

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner,

v.

DIALECT, LLC,
Patent Owner.

Case IPR2024-00752
Patent 8,849,652

PATENT OWNER'S SUR-REPLY

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PATENT OWNER'S EXHIBIT LIST

Exhibit No.	Description
2001	Patent Owner's Power of Attorney
2002	U.S. Patent 7,693,720 ("the '720 Patent")
2003	U.S. Patent 8,015,006 ("the '006 Patent")
2004	U.S. Patent 8,195,468 ("the '468 Patent")
2005	U.S. Patent 9,263,039 ("the '039 Patent")
2006	U.S. Patent 9,495,957 ("the '957 Patent")
2007	Order (Construing Claim Terms), <i>Dialect, LLC v. Amazon.com Inc.</i> , Civ. No. 1:23cv581, Dkt. 213 (E.D. Va. Apr. 29, 2024)
2008	U.S. Patent Application Publication No. 2007/0043574 ("Coffman Counterpart")
2009	Cross-reference between Petitioner's Citations to Coffman and Coffman Counterpart
2010	Reserved
2011	Deposition Transcript of Christopher Schmandt, taken January 29, 2025
2012	<i>Google LLC v. Dialect, LLC</i> , IPR2024-00746 Institution Decision, Paper 11 (P.T.A.B. Oct. 15, 2024)
2013	Declaration of Benedict Occhiogrosso in Support of Patent Owner's Response
2014	Deposition Transcript of Christopher Schmandt, taken June 20, 2025
2015	Errata Sheet for Deposition Transcript of Christopher Schmandt, signed June 25, 2025

Patent Owner Dialect, LLC (“Dialect” or “Patent Owner”) files this Sur-Reply responding to Petitioner Google LLC’s Reply of May 16, 2025 (“Reply”). For the reasons below and as set forth in Patent Owner’s Response (“POR”), the Petitioner fails to establish the unpatentability of claims 1-27 of U.S. Patent No. 8,849,652 (the “’652 patent”).

I. INTRODUCTION

The primary dispute regarding the independent claims is whether Petitioner’s interpretation of the scope of these claims is correct where Petitioner fails to give full credit to every claim term, and in particular fails to give full credit to the claimed requirement of “synchronize the first context stack with a second context stack associated with a second device such that the context information of the first context stack is updated based on related context information of the second context stack.” Only Patent Owner’s interpretation gives full credit to every claimed feature, including the claimed “synchronize” requirement, and according to this interpretation, Petitioner’s theory cannot be correct.

Petitioner argues that the “claim language itself confirms that perfect synchronization is not required,” (Reply, 1), but then incorrectly advances an interpretation of the claims that includes no synchronization at all. Indeed, rather than give meaning to every claimed feature, Petitioner’s theory of invalidity leans exclusively on the latter portion of this claimed phrase: “such that the context

information of the first context stack is updated based on related context information of the second context stack.” The problem with Petitioner’s theory is that it looks exclusively to whether there is an addition made to a context stack, while completely omitting the requirement of synchronization. The result is that Petitioner contends that the claimed feature of “synchroniz[ing] the first context stack with a second context stack associated with a second device” can be practiced without any synchronization whatsoever. Moreover, Petitioner does not dispute that a stack possesses many attributes including the contents, size, and order of the stacks, and fails to show that even one of these attributes would be synchronized between two stacks according to Coffman. Petitioner’s theory cannot be correct.

Further, the recent deposition of Petitioner’s expert, Mr. Schmandt, confirmed additional defects in the Petition’s theories related to claim construction. When asked whether two stacks with similar content but in different orders would be viewed by a POSITA as “synchronized,” Mr. Schmandt responded that the answer “would depend on how the POSITA understood synchronized, *which is nuanced* by what the application is [omitted] and what the content is.” Ex. 2014, 26:14-25 (emphasis added). Explaining further, he stated that “I would say a stack with different ordering is not identical, but that doesn’t mean it is [not] synchronized and depending on what’s going on with the way in which the stack is

being used, synchronization may or may not require – be required to be absolutely perfect.” Ex. 2014, 28:2-9; Ex. 2015 (errata). When this topic was revisited later in the deposition, Mr. Schmandt said that “synchronizing is in the eye of the beholder,” and spent nearly four pages of deposition transcript discussing factors that would be relevant to how a POSITA would understand the term, “synchronizing.” Ex. 2014, 38:9-42:2. But in Mr. Schmandt’s opening and reply declarations, he provided none of this discussion, and offered no opinion on how a POSITA would have understood the claim term, “synchronize.”

Perhaps more importantly, the Petition completely failed its obligation under 37 C.F.R. § 42.104(b)(3), which requires a petitioner to set forth how the claims are to be construed. Here, Petitioner did no such thing, and instead stated that “Express claim construction is unnecessary because the prior art renders the challenged claims obvious under any reasonable construction... .” Pet., 18. This is clearly wrong, because as Mr. Schmandt admitted at deposition, the proper construction of “synchronize” depends on many factors, none of which were addressed in either Mr. Schmandt’s declarations or in the Petition. Moreover, under a reasonable construction that synchronization of two stacks requires more than just adding an entry, the Petition fails because the prior art does not disclose or suggest this claimed feature.

Patent Owner's Response ("POR") also established conclusively that Coffman fails to disclose or suggest the features of dependent claims 8, 16, and 24. In contrast to the five pages presented in the Petition as to these claims, Petitioner dedicates nearly 14 pages of its Reply presenting new argument regarding how Coffman allegedly discloses these features. Not only are these arguments untimely, they are also wrong. As the Board correctly concluded in IPR2024-00746, -00747, -00748, -00749, and -00751, Petitioner's initial interpretation of Coffman's relationship to the domain agents claimed in the patents-at-issue in those cases was deficient, and those petitions were denied. For the same reasons that those other IPRs were denied institution, the Petition failed to establish the unpatentability of at least dependent claims 8, 18, and 24, along with their dependent claims 9-11 and 25-27, and Petitioner's Reply cannot come in with new theories now to remedy those deficiencies.

For the reasons presented in Patent Owner's Response and below, Patent Owner respectfully asks the Board to confirm patentability of claims 1-27 over Petitioner's challenges.

II. PETITIONER'S CHALLENGES FAIL ON THE MERITS

A. Petitioner Failed to Satisfy its Burden of Properly Interpreting the Claims

As introduced above, Petitioner's expert, Mr. Schmandt, confirmed that the Petition was fatally deficient in its claim construction approach and failed to

comply with 37 C.F.R. § 42.104(b)(3), which requires a Petitioner to set forth how the claims are to be construed. Petitioner simply stated that “[e]xpress claim construction is unnecessary because the prior art renders the challenged claims obvious under any reasonable construction... .” Pet., 18. This is clearly wrong, however, because as Mr. Schmandt admitted at deposition, the proper construction of “synchronize” depends on many factors, none of which were addressed in either Mr. Schmandt’s declarations or in the Petition. Further, under a perfectly reasonable construction that requires two stacks—not just one of their entries—to be synchronized, the Petition fails.

When he was asked whether two stacks with similar content but in different orders would be viewed by a POSITA as “synchronized,” Mr. Schmandt responded that the answer “would depend on how the POSITA understood synchronized, which is nuanced by what the application is [omitted] and what the content is.” Ex. 2014, 26:14-25. Explaining further, he stated that “I would say a stack with different ordering is not identical, but that doesn’t mean it is [not] synchronized and depending on what’s going on with the way in which the stack is being used, synchronization may or may not require – be required to be absolutely perfect.” Ex. 2014, 28:2-9; Ex. 2015 (errata).

When this topic was revisited later in the deposition, Mr. Schmandt said that “synchronizing is in the eye of the beholder,” and spent nearly four pages of

deposition transcript discussing factors that would be relevant to how a POSITA would understand the term, “synchronizing.” Ex. 2014, 38:9-42:2. He acknowledged that “synchronization may be required to be perfect.” Ex. 2014, 38:17-18. He noted also that a proper understanding of what is required by synchronization depends on “what is the data and how carefully does the data need to match between two different structures presumably at two different computers” Ex. 2014, 40:11-16. Further, he acknowledged that another nuance is about the mechanism by which “stacks get out of order.” Ex. 2014, 40:20-41:2; *see also id.*, 41:3-42:2 (discussing mechanisms that could result in two perfectly synchronized stacks getting the contexts out of order). In Mr. Schmandt’s opening and reply declarations, he provided none of this discussion, and offered no opinion on how a POSITA would have understood the claim term, “synchronize,” or even what factors would be relevant to a proper construction.

Further, as noted above, the Petition took the position that “[e]xpress claim construction is unnecessary because the prior art renders the challenged claims obvious under any reasonable construction... .” Pet., 18. But under a reasonable construction where “synchronization may be required to be perfect” per Mr. Schmandt’s testimony (Ex. 2014, 38:17-18), synchronization of two stacks as claimed requires more than just adding an entry to one stack, as disclosed in Coffman.

And because it is Petitioner's obligation to set forth the proposed constructions and the reasons for those proposed construction, Petitioner's failure to do so here should be deemed a failure of proof.

B. Petitioner Fails to Recognize the Importance of the Examiner's Comments During Prosecution

Petitioner's Reply once again disputes the '652 patent's file history, but Petitioner fails to understand the importance of the examiner's statement of reasons for allowance. Specifically, the examiner stated, "the limitation [of the claim being examined] ...is also more narrow in that not only is the context synchronized, but context stacks/sets of distinct devices are synchronized." Ex. 1012, 447 (emphasis in original); *see also id.*, 171. As the examiner correctly understood, synchronizing a context stack/set across devices is a narrower limitation than just synchronizing a context across devices. And yet, Petitioner continues to point to Coffman's adding or updating a context, without addressing the narrower scope of the claims at issue here, which require synchronizing context stacks/sets across devices. Petitioner fails to establish that these narrower features are disclosed or suggested in the asserted references.

C. Petitioner's Ground 1 Fails to Satisfy Synchronizing a First Context Stack (or Context Set) with a Second Context Stack (or Context Set)

As introduced in the POR, claims 1 and 14 of the '652 patent recite a "first context stack associated with a first device" and requires *synchronizing "the first*

context stack with a second context stack associated with a second device.”

Similarly, claim 20 recites a “first context set associated with a first device” and “*synchronizing the first context set with a second context set* associated with a second device.” Petitioner relies on Coffman to assert that Coffman “makes clear” these limitations are satisfied, arguing (Pet. 30-31) (emphasis in original):

Coffman further makes clear that a master device’s context stack ... is ‘**synchronized**’ with a slave device’s context stack ..., explaining:

With a master/slave network configuration, the master dialog manager can compile all the lists and match the functions and needs with conversational capabilities. In addition, context information may be transmitted by indicating passing or pointing to the context stack/history of the device or application that the controller can access and add to its context stack.

(Coffman, 25:10-14; Schmandt, ¶70.) Coffman further explains that, using dialog manager protocols, devices can exchange various kinds of information, including notification of “addition to contexts,” “context update” and “notification of context changes.” (Coffman, 27:7-20.)

However, none of these passages address synchronizing a “context stack” or “context set” in one device with another “context stack” (or “context set”) in another device. Ex. 2013, ¶69. They certainly do not “make clear” that any synchronization is occurring and do not mention synchronizing. *Id.*, ¶¶69-72.

For two stacks to be synchronized, it is not enough that they contain the same entries; they also must contain those entries in an identical order because order is an attribute of a stack. Ex. 2011 (transcript of the first Schmandt deposition), 13:10-17, *see also id.*, 14:13-16 (Q: “And I think we both agree that order of data within a stack is an attribute of a stack, correct? A: Yes, correct.”); 14:25-15:6 (“So if one stack has different data or more data than the other stack, then they are not identical ...”). Patent Owner’s expert also agreed (Ex. 2013, ¶73), and explained that a POSITA would not interpret two stacks containing different context entries, or even equivalent context entries but in different orders, as being synchronized. Ex. 2013, ¶¶70, 73-74.

As a result, Coffman’s disclosure that a master dialog manager may instruct a slave dialog manager *to add* or *update* context in a context stack is not sufficient to conclude that these stacks are “synchronized.” As Patent Owner’s expert explains, a POSITA would not interpret the activities of “addition” to a context stack or updating existing information for a context entry in context stack to produce two context stacks that are synchronized. *Id.* Patent Owner’s expert also noted that a POSITA would understand synchronization to require more than the operations discloses in Coffman. *Id.* Since a stack is an ordered list, simply “adding” an entry based on an instruction from another device would not have the effect of synchronizing two context stacks without knowing that the entry is in the

same relative location in both stacks, along with other conditions of synchronization. *Id.*

On Reply, Petitioner posits that Patent Owner's interpretation requires "perfect synchronization." Reply, 5 (underlining in original). But Petitioner runs to this extreme because its own theory of invalidity is lacking. It is correct that for two stacks to be synchronized, they must contain the same entries in the same order. Mr. Occhiogrosso explained this in his declaration, and Mr. Schmandt did not dispute this fact during his earlier deposition or in his reply declaration. However, the problem with Petitioner's theory is not simply that Petitioner fails to establish perfect synchronization in Coffman. Petitioner also fails to establish that adding or updating contexts on a context stack involves any synchronization whatsoever. And where the challenged claims require synchronization, Petitioner's theory that lacks any synchronization cannot be successful.

As introduced above, Petitioner focuses its analysis of this claimed element with the latter portion of the claimed phrase-at-issue, where "the context information of the first context stack is updated based on related context information of the second context stack." '652 patent, 38:50-54 (claim 1), 40:47-51 (claim 14), 41:58-61 (claim 20). Indeed, Petitioner elevates this phrase above the preceding clause that requires that the stacks are synchronized, and as a result interprets the claim such that any update to a context stack would satisfy the entire

claimed phrase. As Petitioner states, “according to the claim itself, ‘**updating**’ the first context stack’s context information ‘**based on related context information**’ of the second context stack is enough.” Reply, 6. This is incorrect because it omits any required concept of synchronization. Indeed, Petitioner never even attempts to explain how updating a context stack yields any synchronization. Petitioner simply omits that claimed requirement from the claim and from its challenge.

Petitioner turns to the ’652 patent specification, but overlooks a key distinction between the ’652 patent and Coffman, namely that the ’652 patent expressly describes “synchronizing the context across the registered mobile devices 36.” ’652 patent, 19:36- 44. Coffman does no such thing. Petitioner then relies on its expert, rather than Coffman or any patent or printed publication, to hypothesize that “a person of ordinary skill in the art would have understood and found it obvious that Coffman’s synchronization could at least sometimes be ‘perfect.’” Reply, 7. But this is a new impermissible theory unsupported by the Petition, Coffman, or any credible evidence. In any event, obviousness is not established by possibilities, and it is pure speculation that context stack updates per Coffman “could ... result” in identical context stacks. *See* Reply, 7.

Petitioner also contends that “neither Patent Owner nor its expert attempts to address the actual claim language or the Institution Decision’s analysis of the

specification.” Reply, 8. But this is flat wrong, as only Patent Owner gives meaning to the full claimed phrase at issue, whereas Petitioner reads out the requirement for synchronizing. Petitioner confirms its overly-broad interpretation of the claim by incorrectly concluding that Coffman’s 25:10-14 (“[C]ontext information may be transmitted by indicating passing or pointing to the context stack/history of the device or application that the controller can access and add to its context stack.”) is sufficient to disclose the claimed synchronizing (Reply, 9-10), when there is nothing about this disclosure in Coffman that includes or suggests any synchronization of two context stacks.

For all these reasons, Petitioner fails with regard to Ground 1 and independent claims 1, 14, and 20, along with corresponding dependent claims 2-13, 15-19, and 21-27. Grounds 2 and 3, which are dependent on the success of Ground 1’s challenges to the independent claims, also fail, particularly as Petitioner does not rely on any secondary references to remedy the deficiencies of Coffman with regard to the claimed synchronization.

D. Petitioner’s Ground 1 Also Fails to Satisfy the Identification of Domain Agents Configured to Process a Command or Request of Dependent Claims 8, 18, and 24

Coffman also fails to disclose every claimed requirement of at least dependent claims 8, 18, 24, and their respective dependent claims. Claim 8 of the ’652 patent depends from claim 1 via claim 3 and recites, in relevant part, one or

more physical processors caused to “identify one or more domain agents associated with the one or more context entries, wherein the one or more domain agents are configured to process the command or request; and generate a response to the command or request using the one or more domain agents.” As Petitioner contends, claims 18 and 24 include substantially similar features as claim 8, although they depend from different base claims. Pet., 59, 60.

As explained in the POR, Petitioner is incorrect that identification of a context entry in a context stack yields the identification of a conversationally-aware application configured to process a user's request or command. The conversationally-aware application receives processed results for presenting to the user from the CVM and backend, but nothing about Coffman indicates that a conversationally-aware application is invoked to process those results. Petitioner's theory to the contrary is tainted by 2025 hindsight, rather than what Coffman actually teaches.

While the Petition included only five pages presented as to these dependent claims, Petitioner dedicates nearly 14 pages of its Reply presenting new argument regarding how Coffman allegedly works. Not only are these arguments untimely, they create endless confusion rather than clearing up how Coffman operates.

The Reply most clearly breaks down when Petitioner argues that “even if Patent Owner were correct that a context stack in Coffman is limited to a single

application, Coffman explains that user input may not necessarily match any entry in a context stack, and if not, other context stacks are searched to find a match.”

Reply, 19. Petitioner then quotes Coffman at 55:27-56:3. This disclosure introduces the concept of neighboring devices, a first device, and returning error messages to a user. Reply, 19 (discussing Coffman, 55:27-56:3). Nothing about this disclosure indicates that Coffman identifies a context entry in a context stack, and then identifies which conversationally-aware application can be configured to process the user's request or command based on the identified context entry.

The Reply quotes a portion of Coffman's claim 11 to argue that the dialog manager can “select[] an ... application based on input queries,” (Reply, 12-13), but this partial quotation is completely misleading. The full element recites “a dialog manager for managing dialog across the applications and for selecting an active dialog, context and application based on input queries.” Coffman, 65:12-13. Of course a dialog manager managing dialogs for multiple applications would need to be able to distinguish the dialog, context, and application associated with a user's input. Moreover, claim 11 also recites a “conversational task dispatcher for coordinating and dispatching conversational tasks,” and nowhere does the claim (or Coffman) discuss a task dispatcher attempting to determine which conversationally-aware application could process a user's voice request, and dispatch a task to the selected conversationally-aware application. Rather, the

“task dispatcher/controller 402 feeds input from the conventional and conversational subsystems services 412, 406 to the context stack 405 (via the dialog controller 404 which selects the active context) and *feeds the output of the different tasks to the different subsystems and prioritizes them.*” Coffman, 31:15-18 (emphasis added); *see also* Coffman, 30:26-31:23.

Ultimately, Petitioner explains that Coffman’s system “allows a user to seamlessly control multiple Windows applications, for example, running in parallel[.]” Reply, 21 (quoting Coffman, 4:13-16). But this is consistent with Patent Owner’s argument, which explains that Coffman includes a conversational UI 10 that can interact with one or more conversationally aware applications 11, and which interact with the CVM 14. Nothing about this structural organization indicates that the CVM 14 determines which of the conversationally aware applications 11 are configured to process a user’s command. Indeed, an application being conversationally aware indicates that the application has verbal commands that it can recognize, and it does not need a translator to convert a verbal command into a software command that it can process. The truth is that any application—conventional or conversationally aware—could receive a command that has been converted from user utterance to software instruction, and process that software instruction. The fact that Coffman discloses both conventional applications 12 and conversationally aware applications 11 on the user-facing side

of the CVM 14 is indicative that the distinction exists in how those applications interact with users, not whether the CVM can select a conversationally aware application and send a non-verbal software command for that conversationally aware application to execute. Again, Petitioner's view of how Coffman operates is tainted by 2025 hindsight, where ubiquitous smartphone devices can receive a user command, determine which of the smartphone's downloaded application can process the command, and issue the command to the selected application. That is not Coffman.

As presented in Patent Owner's Response and as supported with expert testimony, Petitioner is wrong in trying to establish that Coffman's conversationally-aware applications disclose the claimed "one or more domain agents" of dependent claims 8, 18, and 24. For these reasons, Petitioner has also failed to establish the unpatentability of dependent claims 8, 18, and 24, and their respective dependent claims 9-11 and 25-27.

III. CONCLUSION

For the reasons presented above, the Petition fails to establish the unpatentability of any challenged claim. Patent Owner asks that the Board issue a final written decision confirming patentability of each challenged claim.

Dated: June 27, 2025

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CERTIFICATE OF WORD COUNT

The undersigned certifies that the foregoing PATENT OWNER'S PRELIMINARY RESPONSE complies with the type-volume limitation in 37 C.F.R. § 42.24(c)(4). According to the word-processing system's word count, the brief contains 3,619 words, excluding the parts of the brief exempted by 37 C.F.R. § 42.24(a).

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CERTIFICATE OF SERVICE

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