

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner,

v.

METARAIL, INC.,
Patent Owner.

Case IPR2024-01272
U.S. Patent No. 10,152,734

PATENT OWNER'S SUR-REPLY

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I. PETITIONER’S REPLY RAISES IRRELEVANT CLAIM CONSTRUCTION ARGUMENTS

The Board should disregard Petitioner’s Reply because it raises irrelevant claim construction issues that do not need to be resolved to deny institution of the Petition. *See Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (“[W]e need only construe terms that are in controversy, and only to the extent necessary to resolve the controversy.”) (internal quotations omitted). Petitioner requested permission to submit further briefing to address claim construction positions allegedly raised in the POPR with respect to the term “universal variable map.” But Patent Owner did not present any claim construction arguments regarding that term, nor does that term’s construction have any impact on the arguments set forth in the POPR for denying the Petition. Rather, the POPR makes clear that the Petition should be denied because Halevy does not teach or suggest the claim language “determining . . . field identifiers of the networked data source” and “determining . . . field identifiers of a networked data target that are mapped to the field identifiers of the networked data source” – limitations that are separate from the term “universal variable data database representing a universal variable map.” POPR, 16-25.

As set forth in the POPR, Halevy’s “form database” does not teach or suggest any “field identifiers of the networked data source,” nor any “field identifiers of a

networked data target that are mapped to the field identifiers of the networked data source.” *Id.*; EX2001, Malek Dec., ¶¶ 58-71. Accordingly, the Petition can and should be denied regardless of how “universal variable data database representing a universal variable map” is construed. Indeed, the irrelevance of construing this term is further reinforced by the fact that *nowhere in the Reply does Petitioner offer a proposed construction for the term.*

II. PETITIONER’S REPLY MISCHARACTERIZES PATENT OWNER’S ARGUMENTS AND IMPROPERLY RAISES ADDITIONAL ARGUMENTS REGARDING THE PRIOR ART

Petitioner mischaracterizes Patent Owner’s arguments, attempting to manufacture a claim construction dispute where none exists. For example, Petitioner argues that “universal variable map” is not limited to the Table 1 embodiment, but Patent Owner never said that it was. Reply, 3. Nor does the POPR “attempt[] to limit the claims to exclude the Figure 11B” embodiment, as Petitioner argues. Reply, 3. Tellingly, Petitioner does not cite to any specific part of the POPR where this purported exclusion occurs.

Instead, Petitioner devotes the next two pages of the Reply to improper additional argumentation as to why it contends the combination of Oldham and Halevy purportedly teaches the “determining” steps of the claims. But this has nothing to do with claim construction. Rather, Petitioner simply engages in further argumentation regarding the asserted prior art’s purported teachings. Indeed,

nowhere in this section of the Reply does Petitioner attempt to connect its arguments to the construction of “universal variable map,” the sole claim term for which Petitioner argued it needed further briefing.

Petitioner’s further arguments regarding Oldham and Halevy are improper. The Board allowed Petitioner to submit a reply solely “to address the claim construction of the ‘universal variable map’ recited in the claims,” and warned that “[a]ny attempt to introduce new evidence into the record or *raise new arguments that go beyond the authorized claim construction issue* will not be considered by the Board.” 2/5/25 Board email (emphasis added). Accordingly, the Board should ignore all of the discussion in the Reply regarding Oldham and Halevy, as it goes beyond the permitted scope of the reply.

Even if the Board considers Petitioner’s new arguments in the Reply regarding Oldham and Halevy (it should not), those arguments further show Petitioner’s inability to maintain any consistent argument as to what the prior art teaches. Petitioner states that “[t]he Petition showed that in the Oldham+Halevy combination, when the user enters a query to Oldham’s engine, the query words, which are mapped to SO-properties . . . are the claimed *field identifiers of the networked data source*.” Reply, 4. But this is not what Petitioner argued in the Petition. Rather, it is a brand-new argument raised for the first time in the Reply.

Nowhere in the Petition did Petitioner ever argue that “query words” or “keywords” in a user’s search query constitute “field identifiers of the networked data source.” Instead, the Petition asserts that “POSAs would have recognized that the *SO-properties* mapped to the keywords are determined ‘field identifiers of the networked data source stored in the universal variable data database’” Pet., 34 (emphasis added). Indeed, Petitioner argued in the Petition that the user’s search query is the “dynamic data” from which the “field identifiers” (the SO-properties) are determined, not that the keywords in the search query are themselves “field identifiers.” Pet., 32-34.

Patent Owner already explained in the POPR why SO-properties are not “field identifiers of the networked data source.” POPR, 17-18; EX2001, Malek Dec., ¶¶ 60-62, 48-51. Confirming this flaw in its obviousness theory, Petitioner now tries to change tack and present a different argument that keywords in the user’s search query meet this limitation. But it is too late for Petitioner to raise on reply a new theory for why the Oldham+Halevy combination purportedly teaches this limitation. *See Wasica Finance GmbH v. Continental Auto. Sys., Inc.*, 853 F.3d 1272, 1286-87 (Fed. Cir. 2017) (“Continental’s subsequent arguments amount to an entirely new theory of *prima facie* obviousness absent from the petition. Shifting arguments in this fashion is foreclosed by statute, our precedent, and Board guidelines.”). Petitioner’s new theory is also not supported by its expert, who takes the contrary

position that it is the SO-properties in Halevy that are the “field identifiers of the networked data source,” not keywords. EX1003, ¶ 102. In addition, Petitioner’s inability to present a consistent argument as to what the alleged “field identifier” is in the Oldham+Halevy combination is fatal to the Petition. *See Google LLC v. Uniloc USA, Inc.*, IPR2017-02082, Paper 10, at 12-14 (PTAB Mar. 29, 2018) (“We will not, and cannot, piece together Petitioner’s inconsistent and contradictory arguments into a cogent and coherent explanation that supports anticipation.”).

Finally, even if the Board considers Petitioner’s keyword theory to be properly disclosed in the Petition, Patent Owner already explained in the POPR why keywords of a user query are not “field identifiers.” POPR, 22; EX2001, Malek Dec., ¶ 67. And while Petitioner argues that “[d]etermining field identifiers from search query keywords is expressly disclosed in the ’734 patent” (Reply, 4), this statement itself acknowledges that keywords are not the same as field identifiers. Rather, there must be some additional step of “determining” the relationship between the keywords and the field identifiers. Petitioner’s argument in the Reply regarding “keywords” as the purported “field identifiers of the networked data source” therefore cannot save the Petition.

Dated: February 19, 2025

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CERTIFICATE OF SERVICE

Petitioner has consented to e-mail service in this proceeding. Pursuant to 37 C.F.R. §42.6, the undersigned certifies that on February 19, 2025, a copy of the foregoing document was served by email upon the following counsel at the below email addresses:

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