

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TWITCH INTERACTIVE, INC.

Petitioner,

v.

RAZDOG HOLDINGS LLC

Patent Owner.

IPR2025-00307
U.S. Patent No. 9,729,658

PETITIONER'S RESPONSE TO REQUEST FOR DIRECTOR REVIEW

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I. INTRODUCTION

Patent Owner's ("PO") Request for Director Review (Paper 48, "Request" or "Req.") of the FWD (Paper 47) finding the challenged claims unpatentable should be denied. As PO acknowledges, Director Review requests are limited to decisions presenting (a) an abuse of discretion, (b) important issues of law or policy, (c) erroneous findings of material fact, or (d) erroneous conclusions of law. PO presents no such issues and instead quibbles with the Majority's heavily fact-bound determinations. Because those determinations are all well supported by the record evidence, the Request presents nothing to command the Director's attention.

II. ARGUMENT

A. The Majority Construed *Real Time* Correctly, Both on Its Own and in the Context of the Challenged Claims

The Majority dedicated twenty-one pages of the FWD to the construction of the "real time" limitations in the '658 patent. *See* FWD 10-32. Those twenty-one pages comprehensively analyzed the parties' positions and the intrinsic record, and the Majority ultimately agreed with Petitioner that,

[O]ne of ordinary skill in the art at the time of the claimed invention considering the '658 patent in its entirety, would understand that the use of the term "real time" in claim 1 of the '658 patent means that content data and content applications from multiple content sources or service providers pre-selected by a user are streamed to a master server from their respective sources or providers as soon as it becomes available, without significant or perceptible delay, wherein the master

server organizes the content on a master web page making it viewable to a user on a remote computer device using a slide tool program for scrolling or paging through the content as soon as it becomes available, without significant or perceptible delay to the user.

FWD 31-32. PO now alleges that the Majority’s construction was erroneous. Although PO agrees with the Majority—and with Petitioner—that just the phrase “real time” means “that content is ‘updated and displayed as soon as it becomes available, without significant delay,’” PO nevertheless argues that “real time” should be inextricably tied to the phrase “on a master web page” that appears in claim limitation 1[b2]. Req. 3-4; FWD 17. PO presented this same argument at least three times over the course of the IPR proceedings (POR (Paper 26) 18-20; Sur-reply (Paper 37) 3-7; Paper 45 (Oral Hearing Tr.) 58:21-59:16, 67:15-25), and the Majority substantively addressed and correctly rejected it each time. PO’s latest attempt fares no better because it repeats the same mistakes that PO has made again and again: (1) PO incorrectly interprets the claim while ignoring key language, and (2) PO mischaracterizes the intrinsic record. There is no claim construction error here that requires the Director’s attention.

1. PO’s incorrect interpretation of the claim language

PO’s argument begins—as it did when PO previously presented it (*see* POR 11, 19; Sur-reply 3)—with an incomplete recitation of the claim language. According to PO, “1[b2] requires software for organizing content from multiple

sources ‘streamed to the master server simultaneously in real time from their respective servers *on a master web-page*’ and ‘viewable...*on the master web-page*’,” and “1[b3] separately requires a slide tool for scrolling or paging through that same content ‘through the master server in real time from the master web-page.’” Req. 3-4 (emphases in original, citations omitted). This paraphrasing ignores key context appearing in 1[b1] and in what PO has replaced with an ellipsis.¹ As the Majority explained, “[t]he fundamental problem with [PO’s] position is that it tends

¹ Limitation 1(b) reads in its entirety as follows:

a master application stored in the memory of the master server and that executes on the processor of the master server and that includes software coded for organizing content data and content applications from multiple content sources or service providers pre-selected by the user and streamed to the master server simultaneously in real time from their respective servers on a master web-page and are viewable from the remote computer devices through the master server on the master web-page, wherein the master application programs a processor on the remote computer devices to operate and execute a slide tool program for scrolling or paging through the content data or the content applications from the multiple content sources or service providers simultaneously and through the master server in real time from the master web-page and from the remote computer by operating the slide tool program from the remote computer;

to misinterpret the full context of claim 1 and the other independent claims when read in connection with the '658 Specification.” FWD 28-29.

Nevertheless, based on excerpted claim language, PO argues “the Majority erred by ambiguously construing ‘real time’ with an amalgamation of separate claim elements” that, according to PO, “creates ambiguity and renders language elsewhere in the claim redundant.” Req. 4. But PO never identifies the alleged ambiguity or explains what claim language is supposedly redundant. If PO means to rehash its POR argument that the Majority’s construction “creates an internally inconsistent and ambiguous limitation” (POR 17), PO is wrong for the reasons explained in the Reply (*see* Paper 32, 3) and FWD (FWD 10, 15-19).

PO further argues that “the Majority’s construction rewrote the claim” in a way that “never accounts for 1[b2]’s requirement that content is streamed ‘in real time . . . on a master web-page’,” and, according to PO, “[t]his erroneously reads out that content must be streamed ‘on a master webpage’ in ‘real time’—not simply stored on a server for later on-demand viewing.” Req. 4-5; *id.* 6 (“1[b2] requires content from multiple sources to be ‘streamed to the master server simultaneously in real time...on a master web-page’ and made ‘viewable...on the master web-page.’”). PO has made some flavor of this argument several times (*see, e.g.*, POR 18, 29-30, 36-38; Sur-Reply 1-3, 15-16, Oral Hearing Tr. 38:22-39:20), and the Majority correctly rejected it for the same reason that it is wrong now: it is based on

“repeated emphasis of the phrase ‘*in real time on a master web-page*,’” which “does not appear in any of the claims verbatim.” FWD 29 (emphasis in original). Rather, as the Majority explained, 1[b1] and 1[b2] collectively describe “a master application stored on a master server with software for organizing content data and applications from multiple sources or providers pre-selected by the user and streamed to the master server simultaneously in real time that are made viewable from the remote computer devices through the master server on the master web-page.” FWD 28; *id.*, 20 (“It is important to appreciate that claim 1 describes a ‘master application’ that is stored in the memory of the ‘master server,’ and it is the ‘master application’ that ‘executes on the processor of the master server software...coded for organizing content data and content applications from multiple content sources or service providers pre-selected by the user.’”). PO does not address this explanation, and with good reason: it is consistent not only with the **complete** claim limitation—as opposed to PO’s misleading excerpts—but also with the rest of the intrinsic record, as the Majority explained. FWD 27-32; *see* Reply 3-6.

Rather than substantively engage with the Majority’s analysis of the intrinsic record as to 1[b1] and 1[b2], PO pivots to 1[b3] and argues the Majority’s construction “excludes 1[b3]’s requirement that content is scrolled or paged through ‘in real time from the master web-page,’ requiring instead only the separate requirement that content is ‘viewable’ using a slide tool ‘as soon as it becomes

available.”” Req. 5. This argument derives from PO’s unsupported belief that “content streamed from content sources must be ‘displayed as soon as it becomes available’ on the master web-page ‘without significant or perceptible delay.’” *Id.*; *id.*, 7 (“The claims require real-time streaming and display on the master webpage.”).² But that is not what the claim says. The claim language does not require content **display** “as soon as it becomes available.” Instead, as the Majority explained, “the ‘real time’ experience of the user occurs though the use of the slide tool program operating on the remote computer device by scrolling or paging through the content data or content applications on the master web page organized by the master application residing on the master server.” FWD 28. This finds support in the intrinsic record, including in the dependent claims and the prosecution history. *See* FWD 29-30; Reply 4-6. And at the oral hearing, PO not only admitted that “‘real time’ streaming does not preclude some storage or delay,” but PO further “appear[ed] to agree that the source content is first streamed to the master server from the content sources, and then navigated or scrolled by the user in real time on the master web page, ostensibly using the recited slide tool program on the remote computer device”—which aligns with the Majority’s construction. FWD 22-24, 30

² PO retreats (Req. 5) from its prior position the claims require “live” streaming (*see* POR 13-14, 38, 41, 48; Reply 8-10; Sur-reply 11-12).

(citing EX1082; Oral Hearing Tr.). PO does not address either of these points in its Request.

PO next says “[c]laim 1 uses ‘real time’ in two distinct places” in 1[b2] and 1[b3], and PO accuses the Majority of “conflat[ing] those distinct requirements by reasoning that ‘the “real time” experience of the user occurs through the use of the slide tool program...by scrolling or paging through [content] on the master web page.” Req. 6 (ellipsis original). According to PO, “the user’s slide-tool experience cannot replace the separate requirement that the content itself be streamed and made viewable ‘in real time...on a master web-page.’” *Id.* This unsupported attorney argument ignores that the Majority expressly addressed the two separate uses of “real time” in the claim and accounted for them in its construction. FWD 27-28. PO further says “[n]or can ‘real time’ mean merely that the user actively scrolls or pages through content, because scrolling and paging necessarily occur when the user performs them in real time.” Req. 6. This too is an unsupported rehash of PO’s prior argument that the Majority rejected (*see* POR 44-45; Sur-reply 7) because it misreads the claimed “scrolling or paging through the content data in real time” (from 1[b3]) to mean that content is “displayed on the master web-page in real time”—a requirement that appears nowhere in the claims. FWD 18-20; Reply 4. Ultimately, the Majority’s construction correctly accounts for “real time” in 1[b3] by requiring that “the master server organizes the content on a master web page

making it viewable to a user on a remote computer device using a slide tool program for scrolling or paging through the content **as soon as it becomes available, without significant or perceptible delay to the user.**” FWD 31-32.

Finally, PO argues “the Majority’s formulation improperly adds uncertainty” because, according to PO, “[t]he claims require real-time streaming and display on the master webpage, while the Majority’s construction permits later retrieval and display of stored content after a user request.” Req. 7. This not only ignores PO’s own admission that “‘real time’ streaming does not preclude some storage or delay” (FWD, 22-23), but it once again attempts to add a “real-time...display” requirement that appears nowhere in the claims (*id.*, 28-29).

2. The intrinsic record confirms the Majority’s interpretation

PO’s arguments regarding the ’658 specification are similarly flawed. *First*, PO argues “[t]he specification consistently links” “real-time” to “what appears on the ‘master webpage.’” Req. 7. This is the same POR argument the Majority already considered. POR 19, 21; FWD 12-13, 18. PO even cites and misapplies the same specification passages from its POR. For example, PO again says the patent “defines the page as ‘dynamic’ because it ‘displays streaming content data and content applications...in real time.’” Req. 7 (citing Ex. 1001, 2:56–59); POR 21. But “dynamic” appears nowhere in the claims, nor do the claims require real-time display. Reply 5, 8-9, 15, 19, 23; FWD 31-32. And PO cites the same specification

passages it cited in the POR to argue the patent “likewise describes users viewing, scrolling, and navigating dynamic content from multiple sources ‘in real time.’” Req. 7 (citing Ex. 1001, 2:66–3:4, 4:21–26, 5:21–26, 6:35–41); POR 25-26. But as Petitioner previously explained, PO’s cites do not support its argument because they are directed to the “slide tool program” of 1[b3] rather than any real-time display of content as PO alleges. Reply 5; FWD 20-22.

Second, PO asserts “the Majority [did not] articulate ‘real time’ constructions for claims 7 or 12,” and accuses the Majority of “import[ing] claim 1’s formulation without reconciling the materially different claim language.” Req. 8.³ But PO fails to explain **how** the meaning of “real time” is supposedly “materially different” in claims 7 and 12 than in claim 1, and PO ignores that the Majority expressly addressed those claims in relevant part (*see* FWD 29). Further, PO ignores that neither Petitioner nor PO has ever argued that “real time” has a different meaning in

³ PO cites a footnote from the FWD that stated, “[w]e note that independent claims 7 and 12 also use the term ‘real time’ but in slightly different contexts than claim 1. Accordingly, the understanding of the use of the term ‘real time’ in claims 7 and 12 may be slightly different than its application in claim 1.” Req. 8 (citing FWD 31 n.2). But PO fails to explain why “different contexts” and a “use” that “may be slightly different” would lead to a different construction for “real time.”

claims 7 and 12 than it does in claim 1. *See* POR 17; Reply 4-5. To the extent PO now seeks to raise a new argument, it is untimely and should be rejected.

B. The Majority Did Not Err in Finding the Challenged Claims Unpatentable.

PO next argues that even if the Majority’s construction of “real time” is correct (which it is), the Board erred in finding the challenged claims unpatentable. Req. 9-15. These arguments, however, all present heavily fact-bound disputes, primarily regarding the meaning of the prior art. The Majority extensively addressed the merits of these unpatentability grounds, including PO’s arguments across almost 70 pages of analysis. FWD 32-101. PO presents nothing in its Request that is worth the Director revisiting.

1. For Grounds 1A/B, PO Recycles Its Incorrect Arguments About Darnell’s Teachings.

PO argues that even under the Majority’s construction, Grounds 1A/B still fail because “Darnell does not make content ‘viewable’ ‘as soon as it becomes available.’” Req. 9. Specifically, PO repeats its argument that “Darnell uses a retrieve-merge-store-then-request workflow,” which according to PO, does “not show that it displays newly available content as soon as it becomes available under the Majority’s construction” because “Darnell may transmit stored items after a request.” *Id.*, 10-11.

PO made this argument previously and the Majority correctly rejected it. POR 35; FWD 47-52. **First**, PO continues to argue about real-time display, when the claims require only the content to be viewable, not displayed. **Second**, PO admits storage and delay are permissible but takes no position on how much delay is acceptable. FWD 22-24, 49-50; Oral Hearing Tr., 41:26–42:14 (“Q: So how much of a delay is acceptable in your view? A: Yes, so I don’t have a position on that”), 53:20–25; Ex. 1082, 125:19–22, 126:3–10. Given these admissions, PO’s continued focus on storage and delay is puzzling. **Third**, PO’s argument about user requests misreads Darnell because as noted above, Darnell discloses its feed tracker module retrieves content items “as content feeds are updated,” without conditioning retrieval on a user request. FWD 51 (quoting Darnell ¶74). And notably, the Majority correctly noted the claim itself requires user interaction (i.e., user requests) in 1[b3] where the user is “scrolling or paging through the content data or the content applications from the multiple content sources or service providers simultaneously and through the master server in real time from the master web-page.” *Id.*

Recognizing the Board’s thorough review of PO’s incorrect arguments about Darnell’s disclosure and the scope of the challenged claims, PO presents a new argument, attacking the Majority’s application of the ’658 specification’s definition of “content data.” Req. 11-12 (citing FWD 50 (quoting Ex. 1001, 4:1–3)). Specifically, the Majority cited this definition in conjunction with rejecting PO’s

argument that subsequent transmission after storage is not allowed. FWD 50. PO now argues the Majority misunderstood this definition which according to PO applies only to “content storage at its source (a separate limitation)—not at the ‘master server.’” *Id.*, 11. This new argument appears beside the point because PO does not dispute the claims allow for storage and some delay, as discussed above. In any event, PO is wrong. The specification defines *content data* as “any data or information that is ***stored remotely on servers*** that are generally accessible over the internet/intranet via a service provider servers.” EX1001, 4:1-3. The Petition and Reply consistently applied this definition, which was never refuted by PO. Pet. 8; Reply 7, 10, 23, 24. Instead, PO attempted to limit *content data* to a live-streaming paradigm, not a source issue. Reply 10; POR 13-14, 38, 41, 48. PO’s arguments about Darnell present no issues that are appropriate for Director Review.

2. The Board Correctly Understood Petitioner’s Challenges in Grounds 2A/B, Which Show the Challenged Claims Are Unpatentable.

The Majority found the Petition’s Grounds 2A-2B (Pet. 56-82) showed a subset of the challenged claims would have been **obvious**. FWD 82-101. In its Request, PO makes two arguments: (1) Dasgupta does not teach “real time content streaming on a master webpage or allowing scrolling/paging/navigating through such content in real time” (Req. 9), and (2) the Majority improperly found Dasgupta sends webpages based on a “modification theory” Petitioner did not make (*id.*, 13-

15). PO's first argument is premised on its incorrect claim construction, which should be rejected for the reasons discussed above. As discussed below, PO's second argument is merely a disagreement with the Majority's correct understanding of the Petition's grounds and is not the type of issue that is appropriate for Director Review.

PO argues the Petition presented only a "disclosure theory" (i.e., that Dasgupta *disclosed* sending webpages). Req. 13. This is incorrect. Instead, the Petition explained "Dasgupta discloses or suggests" 1[b2]. Pet. 67 (citing Martin, ¶¶323-26). As to the "master webpage," the Petition further explained:

Dasgupta also discloses that media content may be transmitted between subsystem 202 and subsystem 204 via network 206 using TCP/IP and "Hypertext Transfer Protocol ('HTTP')" ([Dasgupta], 7:20-35), which governs how web browsers and web servers intercommunicate to load web pages. Martin, ¶325. It was well-known that web pages include HTML and JavaScript programs to create UIs. Martin, ¶325 (citing Darnell). Accordingly, POSITAs would have understood subsystem 202 sends webpages to subsystem 204 using the HTTP (*on a master web-page*). *Id.*, ¶325.

Pet. 68-69. Dr. Martin likewise explained what a POSITA would have found obvious from Dasgupta's disclosure of transmitting content using TCP/IP and HTTP and cited objective evidence in support. Martin, ¶325. Both the Petition and Dr. Martin's cited testimony make clear the Petition was not relying on Dasgupta's explicit disclosure but rather what a POSITA would have understood from that disclosure

(i.e., what a POSITA would have found obvious based on well-known background knowledge, which Dr. Martin supported with objective evidence). *See* Reply 21-22 (citing Pet. 68-69; Martin, ¶325; EX1083, ¶¶6-7; EX1004, ¶¶41, 96).

The Majority agreed. FWD 88-92. Specifically, the Majority reproduced the same portions of the Petition and Dr. Martin’s testimony and found the Petition’s statement that a POSITA “‘would have understood subsystem 202 sends webpages to subsystem 204 using the HTTP (on a master web-page),’ is consistent with the position taken in the Petition that ‘Dasgupta...suggests this limitation’” and also with the Reply’s position that “‘the Petition explains that it would have been obvious to use a web-page as Dasgupta’s channel guide because it is transferred using HTTP.’” *Id.*, 90-91 (citing Pet. 67, 69; Reply 21; Martin, ¶325). The Majority did not err in making this determination because a petitioner is permitted to elaborate on, expand, or clarify its previously raised arguments in a reply. *Chamberlain Grp., Inc. v. One World Techs., Inc.*, 944 F.3d 919, 925 (Fed. Cir. 2019), *Rembrandt Diagnostics, LP v. Alere, Inc.*, 76 F.4th 1376, 1384 (Fed. Cir. 2023).

PO also cites two cases (Req. 14) that are inapposite. *Yita LLC v. MacNeil IP LLC*, 69 F.4th 1356, 1366 (Fed. Cir. 2023) stands for the uncontroversial proposition that “the Board acts within its discretion when it declines under section 42.23(b) to consider a new theory of unpatentability raised for the first time in reply.” And *Netflix, Inc. v. DivX, LLC*, 84 F.4th 1371, 1377 (Fed. Cir. 2023) makes clear that the

“Board is entitled to discretion in how it interprets petitions.” In this case, the Board correctly determined that no new theory of unpatentability was raised for the first time in reply. The Majority thus did not abuse its discretion in finding Petitioner’s reply argument consistent with the Petition. FWD 90-91.

PO also attacks Petitioner’s obviousness evidence on this point. In particular, PO argues Petitioner did not “explain why a skilled artisan would choose a webpage for Dasgupta’s set-top-box guide, how the modification would satisfy a real-time master-webpage, or why such a modification would succeed.” Req. 14-15. As explained above, the Petition explained that it would have been **obvious** to a POSITA to use a web-page as the channel guide, because Dasgupta already disclosed protocols used to send web-pages. Pet. 68-69. The Majority found this evidence to be sufficient. FWD 88-91.

Finally, PO argues the Majority did not “identify evidence connecting Dasgupta’s timing to its claim construction.” Request 15. This is incorrect. The Majority spent four pages explaining how Dasgupta satisfies the “real time” requirement. FWD 92-95. PO does not address that reasoning.

III. CONCLUSION

For the foregoing reasons, PO’s Request should be denied.

Respectfully submitted,

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Dated: September 3, 2026

CERTIFICATE OF SERVICE

I hereby certify that on September 3, 2025 true and correct copies of the foregoing PETITIONER'S RESPONSE TO REQUEST FOR DIRECTOR REVIEW were served via electronic mail upon the following counsel of record for PO:

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