

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GOOD TECHNOLOGY CORPORATION and GOOD TECHNOLOGY SOFTWARE, INC.,)	Case No. 5:12-cv-05826-PSG
)	
Plaintiffs,)	ORDER GRANTING-IN-PART
)	MOTION FOR SUMMARY
v.)	JUDGMENT OF NON-
)	INFRINGEMENT AND INVALIDITY
MOBILEIRON, INC.,)	OF '016 PATENT
)	
Defendant.)	(Re: Docket No. 191)

Even a quick scan of any app store confirms that while a certain number of apps listed are relevant and of interest, most aren't. The claims of Defendant MobileIron, Inc.'s United States Patent No. 8,359,016 aim to change that, by filtering the app options made available according to who the user is and what device she uses. Think of a vegetarian whose restaurant menu doesn't bother to list the various options for steak and you get the basic idea.

Plaintiffs Good Technology Corporation and Good Technology Software, Inc. move for summary judgment that the '016 patent is invalid and not infringed by Good's products. The court agrees with Good that certain Good accused products are no longer at issue in the case. But other material issues of fact persist as to Good's infringement and invalidity claims. The motion is therefore GRANTED, but only IN PART.

I.

Patent infringement and patent invalidity (anticipation or obviousness) both require a two-step process. Taking the patent's claims as construed by the court, a trier must find each claim limitation in the object of interest—an accused product, on the one hand, and the prior art, on the other. Miss even one limitation and you miss the mark.

Good develops and sells mobile data and device management technologies.¹ Good owns U.S. Patent Nos. 6,151,606, 7,702,322, 7,970,386 and 8,012,219.² The '606 patent teaches disabling access to data on a mobile device after the user has finished using the data.³ The '219 patent teaches a server system that can be used to prevent access to data stored on a mobile device through encryption or deletion.⁴ The '386 patent teaches a rules engine on a wireless device that can receive a set of rules from a server and execute the set of rules so as to monitor and take action on the wireless device based on policies.⁵ The '322 patent teaches distribution of software updates for wireless devices that are governed by customer-defined software policies and communicated over the internet.⁶ Good's products include Good for Enterprise, Good for Government, Good Dynamics, BoxTone and AppCentral.⁷

MobileIron is an enterprise mobility management solutions provider, which enables companies to secure, control and manage mobile devices, mobile apps and mobile content. MobileIron owns United States Patent No. 8,359,016, which teaches filtering a catalog of mobile device applications based on a set of policies applied to a user profile and a mobile device profile

¹ See Docket No. 32 at ¶ 2.

² See *id.* at ¶¶ 18-21.

³ See Docket Nos. 32-1, 32-2.

⁴ See Docket No. 32-5.

⁵ See Docket No. 32-4.

⁶ See Docket No. 32-3.

⁷ AppCentral is a product that allows companies to distribute mobile applications to their users. See Docket No. 191-10.

1 to select a set of applications to return to the user.⁸ Mobile devices are registered with the system
2 and a mobile device profile is created that uniquely corresponds to that registered device. A
3 mobile device profile can include log data and detailed information about the mobile device's file
4 system, thereby enabling the enterprise to closely monitor devices for security purposes. The
5 mobile device profile also enables an IT administrator to make applications available only to
6 certain devices; for example, applications can be restricted to enterprise-owned devices so that they
7 are not used on employee-owned devices. Similarly, the mobile device management system may
8 maintain user profiles that contain personal or organizational information about the user, which IT
9 administrators can use to make applications available only to certain users, such as all members of
10 a particular sales team.⁹

11 Claims 1, 8 and 15 of the '016 patent teach:

12 1. A method, comprising:
13 responsive to a request for a set of applications available for installation on a mobile
14 device, accessing a user profile and a mobile device profile against an identifier
15 associated with a user;
16 filtering a catalog of applications based on a set of policies applied to the user
17 profile and mobile device profile to select a set of applications; and
18 returning the set of applications in response to the request;
19 wherein the returned set of applications is provided to a mobile device application
20 management interface configured to display the set of applications to the user via
21 the application management interface and to provide the ability for the user to
22 select, via the application management interface, one or more of the displayed
23 applications for installation on the mobile device.

24 ...

25 8. An apparatus, comprising:
26 a memory;
27 a network interface;
28 one or more processors; and
computer program code stored on a non-transitory storage medium comprising
instructions operative to cause the one or more processors to:
responsive to a request for a set of applications available for installation on a mobile
device, access a user profile and a mobile device profile against an identifier
associated with a user;
filter a catalog of applications based on a set of policies applied to the user profile
and mobile device profile to select a set of applications; and
return the set of applications in response to the request

⁸ See Docket No. 41 at 10.

⁹ See generally Docket No. 41-1 at col. 8-11.

1 wherein the returned set of applications is provided to a mobile device application
2 management interface configured to display the set of applications to the user via
3 the application management interface and to provide the ability for the user to
4 select, via the application management interface, one or more of the displayed
5 applications for installation on the mobile device.

6 ...

7 15. A non-transitory storage medium comprising computer program code including
8 computer-readable instructions operative, when executed, to cause one or more
9 processors to:
10 responsive to a request for a set of applications available for installation on a mobile
11 device, access a user profile and a mobile device profile against an identifier
12 associated with a user;
13 filter a catalog of applications based on a set of policies applied to the user profile
14 and mobile device profile to select a set of applications; and
15 return the set of applications in response to the request
16 wherein the returned set of applications is provided to a mobile device application
17 management interface configured to display the set of applications to the user via
18 the application management interface and to provide the ability for the user to
19 select, via the application management interface, one or more of the displayed
20 applications for installation on the mobile device.¹⁰

21 MobileIron offers two EMM solutions: MobileIron Core and MobileIron Cloud.

22 MobileIron Core is comprised of three primary components: the Core server, the Sentry server and
23 the Mobile@Work client. The Core server enables IT administrators to define security policies and
24 to take actions upon mobile devices, apps and content. Sentry is a gateway server that manages
25 and secures network traffic between the mobile devices and corporate systems, such as email and
26 document repository servers. The Mobile@Work client is installed on the mobile device, enforces
27 the security policies received from the Core server and also sends device information back to the
28 Core server.

MobileIron Cloud is MobileIron's cloud-based EMM solution and also has three main
software components. The MobileIron Cloud server is the central location from which security
policies and actions are defined and implemented. MobileIron Cloud also includes a Sentry
gateway server that manages network traffic between the mobile devices and corporate systems.
MobileIron Go, the client software, is installed on the mobile device, enforces security policies
received from the MobileIron Cloud server and also sends device information back to the

¹⁰ Docket No. 191-11.

1 MobileIron Cloud server. MobileIron also offers other various products and features such as
2 Docs@Work, Apps@Work, AppConnect and Email+.¹¹

3 In late 2012, Good sued MobileIron alleging both infringement of the '606, '322, '386 and
4 '219 patents and violations of the Lanham Act and California Business and Professions Code
5 Section 17200.¹² MobileIron counterclaimed, alleging that Good's AppCentral product infringes
6 MobileIron's '016 patent.

7 In May 2013, MobileIron served infringement contentions accusing five Good products:
8 Good for Enterprise, Good for Government, Good Dynamics, BoxTone and AppCentral.¹³ Two
9 years later, MobileIron's expert report on infringement of the '016 patent asserted only
10 infringement of AppCentral.¹⁴

11 II.

12 This court has subject matter jurisdiction pursuant to 15 U.S.C. § 1125 and
13 28 U.S.C. §1367. The parties further consented to the jurisdiction of the undersigned magistrate
14 judge pursuant to 28 U.S.C. §636(c) and Fed. R. Civ. P. 72(a).

15 Pursuant to Fed. R. Civ. P. 56(a), summary judgment is appropriate when "there is no
16 genuine issue as to any material fact and the moving party is entitled to judgment as a matter of
17 law." Material facts are those that may affect the outcome of the case.¹⁵ A dispute as to a material
18 fact is genuine if there is sufficient evidence for a reasonable jury to return a verdict for the
19 non-moving party.¹⁶ All evidence must be viewed in the light most favorable to the non-moving
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21 ¹¹ See Docket No. 219-5 at 3.

22 ¹² Yesterday, the court held that the '606 patent is invalid for lack of written description and not
infringed by the accused products. See Docket No. 424.

23 ¹³ See Docket Nos. 191-3, 191-4, 191-5, 191-6, 191-7.

24 ¹⁴ See Docket No. 191-8 at i-ii.

25 ¹⁵ See *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986) ("Only disputes over facts that
26 may affect the outcome of the suit under governing law will properly preclude the entry of
summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted.").

27 ¹⁶ See *id.*

1 party. At this stage, a court “does not assess credibility or weigh the evidence, but simply
2 determines whether there is a genuine factual issue for trial.”¹⁷ Initially, the moving party bears the
3 burden to show that no genuine issue of material fact exists.¹⁸ If this burden is met, the burden
4 shifts to the non-moving party.¹⁹

5 III.

6 This court has repeatedly explained that infringement contentions under Pat. L.R. 3-1 are
7 distinct from evidence.²⁰ And so a patentee that does not support its infringement contentions
8 against certain products with actual evidence has no basis to argue that a reasonable jury could find
9 that products in fact infringe. In contrast, a patentee that moves beyond its contentions and tenders
10 evidence sufficient to create a genuine issue of infringement (and does the same for validity) is
11 entitled to have a jury weigh that evidence. The record surrounding the '016 patent presents both
12 circumstances.

13 *First*, summary judgment of non-infringement of the '016 patent is appropriate as to Good
14 for Enterprise, Good for Government, Good Dynamics and BoxTone. While MobileIron served
15 infringement contentions as to these products, it never produced expert opinion or other evidence
16 on whether these products infringed. MobileIron’s expert report speaks only about AppCentral’s
17 infringement.²¹

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20 ¹⁷ *House v. Bell*, 547 U.S. 518, 559-60 (2006).

21 ¹⁸ *See Celotex Corp. v. Caltrett*, 477 U.S. 317, 323-24 (1986).

22 ¹⁹ *See T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors Ass’n*, 809 F.2d 630, 630 (9th Cir. 1987).

23 ²⁰ *See, e.g., Genentech, Inc. v. Trustees of Univ. of Pa.*, Case No. 10-cv-02037, 2012 WL 424985,
24 at *1 (N.D. Cal. Feb. 9, 2012) (“Infringement contentions need not disclose ‘specific evidence nor
25 do they require a plaintiff to prove its infringement case.”) (citation omitted); *Apple Inc. v.*
26 *Samsung Elecs. Co.*, Case No. 11-cv-01846, 2012 WL 2499929, at *1 (N.D. Cal. June 27, 2012)
27 (“Perfectly conceived and executed, expert trial testimony in a patent case should be no different
28 than in other cases: the testimony is supported by a report which in turn reliably applies the
theories disclosed in the contentions to evidence disclosed during fact discovery.”).

²¹ *See* Docket No. 191-9 at 30:9-17, 30:18-31:4.

1 MobileIron nevertheless relies on the fact that AppCentral is bundled in product packages
2 with many of these other products.²² MobileIron argues that because AppCentral is sold in
3 conjunction with these other products, they must remain in the case, at least for damages
4 purposes.²³ And for the most part, the court agrees. Because AppCentral is sold in product
5 bundles with these products, sales of these products may be used for damages purposes if otherwise
6 permitted. But MobileIron’s failure of proof that Good for Enterprise, Good for Government,
7 Good Dynamics and BoxTone practice each limitation of each asserted claim warrants summary
8 judgment that these products do not infringe.

9 **Second**, there are genuine issues of fact as to AppCentral’s infringement of the ’016 patent.
10 The court construed the key term “mobile device application management interface” to mean “a
11 user interface that allows a user to manage the applications for a mobile device, which includes an
12 interface to an enterprise application store.”²⁴ Good claims that AppCentral does not manage
13 applications on a device, as required, and points to examples in which the “Downloaded Apps”
14 screen does not accurately list the applications that have been installed on the device.²⁵ In these
15 examples, the list merely reflects those applications a user clicked in the recent past.²⁶ But a
16 reasonable jury could just as easily rely on evidence from MobileIron that, when the product works
17 as designed, other functionality in the AppCentral interface allows users to select applications for
18 installation on their device—something the parties’ experts both agreed practiced the limitation.²⁷
19 These issues about how the product works are classic jury fodder.

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21 ²² See Docket No. 226-4 at 11.

22 ²³ See *id.*

23 ²⁴ Docket No. 135 at 2.

24 ²⁵ See Docket No. 192-4 at 11-12.

25 ²⁶ See *id.*

26 ²⁷ See Docket No. 226-10 at 123:6-11; Docket No. 226-6 at ¶¶ 107-108. During claim
27 construction, Good argued that “mobile device application management interface” means “a
28 graphical user interface that allows a user to manage the applications on the mobile device through
a tab or selectable window that displays a list of the applications currently installed on the mobile
device.” The court, however, did not adopt this construction and instead adopted MobileIron’s

1 *Third*, there are genuine issues of fact as to whether claims 1, 8 and 15 are anticipated by
2 the “Mehta” reference (United States Patent Application Publication No. 2002/0131404). Mehta
3 describes a system for selling applications to subscribers of a telephone carrier.²⁸ Mehta’s
4 disclosure centers on managing mobile device subscription plans for telephone carriers and billing
5 subscribers for applications added onto the carriers’ plans.²⁹ The availability of applications is
6 dictated by the telephone customer’s choice of what carrier subscriptions to pay for.³⁰ “[T]he list
7 provided to the subscriber device during application discovery is filtered to display only content
8 that has been verified” based on the use of both “subscriber profiles” and “device profiles.”³¹
9 Good argues that these steps closely mirror claims 1, 8 and 15 of the ’016 patent, as explained by
10 the testimony of its expert Robert Akl.³²

11 At a minimum, a reasonable jury could find that Mehta does not disclose the required
12 “mobile device profile, “which means “information that is specific to a particular device.” While
13 Mehta undeniably uses the term “device profile,” MobileIron presents substantial evidence that
14 Mehta’s system stores only a modest number of profiles for device models supported by the
15 system.³³ A reasonable jury could find that this information in these profiles is not “specific” to
16 any device but rather corresponds to all devices of a particular model. While Good has its own

17 proposed construction that does not require a list of already-installed applications. *See* Docket No.
18 135.

19 ²⁸ Docket No. 191-12 at ¶¶ 4, 61, 69.

20 ²⁹ Docket No. 226-6 at ¶ 43; Docket No. 192-6 at ¶ 233; *see, e.g.*, Docket No. 191-12 at ¶¶ 61, 69,
21 76-77.

22 ³⁰ Docket No. 226-6 at ¶ 43; Docket No. 192-6 at ¶ 234; Docket No. 191-12 at ¶¶ 59, 64, 115 (“The
23 MAS also supports flexible billing scenarios, including subscription billing, which allows
24 customers to subscribe to a particular service to receive only those resources or applications they
25 desire.”) (“The authorization level will typically depend on the level of service to which the client
26 has subscribed.”) (“A subscriber uses the Personalization Website 803 to subscribe to additional
27 categories of content by changing service plans (which may possibly cause a change in the amount
28 billed to the user).”).

³¹ *Id.* at ¶¶ 7, 15.

³² *See* Docket No. 191-11; Docket No. 191-13 at ¶¶ 412-60.

³³ *See* Docket No. 226-6 at ¶¶ 54-57.

1 evidence that this information is specific, a jury is required to decide which evidence is more
2 persuasive.³⁴

3 *Fourth*, there are genuine issues of fact as to whether claims 1, 8 and 15 are anticipated by
4 the “Clare” reference (United States Patent No. 7,409,208). Clare relates to a “software download
5 service on a mobile network.”³⁵ “[T]he information regarding the available software applications
6 is filtered in accord with the stored user’s preference, to form a personalized software catalog.”³⁶
7 Clare’s application catalog is filtered to “include[] all available programs that are compatible with
8 the particular model of mobile station.”³⁷ Again, Good rests on Akl’s expert report to substantiate
9 its claim that the reference anticipates.³⁸

10 A reasonable jury could find that Clare uses a different filtering architecture than that
11 required by the claims. The claims recite filtering based on a “set of policies.” The IT
12 administrator specifies “policies” that are general across multiple users, and the system then
13 “applie[s]” the policies to a user profile in order to select a user-specific set of applications.
14 MobileIron presents substantial evidence that Clare filters based on a user-preference-driven
15 mobile device profile, whereas the ’016 patent filters based on an enterprise-centric set of policies
16 applied to the user profile and the mobile device profile.³⁹ Because there is a fundamental question
17 of fact as to how each product filters, summary judgment is not warranted.⁴⁰

18 *Fifth*, there are genuine issues of fact as to whether each asserted claim of the ’016 patent is
19 invalid as obvious. Although Good argues that any claim elements Mehta lacks would be supplied

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21 ³⁴ Because the court has found issues of material fact as to the independent claims, the court also
22 finds that issues of material fact necessarily persist as to dependent claims 3, 4, 6, 9, 16 and 18.

23 ³⁵ See Docket No. 191-14.

24 ³⁶ See *id.* at 3:39-42.

25 ³⁷ See *id.* at 13:42-60.

26 ³⁸ See Docket No. 191-11; Docket No. 191-13 at ¶¶ 261-98.

27 ³⁹ See Docket No. 226-4 at 18-20.

28 ⁴⁰ Because the court has found issues of material fact as to the independent claims, the court also
finds that issues of material fact necessarily persist as to dependent claims 3, 4, 6, 9, 16 and 18.

1 by a combination with either Clare or Early GFE, MobileIron has presented evidence why it would
2 not have been obvious to introduce the missing elements. For example, Dr. Reiher explains that it
3 would have been illogical to modify Mehta’s system to use the missing “mobile device profile,”
4 since that would involve storing much more data, and thus require more system resources, than
5 Mehta’s approach.⁴¹ As another example, Reiher explains that including “required applications” to
6 paying consumers, such as in Mehta’s subscription-based system, would be undesirable and
7 nonsensical.⁴²

8 MobileIron similarly offers substantial evidence that deficiencies in Clare could not be
9 remedied by combination with either Mehta or Early GFE.⁴³ For example, Reiher explains that it
10 would not have been obvious to use policy-based filtering instead of Clare’s filtering architecture,
11 because it would have been contrary to Clare’s goal of tailoring catalogs to each customer’s
12 preferences.⁴⁴ There is also substantial evidence that there was no motivation to use consumer
13 application stores like either Mehta’s or Clare’s in an enterprise context, because they did not offer
14 the level of control that enterprises valued.⁴⁵

15 In addition, MobileIron has introduced evidence of objective indicia, or secondary
16 considerations, of non-obviousness. The Federal Circuit has long held that such evidence must be
17 considered before an obviousness determination is made.⁴⁶ MobileIron presents evidence of the
18 success of MobileIron’s own product, which it claims practices the ’016 patent; praise of the

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20 ⁴¹ Docket No. 226-6 at ¶ 88.

21 ⁴² *Id.* at ¶ 36.

22 ⁴³ *See, e.g., id.* at ¶¶ 36, 87-89; Docket No. 192-6 at ¶¶ 171, 184.

23 ⁴⁴ *Id.* at ¶ 171.

24 ⁴⁵ *See* Docket No. 226-6 at ¶¶ 19, 87.

25 ⁴⁶ *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 1538-39 (Fed. Cir. 1983) (“[E]vidence rising
26 out of the so-called ‘secondary considerations’ must always when present be considered en route to
27 a determination of obviousness.”); *WL Gore & Assocs., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1555
28 (Fed. Cir. 1983) (“[Objective indicia] may be the most pertinent, probative, and revealing evidence
available to aid in reaching a conclusion on the obvious/nonobvious issue. It should when present
always be considered as an integral part of the analysis.”).

1 patented features in MobileIron's enterprise application store; and industry recognition of the
2 advantages of enterprise applications stores.⁴⁷ For example, multiple MobileIron customers have
3 cited the enterprise application store as a key benefit of MobileIron's products. Among them,
4 customers have praised, for example, the patented filtering approach.⁴⁸ Good's witnesses have also
5 recognized the importance of the patented features.⁴⁹ This is more than enough to create a genuine
6 issue of material fact.

7 **IV.**

8 The motion is GRANTED-IN-PART.

9 **SO ORDERED.**

10 Dated: July 1, 2015

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12 PAUL S. GREWAL
13 United States Magistrate Judge

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⁴⁷ See Docket No. 226-6 at ¶¶ 90-104.

26 ⁴⁸ Docket No. 227-12; Docket No. 226-6 at ¶ 99.

27 ⁴⁹ See Docket No. 226-8 at 26:8-29:3; see Docket No. 226-6 at ¶ 102; Docket No. 226-7 at 158:15-
28 159:2.