

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TWITCH INTERACTIVE, INC.,

Petitioner,

v.

RAZDOG HOLDINGS LLC,

Patent Owner.

Case No. IPR2025-00308

Patent No. 10,334,068

PATENT OWNER'S PRELIMINARY SUR-REPLY

Petitioner was granted leave to submit a preliminary reply “addressing the proper construction of ‘real time.’” Ex.3001. Yet in its reply, Petitioner concedes that the meaning of that term is not actually in dispute. Paper 21 at 1. Rather than offering a meaningful construction, Petitioner attempts to obscure a fundamental flaw in the Petition—its misreading of the claims as requiring only that content is streamed to the master server in real time (*see* Paper 1 at 28 n.11), rather than displayed in real time on the master webpage as the claims plainly require. To do so, Petitioner recasts the claim language as merely requiring “continuous, real-time *access* to updated content”—a phrase appearing nowhere in the claims—but in the process contradicts itself, the patent, file history, and even the testimony of its own expert. It is now too late to rehabilitate the Petition. The Board should not entertain Petitioner’s attempt to recast the claims to fit the alleged prior art by reinterpreting a term whose meaning is not actually in dispute. Petitioner’s effort to rewrite the claims under the guise of claim construction should be rejected.

I. The Claims Explicitly Require “Real Time” Content on the Master Webpage

Independent claim 1 of the ‘068 Patent explicitly requires content to be “streamed” *in real time on a master webpage*:

- Claim 1[b2]: “content data and content applications...*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.”

Ex.1001, cl. 1 (emphasis added). The independent claims of the ‘658 Patent—the parent of the ‘068 Patent—likewise each explicitly require content to be “streamed” (Ex.2006, cls.1, 7), “scroll[ed] or pag[ed] through” (*id.*, cl.1), or “navigate[d]” through (*id.*, cl.12) ***in real time on a master webpage***. *Id.*, cls.1, 7, 12; Paper 12 at 16-17. These are not, as Petitioner contends, “added requirement[s].” Paper 21 at 2-3. This is what the claims explicitly require.

The intrinsic record confirms this interpretation. *See* Paper 12 at 8-13, 18-19. For example, the patent states that “[t]he master web-page is [] ***‘dynamic’*** in the sense that ***the master web-page displays streaming content data and content applications from the multiple content data sources in real time***.” Ex.1001, 2:64-67 (emphasis added). Petitioner sidesteps these portions of the patent and file history, accusing PO of importing limitations and narrowing the claims. Paper 21 at 4-5. But claims must always be interpreted in the context of the intrinsic record. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1327-29 (Fed. Cir. 2005) (emphasizing importance of specification and file history in claim construction). And Petitioner never explains how PO is allegedly importing limitations or narrowing the claims in any event, particularly here given that PO never contended the term “dynamic” should be added to the claims and that Petitioner’s own expert used that exact same term in interpreting the patent. *See, e.g.*, Ex.1002, ¶425.

Even Petitioner and its own expert concede that content must be displayed in real time on the master webpage. According to Petitioner, claim 1 requires that “content ‘is updated *and displayed* as soon as it becomes available.’” Paper 21 at 2 (emphasis added). Petitioner’s expert agrees: “a POSITA would have understood ‘simultaneously’ and ‘real time’ as describing a system where content from multiple sources is updated *and displayed* as soon as it becomes available.” Ex.1002, ¶427 (emphasis added). But content is not “displayed” on a master server; content is “displayed” on a master webpage. *E.g.*, Ex.1001, 2:64-67.

II. Petitioner Misread the Claims in the Petition and Now Tries to Recast the Claims to Fix Its Error

Rather than confront the explicit claim language and intrinsic record, Petitioner contends that the claims simply require “allowing continuous, real-time *access* to updated content.” Paper 21 at 3 (emphasis added). The reason is clear—the Petition indisputably relies on references (Darnell, Dasgupta) that at most disclose real time content sent to a server, *not displayed (i.e., “streamed” (claim 1)) in real time on a master webpage* as the claim requires. Paper 12 at §§V.A.1, V.B.1. To salvage its deficient petition, Petitioner now implies that allowing a user to *access* content on a master server (which may have been real time content when sent to the server, but not displayed on a master webpage) is sufficient. It is not.

The claims do not merely require that real time content is sent to a master server so that a user can *access* it. The “real time” limitations do not use the term

“access” at all; rather, they consistently require real time content on the master webpage itself. In fact, prior art that provided mere access to real time content was distinguished during prosecution. Paper 12 at 10-12. But even if Petitioner is correct that claim limitation 1[b3] requires real time access to content, Petitioner never explains why claim limitation 1[b2] should be interpreted the same way. Petitioner’s attempt to recast the claims thus fails. Simply put, Petitioner’s revised theory is not a construction of “real time”—it is a redefinition of the claims. The Board need not entertain that reframing. *See Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369 (Fed. Cir. 2016) (“the expedited nature of IPRs bring with it an obligation for petitioners to make their case in their petition to institute. While the Board’s requirements are strict ones, they are requirements of which petitioners are aware when they seek to institute an IPR.”).

III. Petitioner’s Remaining Arguments Fail

The remaining arguments in Petitioner’s reply do not save Petitioner. For example, Petitioner accuses PO of conflating the terms “streamed,” “viewable,” “navigate,” and “displayed” with real time. Paper 19 at 4. But claims must be read as a whole, not as disconnected fragments. *Phillips*, 415 F.3d at 1327 (“the context in which a term is used in the asserted claim can be highly instructive”). And where the same term is used in related patents, the term should be interpreted consistently across the patents. *See, e.g., Samsung Elecs. Co. v. Elm 3DS*

Innovations, LLC, 925 F.3d 1373, 1378 (Fed. Cir. 2019). In any event, PO was merely showing that all the claims require real time content on a master webpage, whether “streamed” on, “viewable” on, “scroll[ed] or pag[ed] through,” or “navigate[d]” through. Paper 12 at 18. Petitioner’s criticism of the term “displayed” is especially interesting, given that Petitioner admits real time means “content ‘is updated *and displayed* as soon as it becomes available.’” Paper 21 at 2. Likewise, Petitioner accuses PO of taking Dr. Martin’s testimony out of context. *See id.* at 5. But the very next paragraph of Dr. Martin’s testimony states real time content must be “updated *and displayed*,” clearly indicating that a “users experience” with “minimal delay when viewing updated data” refers to content that is displayed on a master webpage, not merely sent to a server. Ex.1002, ¶¶181-82.

IV. CONCLUSION

Respectfully, the Board should reject Petitioner’s attempt to walk back its misreading in the Petition and adopt PO’s interpretation of the claims required by the explicit claim language and intrinsic record.

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Respectfully submitted,

/s/ Roger S. Thompson

Roger S. Thompson

Reg. No. 29,594

1350 Avenue of the Americas, Floor 2 New
York, NY 10019

Telephone: (646) 844-0679

rthompson@villegascefo.com

Kyle Deighan (Reg. No. 75,525)

kdeighan@calfee.com

Mark McDougall (Reg. No. 62,670)

mmcdougall@calfee.com

CALFEE, HALTER & GRISWOLD LLP

The Calfee Building

1405 East Sixth Street

Cleveland, Ohio 44114

P: 216-622-8200

F: 216-241-0816

*Attorneys for Patent Owner RazDog Holdings
LLC*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **PATENT OWNER'S PRELIMINARY SUR-REPLY** was served on the date below by email on the following individuals and correspondence addresses of record:

Jessica C. Kaiser
Jon R. Carter
John C. Moulder
Roderick O'Dorisio
PERKINS COIE LLP
kaiser-ptab@perkinscoie.com
carter-ptab@perkinscoie.com
moulder-ptab@perkinscoie.com
odorisio-ptab@perkinscoie.com

Dated: May 28, 2025

*/s/ Roger S. Thompson*_____
Roger S. Thompson
*Counsel for Patent Owner RazDog
Holdings LLC*