shown in part). Yet, as Petitioner concedes, all Hariki discloses is a HTTP request for HTML files directed *to* a web server, not a request to obtain a web server. Pet. 22 (“[T]he web browser running on the mobile device sends a request to the web server process, which receives the request, to access the corresponding HTML files.”). Therefore, Hariki’s HTTP request for HTML files does not meet the claimed “request *for* an application program,” here the Petitioner-identified web server.

2. Hariki's UI Skin Generation Is Unrelated to HTTP Files Served by a Web Server and Petitioner's Characterization of the UI Skin Generation Process Is Misleading

Petitioner argues that because Hariki's generation of a UI skin starts with the "selection and retrieval of the appropriate resource profile for the device" the wireless device must have sent "identifying information" "for the server to determine what type of mobile device is accessing it." *Id.* 23–24.

First, the selection and retrieval of a resource profile during Hariki's UI skin generation is unrelated, and does not occur with Petitioner's previously identified mobile device HTTP request for HTML files, so such a request is not "included" with Petitioner's alleged "application request" as would be required by the limitation. The Petitioner does not even attempt to make this showing.

In any case, there is no basis for Petitioner's suggestion that "selecting and retrieving" of the profile occurs when a mobile device accesses the server *in any manner*. Hariki teaches that UI skins are pre-done "for each possible mobile device," without any interaction from a wireless device. Ex. 1005 [0037]. Only later, after the profile has been created, may a "user of the mobile device" "select" the previously created "UI content package to be downloaded." *Id.* [0044]. Therefore, Petitioner's suggestion that Hariki's server identifies a device type and chooses a resource profile to build the appropriate skin on demand, and in response to an identified device type, is simply wrong.

Second, the referred to “selecting and retrieving” of a resource profile during the UI skin generation is not a request *from the wireless device*. As Hariki explains, it is the “content provider” who operates the server, *id.* [0024], and who uses the UI authoring tool, *id.* [0028], to select the device model, *id.* [0032]. This content provider employee using the UI authoring tool on the server who selects the resource profile is not a wireless device.

Third, a request for a device profile would not meet the limitation, because a request for a “device profile” is not a request for an application program as required. A “device profile” simply describes phone capabilities, Ex. 1006 [0019], so is not an application, much less a “web server” or “HTML files” Petitioner previously identified as the application.

3. Petitioner’s Use of Harris Does Not Ameliorate Hariki’s Deficiencies, Appears Irrelevant, and Is Lacking Statutorily Required Particularity

Petitioner suggests that Harris’ MCF could be used to generate HTML. Pet. 25 (“[T]o the extent PO contends that while *Hariki* discloses sending HTML files to a mobile device, it does not expressly disclose how the HTML files are generated . . .”). But Petitioner does not propose any change to Hariki’s and Harris’ basic teachings that the wireless devices make HTTP requests to a web server to access “content,” not a request for an application. *Id.* 24–25; *see also* Ex. 1006 [0024] (“[A] web server accepts a connection and an HTTP request from a mobile.”). Therefore, Petitioner’s use of Harris fails to ameliorate Hariki’s deficiencies.

Additionally, Petitioner vaguely suggests a POSITA would use Harris “to find ways of generating and sending information from applications such as a web server process customized to a particular mobile device.” Pet. 25. First, the limitation requires a request *from* a wireless device *for an application*, not *information from an application to* a mobile device, so this assertion that “information” can be sent in the wrong direction is irrelevant.

Second, Petitioner leaves what “ways” a POSITA would “find” as an exercise for the reader. This omission does not meet the statutory requirement that an IPR must identify “*with particularity . . . the grounds on which the challenge to each claim is based, and the evidence that supports the grounds for the challenge to each claim.*” 35 U.S.C. § 312(a)(3); *see also Zerec, Inc. v. Westinghouse Elec. Co.*, IPR2014-00384-10, at 8–16 (PTAB July 23, 2014) (declining to institute due to underdeveloped argument); *Adaptics Ltd. v. Perfect Co.*, IPR2018-01596-20, at 17 (PTAB Mar. 6, 2019) (informative) (“[T]he Board may consider whether a lack of particular[ity] as to one or more of the asserted grounds justifies denial of an entire petition.”).

Finally, Petitioner says that “POSITAs would have had a reasonable expectation of success in implementing Harris’ content generation scheme with Hariki’s customization,” Pet. 25, but Harris’ “content generation,” such as the generation of HTML, has nothing to do with Hariki’s “customization,” i.e., the

creation and use of device UI skins, as Petitioner concedes, *id.* 26 (admitting that Hariki and Harris “each describes . . . different aspects of customization”). Petitioner’s assertion that Harris is “compatible with and *could* be adapted and applied,” *id.* 24, does not mean a POSITA *would* be motivated to combine the “different aspects” of Harris and Hariki, *TriVascular, Inc. v. Samuels*, 812 F.3d 1056, 1069 (Fed Cir. 2016) (“[W]hile a skilled artisan might have had a reasonable expectation of success in [making the modification] . . . there was an insufficient motivation to [do so].”). Therefore, not only does the combination not render the claims obvious for all of the reasons given above, the Petitioner has also failed to sufficiently enunciate a motivating reason to combine Harris and Hariki in the first place.

B. Hariki in View of Harris Fails to Disclose Limitations 1b/12b

[1b]/[12b] [executing, in response to receiving said request,/execute] said application program to generate a wireless device generic template including a plurality of content items;
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For these limitations, Petitioner identifies “*said* [requested] application” as “the web server process.” Pet. 29. But, as set forth for limitations 1a/12a, while Hariki may teach a browser *accessing* a web server, and Harris may send an “HTTP request” to a web server for “content,” this is not a “request for” (i.e., to obtain) a “web server” application. So, for this limitation, there is no “said” requested application. This missing limitation alone is dispositive.

Additionally, Petitioner identifies Harris' "WAX stylesheet" as the generated "wireless device generic template." Pet. 29. Yet, Harris does not teach the identified wireless device generic template, the "WAX stylesheet," is generated by the Petitioner-identified application program, the web server. Instead, Harris merely (1) teaches that "WAX stylesheets component 42 dictates the presentation of the WAX content," making clear that WAX stylesheets and WAX content are considered different items, and (2) contrasts WAX stylesheets that dictate the presentation of the WAX content with "device [XLS] stylesheets" that "tailor[] the presentation of the content to the requesting device based on the attributes possessed by the requesting device." Ex. 1006 [0022]. Indeed, Harris explains that "WAX *content* is generated" at "step 68," *id.* [0024], and that "content developers may . . . provide *XSL* stylesheets to translate the XML," *id.* [0025]; however, Harris has no disclosure or suggestion of the WAX *stylesheets* being generated by the web server. In fact, Harris is silent as to when or how the WAX *stylesheets* are generated.

Petitioner is mistaken that Harris teaches "*the template generation process* begins when 'a web server accepts a connection and an HTTP request from a mobile device.'" Pet. 28 (citing Ex. 1006 [0022]) (different emphasis). What Harris actually says is that its "*illustrative embodiment*" begins with an HTTP request, not a template generation process. Ex. 1006 [0024]. In this process, the MCF determines what "XSL stylesheet" to use. *Id.* As noted above, the "XSL stylesheet"

is different than the “WAX stylesheet” that Petitioner identifies as a template. The Petition mistakenly conflates the two.

Moreover, even the erroneously identified “XLS stylesheet” is not generated by the MCF as it is already in place to use for translation. Harris teaches that the “*WAX content*” is dynamically generated. *Id.* Then the “*WAX content* is translated” and the translation is returned to the requesting device. *Id.* Nowhere does Harris say *WAX stylesheets* are generated during the process.

Indeed, it appears the WAX stylesheets would not be used, much less generated, from an HTTP request, because WAX stylesheets are used when “present[ing] . . . the WAX content,” *id.* [0022], and Harris teaches the WAX content is merely used for translation, not that it is “presented” during the process shown in Figure 3 that Petitioner relies upon. Pet. 28–29 (citing Ex. 1006 [0024]).

Therefore, Hariki, alone or in combination with Harris, is missing the limitation executing “said application program to generate a wireless device generic template.”

C. Hariki in View of Harris Fails to Disclose Limitation 1c

[1c] sending a custom configuration to the wireless device, said custom configuration being specific to said application program;
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Petitioner identifies the “converted resource files . . . in Hariki’s UI content package” sent to and used on the wireless device as the claimed “custom configuration,” Pet. 30, and the “web server,” as the “application program,” *id.* 29.

Ignoring the problems with this identification set forth above, and assuming for argument's sake that Hariki's web server is a requested "application program," the converted resource files in Hariki's UI skin (the alleged "custom configuration") are not used by, much less are specific to, the web server (the alleged "application program").

First, Petitioner conflates local operations on a wireless device with remote operations on a web server. Specifically, Petitioner says that the UI skin is a custom configuration sent to the wireless device—generally—because Hariki's engines may process the Flash, PNG, or JPEG objects in the UI skin for locally running applications. Pet. 30 (citing Ex. 1005 [0043], [0047]). However, the limitation further requires the custom configuration be *specific to* the Petitioner-identified "application program"—i.e., a web server. And the web server does not run locally on the wireless devices where the engines are present. Ex. 1005 [0021] & Fig. 1 (item 120). Therefore, Hariki's wireless device-resident engines used for *locally* running applications do not process or convert resources for a *remote* web server. For this reason alone, the identified "custom configuration" is not specific to the identified application program as claimed.

Next, in an attempt to somehow tie the web server to the wireless device's UI skin, Petitioner says that a POSITA would have "understood that, *when the web server process is accessed*, the converted resources in the UI content package

configure the configurable aspects of the UI, by e.g., changing a display image or color.” Pet. 31 (citing Ex. 1002 ¶147). This is made of whole cloth; Petitioner has not cited to any disclosure in Hariki that the resources in the UI skin “chang[e] a display image or color” when any server is accessed, because there is none. Indeed, even the *only* evidence that Petitioner relies upon, Petitioner’s expert, does not say that this is true. Instead, Petitioner’s expert merely states that “converted resources in the UI content package configure the configurable aspects of the UI, by for example, changing a display image or color,” not that they do so “when the web server process is accessed.”⁴ Ex. 1002 ¶147.

Accordingly, Hariki does not disclose this limitation. And Petitioner has not identified any Harris teaching that discloses what is missing from Hariki. Therefore, Petitioner has failed to show that Hariki alone or in combination with Harris teaches

⁴ While not in the Petition, Petitioner’s expert alleges, without citing any evidence, a different way this limitation is supposedly met: that “[b]ecause the converted resources in the UI content package are generated and sent when the mobile device access [sic] the web server process, it is my opinion that Hariki discloses ‘said custom configuration being specific to said application program.’” Ex. 1002 ¶147. While this unsupported statement is entitled to little or no weight, 37 C.F.R. § 42.65(a), it is also at odds with Hariki’s explanation that the content provider uses a UI authoring tool to generate UI skins that are later selected by the users of the mobile devices, not generated or sent when a mobile device accesses a web server. Ex. 1005 [0024], [0028], [0032], [0044].

“said custom configuration [Petitioner-identified UI skin resources] being specific to said application program [Petitioner-identified web server].”

D. Hariki in View of Harris Fails to Disclose Limitation 1d

[1d] generating a page description based on said wireless device generic template and a capability of the wireless device,

For this limitation, Petitioner identifies Harris’ “HTML files” as a “page description” and says these HTML files are generated based upon “WAX content from WAX and device stylesheets”—conflating three separate items as the “wireless device generic template.” Pet. 33. But to meet this limitation, the HTML files must be “based on *said* wireless device generic template” that Petitioner previously identified as “a WAX stylesheet,” not the newly identified WAX content or device stylesheet. Pet. 29.

And there is nothing in Harris that teaches the “HTML files” are based on the “WAX stylesheets,” the Petitioner-identified “wireless device generic template.” To the contrary, Harris shows WAX Stylesheets⁵ and Device Stylesheets as separate items, Ex. 1006, Fig. 2 (items 42 & 44), and, as previously explained, Harris teaches that the two different stylesheets perform different functions: “WAX stylesheets component 42 dictates the presentation of the WAX content, and the device

⁵ Figure 2 actually says “KGML Stylesheets,” but KGML is the older term for WAX. *Id.* [0007] (“WAX is referred to as KGML in related provisional.”).

stylesheets component 40 tailors the presentation of the content to the requesting device based on the attributes.” *id.* [0022]. Of course, the WAX stylesheets “dictat[ing] the *presentation* of the WAX content” is not the *generation* of “HTML files” that Petitioner identified as the “page description,” as required by this claim limitation under Petitioner’s interpretation.

Harris only says that the WAX *content* and XSL *device* style sheets are used in the HTML generation. Specifically, Harris teaches it is the “Extensible Stylesheet Language (XSL) [that] is used to author the rules that translate WAX to device-specific languages.” *Id.* [0023]. And during the translation process the MCF identifies “a suitable XSL stylesheet to use for later device-specific translation (step 62),” *id.* [0024], so that, when “WAX is translated into a language the requesting device can understand [t]he [XSL] stylesheet determined earlier (step 62) is used to perform the translation,” *id.* [0024]. That the MCF uses WAX content and device XSL stylesheets to generate device-specific HTML is irrelevant, because these items were not previously identified as being a “wireless device generic template.” *Wi-Lan, Inc. v. Apple, Inc.*, 811 F.3d 455, 462 (Fed. Cir. 2016) (reminding courts that a prior art element identified for one limitation must be the same element for a subsequent limitation referring to the same “said limitation”); *NTP, Inc. v. Research in Motion, Ltd.*, 418 F.3d 1282, 1306 (Fed. Cir. 2005) (similar).

Therefore, Petitioner has not demonstrated the previously identified WAX stylesheet is used to generate the HTML, so has not shown the references alone or in combination teach “generating a page description based on said wireless device generic template.”

E. Hariki in View of Harris Fails to Disclose Limitation 1e/12g.2

[1e]/[12g.2] [a/said] page description having at least one discrete low level rendering command that is within said rendering capability of [the/said] wireless device but that is of a syntax that is wireless device generic; and

Petitioner first identifies the “WAX template” as the “page description,” Pet. 33, and says that “the WAX language used a syntax that was device generic,” *id.* 37. Assuming this is true, it is immaterial for limitation 1e, because Petitioner did not identify “WAX template” as the page description for the limitation 1d, instead previously identifying HTML files. *Id.* 33; *see also Wi-Lan*, 811 F.3d at 462; *NTP*, 418 F.3d at 1306.

Petitioner then switches and argues HTML files are a page description, saying that “POSITAs would have also understood that HTML itself is in a syntax that is generic to the mobile device” because “HTML is a standardized language that has the same syntax no matter what device is receiving it.” Pet. 37. This is not correct, for at least two reasons. First, Harris notes that even if a “standardized language” is used, it still must be tailored for particular devices because “even when two devices employ the same language, there is no guarantee that they each interpret and render

content the same way.” Ex. 1005 [0003]. As such, after the WAX is translated to a device-specific language such as HTML, “[t]he stream can then be filtered through another level of processing in *order to accommodate device requirements* such as character encoding.” *Id.* [0034]. Therefore, two devices both receiving HTML will not always receive “the same syntax” as Petitioner alleges, so the HTML is not in a “syntax that is wireless device generic,” even under Petitioner’s “has same syntax no matter what device is receiving it” definition.

Second, and more importantly, Petitioner is defining “device generic” syntax incorrectly. The Patent-at-Issue is clear that “syntax that is device generic [is such because it is the same] *regardless of the wireless device type*,” Ex. 1001, 18:8–10, in the same way the Patent-at-Issue’s applications can be “generic regardless of the wireless device type,” *id.* 6:26–28, and the way Petitioner concedes a “template” is device generic because it is “not specific to a mobile device,” Pet. 28. This is illustrated in the Patent-at-Issue’s Figure 4 that shows syntax such as X, Y coordinates, width and height, object identifiers, etc. that are independent of the device receiving the compiled content. In this way, the reader can expect and “interpret[] commands of a generic syntax.” Ex. 1001, 2:51–52. In contrast, what language Harris sends—whether it be HTML, the device’s native language, or another markup language—is a function of the wireless device, Ex. 1006 [0018], so is not “device generic” as conceived by the Patent-at-Issue.

In sum, Petitioner is incorrect that the output from the WAX processing in Petitioner's Hariki-Harris system "is expressed . . . using a syntax that is device independent," Pet. 37, given that the entire language or even encoding within a language, is a function of the device. Petitioner has, therefore, not shown Hariki or Hariki in view of Harris shows a "page description . . . that is of a syntax that is *wireless device generic*" for these limitations.

F. Hariki in View of Harris Fails to Disclose Limitation 1f.1/12h

[1f.1/12h] [send/sending] said page description to the wireless device

For limitation 1e, Petitioner first identified the "WAX template" as the page description. Pet. 33–37. And in anticipation of limitation 1f.1, Petitioner said that "content data sent to the mobile device is expressed in WAX," *id.* 37. For limitation 12h, Petitioner then relies upon its discussion of limitation 1f and 1e. *Id.* 63.

Petitioner is simply incorrect that the "WAX template" or any content sent to the mobile device "is expressed in WAX." "WAX is translated into a language the requesting device can understand," the web server sends *the translation* to the device, but *no* syntax expressed in WAX is sent to the mobile device. *Id.* [0024], [0007], [0016] & Fig. 3. Therefore, Petitioner's theory that the WAX template is a page description for limitations 1e/12.g.2 fails, at least because the WAX template is not sent to a wireless device as required for these limitations.

[1f.2] such that the wireless device is capable of presenting at least one content item from said plurality of content items using both said page description and said custom configuration.

Petitioner previously identified “content items” as the images and text to be delivered to the requesting devices from the web server, Pet. 27, the “page description” as “HTML files,” *id.* 33, and the “custom configuration” as the “converted resource files . . . in Hariki’s UI content package” made by Hariki’s User Interface Authoring Tool, *id.* 30. Assuming, *arguendo*, that Petitioner identified components corresponding to each claim limitation, per the claim limitation, the wireless device must be capable of presenting at least one image or text delivered by the web server *using the UI skin converted resource files*.

Hariki contains no disclosure that its UI skins have any effect on the HTML or images and text sent by the web server and rendered within a web browser window (i.e., a browser would present the text and images, the identified content items, the same regardless of the UI skin selected). An application locally running in Hariki may “utilize[] the resources provided by the content provider,” *id.* [0038], but Hariki, Harris, and Petitioner do not explain how these skin resources would be used to display separate unrelated images and text sent from a web server.

Petitioner intimates that Hariki’s web browser could use its “Resource API”

engines to format an image from the web server,⁶ Pet. 40–42, but the engines process content retrieved by an ID for an application, Ex. 1005 [0051] & Fig. 7, not images sent by an application to an engine. Indeed, applications do not even know if an underlying resource has changed. *Id.* [0042] (noting “the mobile device is able to change the UI skin of the application 506 . . . without requiring modification of the application itself.”). More importantly, even if Petitioner is correct that an engine could process a web server image, this would not meet the claim limitation because Resource API engines were not the previously identified custom configuration—the UI skin resources were—that must be used to display previously identified content items, the text and images from the web server.

Therefore, Petitioner has not shown how UI skin resources are used to display

⁶ Petitioner uses ambiguous language saying, “POSITAs would have thus understood that Hariki’s resource API and engines use the converted resources in the UI package and HTML file resources and format *them* into renderable content.” Pet. 42 (different emphasis). Patent Owner understands “them” to mean the previously identified text and images from the web server and that Petitioner is advancing the theory that the engines use the converted resources to display “them.” To the extent Petitioner is merely saying the wireless device may separately use UI package resources, not tied to web server content, and HTML files, not tied to the UI package resources, this does not meet the claim limitation, that would require presenting at least one content item (text and images from the server) using *both* said the HTML files *and* UI package resources under Petitioner’s theory.

text and images from the web server, and Hariki in view of Harris does not teach a “wireless device . . . capable of presenting at least one content . . . using said custom configuration.”

G. Hariki in View of Harris Fails to Disclose Limitation 12e

[12e] eliminate, using said device profile, at least one content item from said plurality of content items from said wireless device generic template to define a device specific template associated with the wireless device,

This limitation requires using the device profile to eliminate at least one “content item” that Petitioner previously identified as the images and text sent from the web server and delivered to the requesting devices, Pet. 27, 60, from the generated “wireless device generic template” that Petitioner identified as “WAX stylesheets,” Pet. 29, 60, to define a device specific template. But Petitioner does not point to removing anything, much less content, from a generated WAX stylesheet.

Petitioner initially notes that tags can be “added or removed from the WAX *language*.” *Id.* 61 (citing Ex. 1006 [0028]) (different emphasis). First, this teaches changing the *syntax*—supported tags such as “<wax:title>,” “<wax:block>,” and “<wax:button>” shown in Ex. 1006 [0029]—not Petitioner’s previously identified *content*, text and images. Second, this teaches changing the language as a whole, not removing a tag from an already generated WAX stylesheet per the claim language. Indeed, Harris does not explain what circumstances would cause a tag to

be removed from the language or how such depreciation would affect extant WAX stylesheets, if at all. Harris only gives examples of adding tags to prospectively support “new types of devices.” *Id.* [0028].

Next, Petitioner notes that WAX content may be translated differently when creating HTML. Pet. 62 (citing Ex. 1006 [30]). I.e., “<wax:text id=‘welcome’/>” may be translated as HTML that will ultimately render “Bonjour” for one device but “Welcome to our site, please take a look around” for another device. Ex. 1006 [30]. Because of this different translation, Petitioner makes the creative argument that the MCF’s production of one HTML translation for a first device is the metaphysical “eliminating” of a potential second HTML translation that might have been done for a second device. Pet. 62.

First, this is incorrect because the limitation requires eliminating from “*said* wireless device generic template” referring to limitation 12b that mandates the template was “generated” by execution of an application program. That is, elimination is removal from something generated, not the philosophical eliminating of a possible generation. The HTML that was *not* produced was never generated, so cannot, per the claim limitations, be eliminated.

Second, even under Petitioner’s theory, nothing gets eliminated *from the WAX content*, much less from the *WAX stylesheet* petitioner previously identified as the template. When the MCF processes the WAX, regardless of the produced

translation, the WAX content stays the same. For example, the WAX tag with “id=’welcome’” is still present in the WAX file regardless of the HTML produced.

Therefore, Petitioner has failed to show Hariki in view of Harris “eliminate[s] . . . at least one content item . . . from said wireless device generic template.”

H. The Patent-At-Issue’s Dependent Claims Are Non-Obvious

Because Petitioner has not shown the independent claims 1 and 12 are likely obvious, Petitioner has also failed to meet its burden to show a reasonable likelihood that any of narrower claims 2–11, 13–20, 31, or 34 that depend on claims 1 and 12 are likely unpatentable either. *In re Fine*, 837 F.2d 1071, 1076 (Fed. Cir. 1988) (“Dependent claims are nonobvious under section 103 if the independent claims from which they depend are nonobvious.”).

VIII. CONCLUSION

As set forth herein, the Petitioner’s prior art, Hariki in view of Harris, is missing limitations from every claim, and Petitioner fails to show a POSITA would modify Hariki in view of Harris generally. Therefore, Patent Owner submits that the Board should decline to institute because Petitioner has failed to meet its threshold showing that there is a reasonable likelihood that at least one of the claims challenged in the Petition is unpatentable.

Dated: August 17, 2023 Respectfully submitted,

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CERTIFICATE OF WORD COUNT

Per § 42.24(a)–(b) the undersigned certifies that the number of words in the paper, PATENT OWNER’S PRELIMINARY RESPONSE, is:

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Dated: August 17, 2023

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CERTIFICATE OF SERVICE

The undersigned certifies that on the seventeenth day of August, 2023, a complete and entire copy of the foregoing “PATENT OWNER’S PRELIMINARY RESPONSE,” including exhibits, if any, was served on the date below on the following counsel of record shown below via email per Petitioner’s consent to electronic service, see Paper 2 at 88:

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