

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MAPLEBEAR INC. D/B/A INSTACART,
Petitioner,

v.

CONSUMERON, LLC,
Patent Owner.

IPR2023-00865
Patent 11,238,465 B2

Before CARL M. DEFRANCO, ROBERT L. KINDER, and
MICHAEL A. VALEK, *Administrative Patent Judges*.

DEFRANCO, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

Consumeron, LLC (“Consumeron”) is the owner of U.S. Patent No. 11,238,465 B2 (Ex. 1001, “the ’465 patent”). Maplebear, Inc. d/b/a Instacart (“Instacart”) filed a Petition requesting *inter partes* review of claims 1–19 of the ’465 patent. Paper 2 (“Pet.”). Consumeron filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). Per our authorization, Instacart filed a reply (Paper 7, “Pet. Reply”), and Consumeron followed with a sur-reply (Paper 8, “PO Sur-Reply”). Because we determine that Instacart has demonstrated a reasonable likelihood that at least claim 1 of the ’465 patent is unpatentable, we institute an *inter partes* review of all claims as challenged in the Petition. *See* 35 U.S.C. § 314(a).

I. BACKGROUND

A. Related Matters

The ’465 patent is related to pending U.S. Application 17/585,779 (“the ’779 application”). *See* Pet. 74. Notably, the ’779 application is currently the subject of a double-patenting rejection by the Office, which found claims 1–10 of the ’779 application obvious over claims 1–19 of the challenged ’465 patent in this proceeding. *See* Ex. 1030, 237–239. The ’465 patent is also related to several U.S. patents that are the subject of pending *inter partes* reviews, namely, U.S. Patent No. 8,244,594 (IPR2022–01356); U.S. Patent No. 10,628,835 (IPR2022–01357); U.S. Patent No. 10,115,067 (IPR2022–01358); and U.S. Patent No. 9,202,191 (IPR2022–01359). *See id.*

B. The ’465 Patent

The ’465 patent, titled “System and Method for Remote Acquisition and Delivery of Goods,” issued from an application filed on April 20, 2020, which is a continuation of application Ser. No. 13/270,848 (“the ’848 parent

application”), filed on October 11, 2011, and now U.S. Patent No. 10,628,835, which is a continuation-in-part of application Ser. No. 12/711,867, filed on February 24, 2010 and now U.S. Patent No. 8,244,594. Ex. 1001, codes (54), (22), (63). The ’465 patent is directed to a system and method for remote acquisition and delivery of goods ordered over the internet, and includes a server in communication with customer computers or devices via a website on the internet or through a network. *Id.* at 9:44–12:16.

C. The Challenged Claims

Of the challenged claims, claims 1 and 14 are independent. Claim 1, reproduced below, is illustrative of the claimed subject matter (with emphasis added for limitations disputed by Consumeron):

[1.0.1] A method for remote acquisition and delivery of goods through one or more agents of a service provider, [1.0.2] each agent having a mobile agent system in communication with at least one remote server, [1.0.3] with each mobile agent system including: a digital image capture device and a communication device, said method comprising:

[1.1] receiving, through the at least one remote server, *a first acquisition request from a customer* for a first set of one or more goods;

[1.2] contacting, through the communications device, the one or more agents;

[1.3] upon failing to locate an identified product of the set of one or more goods, electronically transmitting information on a replacement product for the identified product of the set of one or more goods to the customer using the digital image capture device of the agent, including:

[1.4] obtaining a bar or QR code of the replacement product;

[1.5] determining the information from the bar or QR code, wherein the information includes at least one image of the replacement product; and

[1.6] sending the information for the customer to approve the purchase of the replacement product based on the information determined from the bar or QR code; and

[1.7] *upon receiving approval of the purchase from the customer, acquiring the replacement product, via the agent.*

Id. at 11:9–35 (nomenclature and emphases added).

D. The Asserted Challenges

Claims Challenged	35 U.S.C. §	Basis
1, 4, 5, 8, 9, 11, 12, 14, 16, 17	103	Carr, ¹ Lauka ²
2, 3, 10, 15	103	Carr, Lauka, Yee ³
6, 7	103	Carr, Lauka, Cincotta ⁴
13	103	Carr, Lauka, Argue ⁵
18, 19	103	Carr, Lauka, Dearing ⁶

II. ANALYSIS

A. Level of Ordinary Skill in the Art

Instacart submits that one skilled in the art would have had “a bachelor’s degree in electrical engineering, computer engineering, computer science, or equivalent training, and approximately two years of experience working in the field of electronic commerce” and that “[l]ack of work experience can be remedied by additional education, and vice versa.” Pet. 27 (citing Ex. 1003 ¶¶ 22–25).

¹ US 2016/0148302 A1, published May 26, 2016 (Ex. 1005, “Carr”).

² US 10,592,962 B1, issued Mar. 17, 2020 (Ex. 1006, “Lauka”).

³ US 2021/0182930 A1, published June 17, 2021 (Ex. 1007, “Yee”).

⁴ US 2013/0085807 A1, published Apr. 4, 2013 (Ex. 1008, “Cincotta”).

⁵ US 2014/0149160 A1, published May 29, 2014 (Ex. 1009, “Argue”).

⁶ US 10,510,084 B2, issued Dec. 17, 2019 (Ex. 1010, “Dearing”).

Consumeron responds that one skilled in the art would have been “someone with a background in electrical engineering, computer science, or the like” and that “industry experience can make up for a lack of technical training, and more education can make up for a lack of industry experience.” Prelim. Resp. 29. Consumeron’s definition appears to overlap significantly with Instacart’s definition. Accordingly, for purposes of institution, we adopt the level of skill in the art as articulated by Instacart.

*B. Priority*⁷

The parties dispute whether the references underlying Instacart’s obviousness challenges (i.e., Carr, Lauka, Yee, etc.) qualify as prior art given the ’465 patent’s claim of priority to the ’848 parent application, filed October 11, 2011, which is before the critical date of the asserted references. *See* Pet. 14–27; Prelim. Resp. 7–20. In particular, Instacart contends that “[t]he ’465 patent’s priority applications do not contain written description support for independent claims 1 and 14, and as a result, the challenged claims of the ’465 patent are not entitled to the priority of any ancestor application,” including the ’848 parent application. Pet. 16–17. Consumeron responds that none of the asserted references “are prior art because the ’465 patent is entitled to a priority date of at least October 11, 2011, the filing date of the [’848] parent application.” Prelim. Resp. 9.

⁷ To the extent Consumeron argues that we lack authority under 35 U.S.C. § 311(b) to decide priority issues because they are “nothing more than a back-door, prohibited written description challenge,” we are not persuaded. Prelim. Resp. 21–22. That is because § 311(b) “merely dictates the grounds on which an IPR petition may be based, not the issues that the Board may consider to resolve those grounds.” *Parus Holdings, Inc. v. Google LLC*, 70 F.4th 1365, 1373 (Fed. Cir. 2023) (*quoting Arthrex Inc. v. Smith & Nephew, Inc.*, 35 F.4th 1328, 1344–45 (Fed. Cir. 2022)).

At this stage, Instacart appears to have the better position because Consumeron's position suffers in several respects. First, we note that Consumeron cites *exclusively* to the specification of the '465 patent for written description support of the claimed invention, when the proper comparison should be to the '848 parent application from which priority is claimed. *See* Prelim. Resp. 10–20; *see also Parus Holdings*, 35 F.4th at 1372 (“[t]he burden of production cannot be met *without some combination of citing the relevant record evidence with specificity and explaining the significance of the produced material in briefs*” (emphasis added)).

Nonetheless, Consumeron asserts that the '848 parent application is “substantively identical” to the specification of the '465 patent. *See* Prelim. Resp. 10; PO Sur-Reply 1. Instacart agrees and submits an “automated redline comparison” to show as much. Pet. 16–17 (citing Ex. 1012). In doing so, Instacart correctly compares the challenged claims to the '848 parent application and argues that at least two limitations of the independent claims are not supported by description in the '848 parent application, namely, “failing to locate an identified product of the set of one or more goods,” as recited in claim 1, and “determining that the identified product is not available,” as recited in claim 14. *See* Pet. 17–22 (citing Ex. 1011 ¶¶ 4, 8, 17, 18, 23–25).

According to Instacart, the '848 parent application assumes that the product ordered by the customer is available and does not contemplate a scenario where the product is unavailable or otherwise describe the action to be taken if the product is unavailable. *See* Pet. 17–22. We agree, at least based on the preliminary record. In particular, with reference to Figures 2 and 3, the '848 parent application describes a method where (1) a customer

chooses “a store where a desired product is being sold” (step 105), (2) the customer selects a delivery agent and sends an “acquisition request” to the delivery agent (steps 108, 109, 110), and (3) “the selected delivery agent travels to the store location . . . and *finds the desired product* to be acquired” (step 113). Ex. 1011 ¶¶ 17, 20, 23 (emphasis added). “The delivery agent then communicates to the customer that *the product has been identified*, and the customer has the option of inspecting the product in real-time” (step 117). *Id.* ¶ 23 (emphasis added). “Next, the customer either approves or rejects acquisition of *the inspected product*” (steps 119, 120, 122). *Id.* ¶ 24 (emphasis added). That description in the ’848 parent application clearly presumes that the product ordered by the customer *has been located and is available for inspection*, which is at odds with the additional requirements of claims 1 and 14 of “*failing to locate* an identified product” and “determining that the identified product is *not available*.” Ex. 1001, 11:20 (claim 1), 12:30 (claim 14) (emphases added).

To the extent Consumeron argues otherwise, we are not persuaded at this preliminary stage. According to Consumeron, the customer’s rejection of the product means that “the agent fails to locate a product that is satisfactory.” *See* Prelim Resp. 11. But nowhere do we discern that the ’848 parent application hinges the identity and availability of a product on whether it is satisfactory to the customer. That a product might not meet a customer’s satisfaction does not negate the description in the ’848 parent application that the agent locates and identifies the product in the first instance before giving the customer the option to inspect and reject the product. Indeed, because the customer placed the online order with a store advertising the product, the presumption is that the advertised product is

available and satisfactory to the customer.⁸ And, while conceivably the purchase of a product cannot be fulfilled in the event the product is unavailable, it would seem to be improper hindsight to derive written description support by “[w]orking backward from a knowledge of the claims.” *Novozymes A/S v. DuPont Nutrition Biosciences APS*, 723 F.3d 1336, 1349 (Fed. Cir. 2013). “Entitlement to a filing date does not extend to subject matter which is not disclosed, but would be obvious over what is expressly disclosed. It extends only to that which is disclosed.” *Lockwood v. American Airlines, Inc.*, 107 F.3d 1565, 1571–72 (Fed. Cir. 1997). Thus, based on the preliminary record, the ’848 parent application does not provide sufficient written description for the terms noted above. As such, we find that Instacart demonstrates a reasonable likelihood it will prevail in showing that the asserted references are prior art to the challenged claims.

Moreover, it appears the Office may have already spoken on the issue of whether the ’848 parent application provides adequate written description support for the disputed limitations of claims 1 and 14. As noted by Instacart, the ’465 patent is related to the ’779 application, which includes method claims substantially similar to those of the ’465 patent. For instance, claim 1 of the ’465 patent recites “*upon failing to locate an identified product of the set of one or more goods*” (Ex. 1001, 11:20–21), and claim 1

⁸ Also, we find unpersuasive Consumeron’s assertion that the product “may be unavailable because the online description of the desired item did not ‘accurately depict’ the item being sold.” *See* Prelim. Resp. 11–12 (quoting Ex. 1001, 1:54–55). That is because the cited passage describes the customer’s refusal of an item “after the item is later examined,” which, like other descriptions in the ’848 parent application, presumes that the item has been located and is available for examination by the customer.

of the '779 application similarly recites “*upon failing to locate the at least one item*” (Ex. 1030, at 22). Importantly, with respect to both the claimed invention in the '465 patent and the '779 application, Consumeron claims the benefit of the priority '848 parent application. *Compare* Ex. 1001, 1:7–23, *with* Ex. 1030, at 234. But, as Instacart points out, the Examiner of the '779 application found that the '848 parent application “fail[s] to provide adequate support” for the “failing to locate” limitation of claim 1 in the '779 application, and hence, “not entitled to the benefits of the prior application.” Pet. Reply 2–3 (citing Ex. 1030, at 235). That the Office has previously found a substantially similar claim limitation to that in the '465 patent as lacking written description support in the '848 parent application further bolsters our determination that Instacart has demonstrated a reasonable likelihood it will prevail in showing that the asserted references are prior art to the challenged claims.

C. Claim Construction

1. “acquisition request”

The parties dispute the meaning of “acquisition request” as recited in independent claims 1 and 14. *See* Prelim. Resp. 30–32; Pet. Reply 3–7. Consumeron argues that “acquisition request” should be construed narrowly to mean “a request for an agent *to shop for goods on a customer’s behalf*.” Prelim. Resp. 30 (emphasis added). Instacart, on the other hand, argues:

[n]either the intrinsic nor extrinsic evidence, however, requires the agent to “shop” or even make a purchase—the agent must simply acquire goods, consistent with the plain language of the claim. It would be improper to narrowly require shopping when Consumeron elected to broadly claim all types of “acquisition request[s].”

Pet. Reply 3–4.

Instacart has the better position at this stage. Contrary to Consumeron's assertion, the specification does not equate an "acquisition request" exclusively with a shopping or purchase request. *See* Prelim. Resp. 30–32. Rather, the specification repeatedly uses the phrasing "purchase *or otherwise* acquire" and "shopping *or* acquisition request" to indicate that a delivery agent may acquire goods by means other than purchasing or shopping. *See, e.g.*, Ex. 1001, 5:34–36 ("[T]he user specifies the exact location from which the selected delivery agent is to *purchase or otherwise acquire* the product, such as a retail store location."); *id.* at 7:65–8:4 ("If the product is approved at 120, the delivery agent will *purchase or otherwise acquire* the product on behalf of the customer at 121."); *id.* at 2:32–36 ("[T]he user provides the service provider with information regarding the type of product desired and the shopping or acquisition location from which the user desires to *purchase or otherwise obtain* the product.").

Indeed, the specification explains unequivocally that a customer may "pre-purchase[]" goods that the delivery agent subsequently acquires by "pick-up":

the customer has the option of *paying the retailer or seller directly*, in which case the customer will only be billed for the *pick-up* and delivery services provided. . . . If *pre-purchased* by the customer, the delivery agent obtains a receipt showing proof of *pre-payment* by the customer.

Id. at 8:25–33 (emphases added); *see also id.* at 7:3–7 (describing "shared pick-up event"). Similarly, the specification explains that acquiring goods does not necessarily involve purchasing them:

A mobile delivery agent in close proximity to the shopping location will receive the request for *purchase or acquisition* from

the system, and the delivery agent will proceed to the shopping location.

Id. at 2:36–41 (emphasis added).

Those disclosures indicate that a delivery agent can fulfill an acquisition request *without* needing to shop for or purchase the goods. Thus, consistent with the specification, we preliminarily construe “acquisition request” to mean not only a request for an agent to shop for and purchase goods for delivery to a customer, but also to encompass a request for a delivery agent to simply pick up and deliver goods that have been pre-purchased by the customer.

2. “mobile agent system”

Although the claim term “mobile agent system” was construed in a district court action involving a related patent, neither Instacart nor Consumeron believes any further construction of this term is needed for purposes of this proceeding. *See* Pet. 28; Prelim. Resp. 32–33. As such, we do not supply an express construction of this term, except to note that independent claims 1 and 14 recite that “mobile agent system” includes “a digital image capture device and a communication device.” Ex. 1001, 11:12–14, 12:22–23.

D. Instacart’s Challenge of the Independent Claims 1 and 14

Instacart challenges independent claims 1 and 14 as obvious over Carr and Lauka. *See* Pet. 30–44, 47–49. We begin with Instacart’s challenge of method claim 1. Instacart provides a detailed mapping of how Carr satisfies all the recited limitations of claim 1, except limitation [1.0.3], for which Instacart points to Lauka. *See id.* at 35–44. In particular, Instacart cites the following evidence in support of its contentions that Carr and Lauka, when combined, teach or suggest each of the recited limitations of claim 1:

Limitation 1.0.1—“*A method for remote acquisition and delivery of goods through one or more agents of a service provider*” (Pet. 35 (citing Ex. 1005 ¶¶ 36, 39, 43, 45, 92, Figs. 1, 3, 6;; Ex. 1001 ¶¶ 97–100));

Limitation 1.0.2—“*each agent having a mobile agent system in communication with at least one remote server,*” (Pet. 35–37 (citing Ex. 1005 ¶¶ 2, 6, 40–43, 53, Fig. 1 (annotated); Ex. 1003 ¶¶ 101–104));

Limitation 1.0.3—“*with each mobile agent system including: a digital image capture device and a communication device, said method comprising:*” (Pet. 37–38 (citing Ex. 1005 ¶¶ 74, 88, 94, 122; Ex. 1006, 3:19–28, 3:49–57, 4:10–21; Ex. 1003 ¶¶ 105–109));

Limitation 1.1—“*receiving, through the at least one remote server, a first acquisition request from a customer for a first set of one or more goods;*” (Pet. 38 (citing Ex. 1005 ¶¶ 9, 60, 73, Fig. 1; Ex. 1003 ¶¶ 110–112));

Limitation 1.2—“*contacting, through the communications device, the one or more agents;*” (Pet. 38 (citing Ex. 1005 ¶¶ 57, 74; Ex. 1003 ¶¶ 113–115));

Limitation 1.3—“*upon failing to locate an identified product of the set of one or more goods, electronically transmitting information on a replacement product for the identified product of the set of one or more goods to the customer using the digital image capture device of the agent, including:*” (Pet. 38–40 (citing Ex. 1005 ¶¶ 90, 95, 96, 105, 107, ; Ex. 1003 ¶¶ 116–119));

Limitation 1.4—“*obtaining a bar or QR code of the replacement product;*” (Pet. 40 (citing Ex. 1005 ¶¶ 95, 107; Ex. 1003 ¶¶ 120–122));

Limitation 1.5—“*determining the information from the bar or QR code, wherein the information includes at least one image of the replacement product; and*” (Pet. 40–42 (citing Ex. 1005 ¶¶ 95–96, 116; Ex. 1003 ¶¶ 123–127));

Limitation 1.6—“*sending the information for the customer to approve the purchase of the replacement product based on the information determined from the bar or QR code; and*” (Pet. 42–43 (citing Ex. 1005 ¶¶ 51, 96–99, Fig. 12; Ex. 1003 ¶¶ 128–130)); and

Limitation 1.7—“*upon receiving approval of the purchase from the customer, acquiring the replacement product, via the agent.*” (Pet. 43–44 (citing Ex. 1005 ¶¶ 99, 101; Ex. 1003 ¶¶ 131–132));

Instacart also provides a reason why one skilled in the art would have combined the teachings of Carr and Lauka with a reasonable expectation of success. *See* Pet. 31–34 (citing Ex. 1003 ¶¶ 86–96); *see also id.* at 37 (“In view of the teachings of Lauka, a POSITA would have recognized that it was obvious to implement the UPC scanner functionality of Carr’s handheld device using an ‘imaging device’ such as that taught by Lauka, which specifies that the ‘imaging device 206 can comprise a video or still camera’ and ‘can be used to capture images.’ Ex. 1006, 3:49-57; Ex. 1003, ¶¶ 105-107.”).

Consumeron disputes Carr’s disclosure of the claimed “acquisition request” of Limitation 1.1. Prelim. Resp. 33–37. According to Consumeron, “Carr’s disclosure of a customer shopping and placing a customer order for goods is not an ‘acquisition request’ because there is no request for an agent to shop for and purchase the goods on behalf of the customer.” *Id.* at 34. That argument, however, is premised on an overly narrow and improper construction of the claimed “acquisition request.” As discussed above, the proper construction of “acquisition request,” based on the current record, encompasses not only a request for a delivery agent to shop for and purchase goods for delivery to a customer, but also a request for the agent simply to pick-up and deliver goods that have been pre-

purchased by the customer. At this stage, Consumeron does not dispute Instacart's showing that Carr discloses the latter. *See* Pet. 35 (citing Ex. 1005 ¶¶ 40, 42, 53), 37 (citing Ex. 1005 ¶¶ 9, 60, 73, Fig. 1). Thus, based on the preliminary record, Instacart demonstrates that Carr meets the claimed “acquisition request.”

Next, Consumeron argues that Carr lacks disclosure of Limitation 1.7, which recites “upon receiving the approval of the purchase from the customer, acquiring the replacement product, via the agent.” Prelim. Resp. 37–40. According to Consumeron,

When read in the context of the surrounding claim language, a customer approves the purchase to which the agent receives the approval and purchases the replacement good on behalf of the customer, as confirmed by the construction of ‘acquisition request.’ *See* § V.A, *supra* (establishing that an agent who ‘acquires’ goods is shopping for and purchasing goods on behalf of a customer).

Prelim. Resp. 37–38. This argument, like Consumeron's previous argument, depends on an improper construction of “acquisition request.”

In any event, Instacart provides sufficient proof that Carr discloses this limitation. In particular, Instacart points to Carr's general disclosure of the customer selecting items or goods for purchase, and, if a selected item is unavailable, a “list of substitute goods . . . is sent from the order fulfillment center 12, through the first or order server 24 to the customer device 26.” Pet. 42–43 (citing Ex. 1005 ¶¶ 51, 96–97). Next, according to Carr, “[t]he method of communication allows the customer to select one of the substitute goods as the alternative good” and “[t]he alternative good is communicated back to the assembler [who] includes the alternative good in the customer order.” Ex. 1005 ¶ 101.

By selecting one of the substitute goods from the purchase list, the customer necessarily is approving the agent's (i.e., assembler's) acquisition of the substitute good and authorizing its purchase. *See* Ex. 1003 ¶¶ 131–133. To the extent Consumeron argues that the customer and assembler in Carr do not communicate with each other, we disagree. *See* Prelim. Resp. 38–39. After describing how the assembler establishes a list of substitute goods (Ex. 1005 ¶¶ 95–107), Carr explicitly states:

Once the list has been established by the assembler, the assembler may send the list of substitute goods to the customer (see above) by selecting, for example, a SEND button 84. As described above, the customer may receive the list of substitute goods via the preferred communications method at the customer device 26.

Ex. 1005 ¶ 108, Figs. 11–13. Those disclosures by Carr, when read as a whole, support Instacart's showing that Carr meets the claimed step of “upon receiving the approval of the purchase from the customer, acquiring the replacement product, via the agent.”

After reviewing the preliminary record, including Consumeron's contentions, we are persuaded that Instacart demonstrates a reasonable likelihood that challenged claim 1 is unpatentable as obvious over Carr and Lauka. *See* Pet. 31–44. Instacart also challenges independent claim 14 as obvious over Carr and Lauka. Pet. 30, 47–49. At this stage, Consumeron does not present additional arguments against Instacart's showing for independent claim 14 beyond its arguments in support of claim 1, which are unavailing for the reasons discussed above. *See* Prelim. Resp. 33, 37 (arguing independent “Claims 1, 14” together). Thus, for the same reasons as claim 1, we find that Instacart's showing for independent claim 14 meets the threshold for institution.

E. Instacart’s Challenge of the Dependent Claims

Instacart challenges dependent claims 4, 5, 8, 9, 11, 12, 16, and 17 as being rendered obvious over the same combination of Carr and Lauka as for base claims 1 and 14 (*see* Pet. 44–50), while pointing to: Yee for the additional limitations of dependent claims 2, 3, 10, and 15; Cincotta for the additional limitations of dependent claims 6 and 7; Argue for the additional limitation of dependent claim 13; and Dearing for the additional limitations of dependent claims 18 and 19 (*see id.* at 50–70). Consumeron does not separately argue Instacart’s showing with respect to the dependent claims, except to assert generally that “the reasons why the Challenged Claims are patentable over the Carr-Lauka combination apply equally to all Petition grounds.” *See* Prelim. Resp. 33 n. 7.

At this stage, because Instacart demonstrates a reasonable likelihood of prevailing with respect to its challenge of independent claims 1 and 14, we do not see the need to further address the challenges of the dependent claims. Further analysis is best left for trial after full development of the record. Because “[e]qual treatment of claims and grounds for institution purposes has pervasive support in *SAS*,” we institute on all the claims as challenged in the Petition. *PGS Geophysical AS v. Iancu*, 891 F.3d 1354, 1360 (Fed. Cir. 2018) (citing *SAS Institute v. Iancu*, 138 S. Ct. 1348 (2018)).

III. CONCLUSION

For the above reasons, we determine that the information presented in the Petition demonstrates a reasonable likelihood that at least claims 1 and 14 of the ’465 patent are unpatentable as obvious over Carr and Lauka. And because Instacart demonstrates that at least one claim of the ’465 patent meets the threshold for institution, we institute an *inter partes* review of all

claims as challenged in the Petition. *See* 37 C.F.R. § 42.108(a),(c); *SAS*, 138 S. Ct. at 1359–60.

IV. ORDER

Accordingly, it is:

ORDERED that, pursuant to 35 U.S.C. § 314(a), an *inter partes* review of claims 1–19 of the ’465 patent is *instituted*; and

FURTHER ORDERED that, pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4(b), notice is hereby given of the institution of trial, which will commence on the entry date of this Decision.

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