

From: Lam, Hai-Ly

Sent: 12/16/2014 9:39:13 AM

To: TTAB EFiling

CC:

Subject: U.S. TRADEMARK APPLICATION NO. 85760271 - OPENMOBILE - N/A - Request for  
Reconsideration Denied - Return to TTAB - Message 1 of 3

\*\*\*\*\*

Attachment Information:

Count: 12

Files: ev1-1.jpg, ev1-2.jpg, ev1-3.jpg, ev2-1.jpg, ev2-2.jpg, ev3-1.jpg, ev3-2.jpg, ev4-1.jpg, ev4-2.jpg, ev5-1.jpg, ev5-2.jpg, 85760271.doc

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

<b>U.S. APPLICATION SERIAL NO.</b> 85760271  <b>MARK:</b> OPENMOBILE	
<b>CORRESPONDENT ADDRESS:</b> DAVID J POWSNER  NUTTER MCCLENSON & FISH LLP  155 SEAPORT BOULEVARD SEAPORT WEST  BOSTON, MA 02210-2604	<b>GENERAL TRADEMARK INFORMATION:</b>  <a href="http://www.uspto.gov/trademarks/index.jsp">http://www.uspto.gov/trademarks/index.jsp</a>  <a href="#">VIEW YOUR APPLICATION FILE</a>
<b>APPLICANT:</b> OpenMobile World Wide, Inc.	
<b>CORRESPONDENT'S REFERENCE/DOCKET NO:</b>  N/A  <b>CORRESPONDENT E-MAIL ADDRESS:</b>  docket@nutter.com	

**REQUEST FOR RECONSIDERATION DENIED**

**ISSUE/MAILING DATE:** 12/16/2014

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. See 37 C.F.R. §2.64(b); TMEP §§715.03(a)(2)(B), (a)(2)(E), 715.04(a). The requirement(s) and/or refusal(s) made final in the Office action dated May 1, 2014 are **maintained and continue to be final**. See TMEP §§715.03(a)(2)(B), (a)(2)(E), 715.04(a).

In the present case, applicant's request has not resolved all the outstanding issue(s), nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue(s) in the final Office action. In addition, applicant's analysis and arguments are not persuasive nor do they shed new light on the issues.

Applicant has applied to register **OPENMOBILE and design** in International Class 009 for the amended goods of "Software for mobile devices, namely, smartphones, tablet computers, set-top boxes, connected televisions, in-vehicle infotainment systems, and in-flight entertainment systems, that enables those devices to execute software applications made for multiple operating systems."

The registered mark is **OPEN MOBILE ALLIANCE** in the relevant International Class 042 for "Computer software design for others, computer programming and consultancy for others, computer hardware research and development services, computer software research and development services, technical research in the field of wireless applications and wireless application protocols and standards; and providing quality assurance services and quality assurance testing in the field of wireless communication."

The trademark examining attorney had attached evidence from the USPTO's X-Search database consisting of a number of third-party marks registered for use in connection with the same or similar goods and services as those of both applicant and registrant in this case. In addition, Internet evidence demonstrating that software companies offer both software and software related services were also attached. Please find additional Internet evidence consisting of excerpts from software companies websites offering both software and software related services. This evidence establishes that the same entity commonly provides the relevant goods and services and markets the goods and services under the same mark, the relevant goods and services are sold or provided through the same trade channels and used by the same classes of consumers in the same fields of use, and the goods and services are similar or complementary in terms of purpose or function. Therefore, applicant's and registrant's goods and services are considered related for likelihood of confusion purposes. See, e.g., *In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-04 (TTAB 2009); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266, 1268-69, 1271-72 (TTAB 2009).

Accordingly, the request is denied.

The filing of a request for reconsideration does not extend the time for filing a proper response to a final Office action or an appeal with the Trademark Trial and Appeal Board (Board), which runs from the date the final Office action was issued/mailed. *See* 37 C.F.R. §2.64(b); TMEP §715.03, (a)(2)(B), (a)(2)(E), (c).

If time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to comply with and/or overcome any outstanding final requirement(s) and/or refusal(s) and/or to file an appeal with the Board. TMEP §715.03(a)(2)(B), (c). However, if applicant has already filed a timely notice of appeal with the Board, the Board will be notified to resume the appeal. *See* TMEP §715.04(a).

/Hai-Ly Lam/

Hai-Ly Lam

Trademark Examining Attorney

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  - App Portal
  - FlexNet Manager Suite for Enterprises
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## AdminStudio Application Compatibility Pack

Application Compatibility Testing for Windows 7 & 8, Internet Explorer and Windows Server



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AdminStudio Application Compatibility Pack significantly reduces the time and effort involved in ongoing Windows, Internet Explorer and Windows Server migrations by automatically assessing and fixing application compatibility issues. With over 10,000 automated checks for Windows 7 compatibility and auto-resolution of 95% of installation-related issues, Application Compatibility Pack simplifies scoping and delivery of day-to-day applications requests, ongoing Windows migrations and desktop transformation projects.

Learn about our new release: AdminStudio 2014: The Good, Better and Best of the Latest Release

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Efficiently execute a broad range of compatibility, validation and conflict tests across hundreds or thousands of applications to identify application compatibility problems. Detailed information on the location and specifics of each issue quickly pinpoints which applications can be fixed automatically and which require more time and resources. The solution is fully automated and provides an overall view of application compatibility for web-based applications and both 32-bit and 64-bit versions of Windows 7 and 8.

### Reduce the Time and Cost of Application Compatibility Testing

Consistently reduce the time and cost of migration and desktop transformation projects. Instead of days...

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Learn about the new capabilities of AdminStudio Suite 2014, and the latest advancements in Application Readiness, that are helping our customers improve service quality and streamline service delivery of physical, virtual and mobile applications.

#### White Paper

[Six Steps to Continuous Application Readiness](#)  
Learn how a continuous, automated approach to application readiness for Windows 7 migrations, application virtualization can reduce the risk and cost of your application migration projects and routine software deployments.

Dramatically reduce the time and cost of manual testing and understand in minutes instead of days which applications require fixing or re-development. Generate standard MSI transforms to fix compatibility and resolve issues quickly.

- Run thousands of automated checks for Windows compatibility and get an at-a-glance status for your entire application portfolio.
- Test web site addresses (URLs) and web-based applications to pinpoint Internet Explorer compatibility issues automatically.
- Select and execute application compatibility tests at different compliance levels including "Complete Analysis", "Industry Standard Analysis" or "Industry Standard Analysis with Auto-Fixes".

#### Improve Application Reliability

From Test Center, analyze and manage all your applications in a unified reporting and issue management interface to ensure standardization and reliability of all applications in your software portfolio.

- Operating system (OS) application compatibility tests
- Web application/browser compatibility tests

#### Accurately Scope and Budget for New and Ongoing Application Projects

Dashboards and reports provide overall compatibility status from multiple viewpoints for all applications in the AdminStudio catalog or by group. Drilldown takes you from big picture to detailed analysis. Audit trail report shows testing and remediation progress over time, providing valuable insight for planning and resource management.

The AdminStudio Application Compatibility Pack is part of [AdminStudio Suite](#) which powers an enterprise's [Application Readiness](#) process for planning, packaging and delivery of physical, virtual, and mobile applications, ensuring faster service delivery and continuous and predictable deployment into increasingly complex computing environments.

#### Additional Resources

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[Managing the Full Lifecycle of Your Software Assets](#)  
[Maximize Investments in AdminStudio](#)  
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##### Datasheet - AdminStudio

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Collaboration, Express, Multi-Platform, vBuild, InstallShield Activation Service, AdminStudio, and Workflow Manager.

### Application Compatibility and Software Packaging Business requirements



Steve Schmidt, vice president of product management at Flexera Software, discusses the application compatibility and software packaging requirements to prepare for a migration to a new operating system or environment, such as virtualization. He explains how Flexera Software's AdminStudio can be used to help companies successfully complete these migrations and achieve continuous application readiness.



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## AdminStudio Mobile Pack

Simplify Mobile Application Management



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**AdminStudio Mobile Pack** enables centralized management of mobile apps with the same tools and processes used for physical and virtual applications. Test mobile apps for device and OS compatibility and report on the behavior, configuration and property settings of mobile applications to identify which apps require additional security assessment to safely and effectively meet user demands for access to business apps from mobile devices such as smartphones and tablets.

Learn about our new release: AdminStudio 2014: The Good, Better and Best of the Latest Release

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**Overview** [Features](#) [Resources](#)

Users are mobile, and they need to access business applications on a variety of devices including smartphones and tablets. IT is under pressure to support BYOD and the new application formats required by mobile devices, but mobile apps are also capable of accessing and exposing critical and sensitive corporate data. Without a strategic approach to managing the rapidly growing number of mobile apps, IT risks losing control over this increasingly important component of the enterprise application portfolio.

With AdminStudio Mobile Pack, you can identify, manage, track and report on internal mobile apps, and public links from Apple® App Store® and, Google® Play® alongside your Windows applications. Because Mobile Pack takes advantage of your current Application Readiness tools and processes, it simplifies **mobile application management** and enables you to reduce risk and address the rapidly growing demand for mobile apps in the enterprise.

### One Solution, One Process for all Applications

- Reduce the learning curve and increase productivity by managing internal mobile apps, and those from public stores with the same tool and process you use for Windows applications.
- Test mobile apps for device and OS compatibility with automated compatibility testing for apps

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- Test mobile apps for device and OS compatibility with automated compatibility testing for error free deployment to Mobile Device Management systems.

#### Addresses Security and Reliability Concerns

- Report on the behavior, configuration and property settings of mobile applications to identify which apps require additional security assessment.
- Identify risky apps and establish mobile application policies.
- Validate that apps follow best practices and conform with enterprise policies.

#### Streamline Mobile Application Management and Deployment

- Prepare and manage mobile apps in conformance to the standard Application Readiness processes
- Extract metadata from property files and app stores to streamline distribution of mobile apps
- Directly publish mobile apps from AdminStudio to Mobile Device Management systems

The AdminStudio Mobile Pack is part of AdminStudio Suite, which powers an enterprise's [Application Readiness](#) process for planning, packaging and delivery of physical, virtual, and mobile applications, ensuring faster service delivery and continuous and predictable deployment into increasingly complex computing environments.

#### Additional Resources

##### Webinars

[App Portal 2015: Delivering the Unexpected](#)  
[When Applications Attack - Managing Applications in the Enterprise](#)  
[Managing the Full Lifecycle of Your Software Assets](#)

##### White Papers

[Executive Summary: When Applications Attack](#)  
[Mitigating Mobile App Risk to Ensure Safe, Reliable Deployments](#)  
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## Application Readiness Services

Professional Services that Maximize the Value of your Investment

Flexera Software Global Consulting Services accelerates and increases the value customers receive from their investments in Flexera Software Application Readiness solutions. Leveraging their deep subject matter expertise and proven methodologies, our experts help customers implement industry best practices, optimize processes, speed solution deployment and provide staff with the skills and know-how required to automate and manage the application lifecycle. Flexera Software offers consulting engagements to help re-architect Application Readiness processes and adopt best practices; outsourced application packaging and staff augmentation services; implementation engagements for AdminStudio Suite, App Portal and Workflow Manager; and training to ensure proficiency for successful application packaging using AdminStudio, migration from Wise Package Studio to AdminStudio and App-V packaging using AdminStudio.

### Define

#### [Application Packaging Factory Blueprint](#)

This fast-paced engagement helps you re-architect processes and adopt best practices to create an efficient, highly responsive application packaging factory. Deliverables include a detailed specification for an end-to-end process that moves applications efficiently from request to delivery. By putting this process in place, you'll eliminate quality issues that disrupt deployments, shorten delivery lead times and enhance your ability to meet tight deadlines.

#### [Operating System Deployment Acceleration Service](#)

This comprehensive engagement helps you capitalize on your investment in SCCM and App Portal by incorporating operating system deployments and application migrations into your enterprise app store. The result is an automated, best practices approach that allows business users to select and schedule migrations quickly and conveniently from your online catalog. This approach accelerates migration, mitigates the impact of migration on users and on the network infrastructure, and eliminates hours of IT effort spent on manual migration tasks.

### Implement

#### [AdminStudio Implementation](#)

When time is of the essence, take advantage of highly skilled Flexera Software's senior consultants to accelerate your AdminStudio implementation. Our experts will apply their extensive experience to help you install and configure AdminStudio and fully integrate it into your environment. Additionally, they will educate your staff on best practices and ensure that they acquire the skills they need for continued success with AdminStudio.

#### [App Portal Implementation](#)

This offering is your fast path to quickly achieving an operational installation of App Portal configured for

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your environment. Using a proven methodology, our consultants will ensure that your app store adheres to best practices for software deployment, operating system deployment and hardware requests while giving you complete control of the request, approval and fulfillment process. You can choose from a variety of services, including design guidance on processes such as catalog browsing and approval workflows, initial catalog setup, catalog maintenance strategy and knowledge transfer that enables you to manage and support App Portal.

#### Workflow Manager Implementation

This offering accelerates your implementation of a unified workflow that adheres to application readiness best practices, integrates with external systems and automates the preparation of applications for deployment in multiple formats across multiple platforms. Our skilled professionals will perform every aspect of implementation so you end up with a fully tested, operational Workflow Manager instance that is configured for your environment.

#### Outsourced Application Packaging and Staff Augmentation

When you have limited resources and tight deadlines for tackling major projects, our Outsourced Application Packaging and Staff Augmentation service can help. This offering augments your staff with experts who can get the job done on time and within budget, whether the project involves migration of fully tested and remediated applications to a new operating system, preparing applications for deployment to virtual formats or increasing the efficiency of your steady-state application packaging process.

#### Training

We offer a variety of training courses to help you understand how to quickly get the most out of our market-leading Application Readiness solutions. [Learn more about our Application Readiness training classes.](#)

#### Additional Resources

##### Training

- [Application Packaging using AdminStudio](#)
- [App-V Packaging with AdminStudio](#)
- [One-day Workshop Training Series](#)
- [Wise Migration to AdminStudio](#)

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## ChangeBASE

The fastest and easiest way to ensure application readiness.



Avoiding user disruption during application upgrades is essential. Application compatibility failures are time-consuming, expensive, and complex. Whether you're migrating to Windows 7, applying monthly Microsoft Patch Tuesday updates, or adopting new application virtualization technologies like App-V, ThinApp, XenApp or SWF, ensuring application compatibility is the biggest hurdle to success.

ChangeBASE reduces application migration risk and ensures application readiness. You can automate application compatibility testing, application remediation, application packaging, and application virtualization to accelerate patch updates or deployments to new platforms.

ChangeBASE provides a wide range of reports that make it easy to find and fix compatibility issues in minutes, package them up, and get your applications up and running quickly with minimal manual effort. This way you can reduce the time and risk of ongoing system management.

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Automate application readiness with ChangeBASE.

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- **Customized packaging checks** – Test and automatically apply fixes to ensure compliance with in-house and packaging (MSI) standards. [Learn More >](#)
- **Application packaging** – Automate conversion of any application format to standardized Windows Installer (MSI) packages. [Learn More >](#)
- **Automated application virtualization conversion** – Automate conversion of packages to App-V, ThinApp, XenApp, and SWF virtualized formats. [Learn More >](#)
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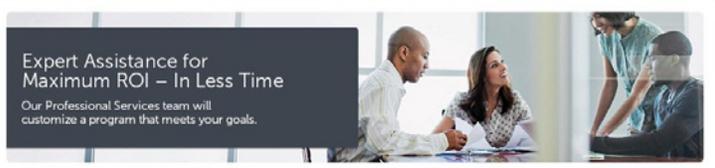
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