

Authorized Response to Director Review Request

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner

v.

BRODTI INC,
Patent Owner.

Case No. IPR2025-00472
Patent No. 11,416,898

AUTHORIZED RESPONSE TO DIRECTOR REVIEW REQUEST¹

¹ This Response was authorized by email from the Board on August 7, 2026.

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I. INTRODUCTION

Patent Owner's Request identifies no error in the Board's Final Written Decision ("FWD"), let alone an issue that warrants Director-level review. Patent Owner does not present arguments implicating important issues of patent law or policy. Instead, Patent Owner seeks to relitigate two merits issues in which the Board properly rejected Patent Owner's attempts to rewrite its claims through unsupported claim constructions. Director Review should, respectfully, be denied.

First, Patent Owner argues that limitations 1[c] and 1[d] require that an advertiser select a predetermined number of advertising impressions by choosing from a pre-populated list of options, and thus do not cover an interface in which the advertiser can enter them directly. The Board correctly found that the claim imposes no such requirement: it merely requires a webpage that provides one or more "advertising buy options," and provides no qualification as to how those options are presented on the webpage or selected by the advertiser. The Board correctly found that Nicholas discloses these limitations through a webpage that prompts the advertiser to input its desired number of advertising impressions.

Second, Patent Owner attempts to rewrite limitation 1[k] so that revenue collection occurs only after a *plurality* of valid impressions are met. But the plain claim language only requires revenue collection based on determining that "a number of valid impressions are met," which encompasses any number of valid

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impressions, including one or more than one impression. The Board also correctly found that, even under Patent Owner’s unsupported rewriting of limitation 1[k], it would have been obvious to adapt Mayadas to collect revenue after a group of impressions defined by the cost-per-thousand-impressions (“CPM”) metric disclosed in Nicholas, and admitted by Patent Owner (at the oral hearing and in the patent itself) to be known prior art. Because Patent Owner identifies no error in the FWD, Director Review should be denied.

II. ARGUMENT

A. The Board Correctly Found that the Prior Art Discloses Claim Limitations 1[c] and 1[d]

1. The Board Correctly Interpreted These Limitations

Patent Owner argues that limitations 1[c] and 1[d] require a user interface that includes a webpage that displays the “**predetermined number of impressions**” for selection by the client. (Request, 2-4.) In its arguments to the Board, Patent Owner described an exemplary user interface that would meet its interpretation—a webpage with “a list of numbers of impressions (e.g., 10,000, 100,000, 1,000,000, etc.) from which a particular number of impressions can be selected.” (Patent Owner Response, Paper 35, 23-24.) Patent Owner essentially argues that these claim limitations require that an advertiser be shown a pre-populated list of options of the number of impressions, and to select from that list. (Request, 5.)

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The Board correctly rejected this argument, finding nothing in claim 1 that “limits the mechanism (or format) by which a predetermined number of impressions is obtained via input in a graphical user interface (e.g., check a box next to a number and click ‘submit,’ enter a number and click ‘submit,’ etc.).” (FWD, 34.) The Board agreed that “[a]n advertiser who affirmatively chooses to enter ‘1,000’ into the text entry box in Nicholas is no less making a ‘selection’ of the advertising buy options that comprise a predetermined number of advertising impressions, than an advertiser who selects that same number from a displayed list.” (*Id.*, 35 (citation omitted).)

Patent Owner’s argument misunderstands both the language of limitations 1[c] and 1[d] and the relationship between them. Limitation 1[c] recites generation of a webpage that provides “a plurality of advertising buy options for selection by a given client....” This limitation does not require that “advertising buy options” be provided in any particular way – it does not require, for example, that the buy options be presented as a pre-populated list of available options. This limitation also says nothing about the “predetermined number of impressions,” which is first recited in the subsequent claim limitation, let alone requires that the webpage include a pre-populated list of possible values for the number of impressions.

The Petition explained that limitation 1[c] is satisfied in the prior art Nicholas reference when one or more webpages are generated that provide “advertising buy options” that the advertiser can select, including the desired time period, the number

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of impressions, and the websites on which the advertisement would be presented. (Petition, 21-24, 27-28; EX1002, ¶¶102-104, 106-107; Nicholas, ¶¶0061-0062, Figs. 8-9.) The Board found that “Nicholas’s generation and provision of an option to ‘Enter the Number of Impressions Purchased’ in form input 221 as shown in Figure 8 is an ‘advertising buy option’ presented to a client.” (FWD, 37.) Patent Owner identifies no error in this analysis.²

Patent Owner focuses primarily on limitation 1 [d], which recites (in relevant part), “obtaining... via an input in the graphical user interface, a selection of one or more of the advertising buy options, wherein the selected one or more advertising buy options comprise... a predetermined number of impressions.” This limitation likewise does not limit the mechanism by which a selection of a predetermined number of impressions is obtained. It instead encompasses any “input in the graphical user interface,” and textual entry of a desired number of impressions in Nicholas is indisputably “an input” that provides “a selection of one or more of the advertising buy options,” *i.e.*, a selection through the text box in Figure 8 of the

² Claim 1 recites two advertising buy options: (1) “at least one website of the respective websites,” and (2) “a predetermined number of impressions of the advertising material.” The Board found that Nicholas discloses both buy options (FWD, 30-40), and Patent Owner only disputes option (2).

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number of impressions that the advertiser chose for its advertisement. (Petition, 27; EX1002, ¶109.) Nicholas, in fact, explicitly describes entry of a number of impressions as an “input” into the graphical user interface. (Nicholas, EX1003, ¶0061 (“The user may specify the number of impressions in form input 221.”) (emphasis added).) And Patent Owner’s technical expert even admitted that this involves making a selection. (EX1027, 46:24-47:2 (“Q. So you would agree that Nicholas discloses that the user can select the number of impressions for the advertisement; correct? A. Yes.”).) The Board further found that the desired number of impressions selected by the advertiser was “predetermined” because it was determined and provided before the processor obtained the selection from the client. (FWD, 35-36; *see also id.*, 37 (“[T]he subsequent selection and submission of this ‘advertising buy option’ *is* the ‘selected’ ‘advertising buy option’ (which as selected comprises the predetermined number of impressions) obtained by the processor via the ‘Submit’ button in the user interface shown in Nicholas’s Figure 8.”) (italics in original).) Patent Owner identifies no fault in the Board’s analysis.

Patent Owner focuses on the language of limitation 1[d] reciting that “the selected one or more advertising buy options comprise... a predetermined number of impressions,” but this language refers to the user’s selection of an advertising buy option in limitation 1[d], not the presentation of that buy option on the webpage recited in limitation 1[c]. As the Board found, the advertising buy option (*i.e.*, a

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number of impressions to purchase) is “selected,” and that “selected” advertising buy option comprises the predetermined number of impressions provided by the user. (FWD, 36-37.) Nothing in the claim requires that the webpage of limitation 1[c] explicitly provide pre-populated options of “predetermined numbers of impressions” from which the user must select.

Patent Owner argues that its construction seeks to draw a distinction “between selecting an option provided by the processors versus creating a new option through unrestricted user entry.” (Request, 4.) But in no way does entering the number of impressions into the text box of Nicholas Figure 8 involve “creating a new option,” because the “advertising buy option” for providing a number of advertising impressions was an existing option on the webpage of Figure 8. (FWD, 32-33 (quoting from Nicholas, EX1003, Fig. 8 & ¶ 0061).)

The Board also correctly found, in addition to having no support in the claim language, that the patent specification does not support Patent Owner’s limiting construction. (FWD, 35.) The Board agreed with Petitioner that the patent does not disclose any exemplary screen displays or provide any other details about the user interface recited in limitations 1[c]-1[d]. (FWD, 35 n.4.) Patent Owner points to a passage of the patent specification at column 6, lines 16-23 (Request, 4), but this passage provides no details about any user interface for allowing *the advertiser* to select advertising buy options, as the claim recites. Patent Owner’s expert admitted

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as much in deposition. (EX1027, 40:5-9 (“Q. Going back to the end of Paragraph 78, you’re referring to column 6, line 16 to 23. Does that passage describe how the user interface for presenting the advertising buy options should be designed? A. Oh, it doesn’t give specifics of the design.”).) That passage merely states that a “sales team” for a media property (such as a web property) can market advertising impressions. (’898, 5:17-25, 6:19-23.) That has nothing to do with limitations 1[c]-[d], which describe how *an advertiser* (who is distinct from a web property content owner) selects the websites on which their advertisement will be placed and the desired number of advertising impressions. (EX1026, ¶ 29.) Indeed, Patent Owner concedes that “[t]he claims do not require the web property content owner personally to determine the quantities” of advertising impressions. (Request, 4.)

2. The Board’s Alternative Reasoning Was Proper

The Board also recognized that Patent Owner’s arguments about limitations 1[c] and 1[d] did not rely on any novel or nonobvious technological feature – they revolved around the trivial difference between selecting a numeric value through a text box versus a drop-down menu, radio button, or other common user interface element that allows selection from displayed options. The Federal Circuit has held that “[o]nce an issue is fairly presented in a petition and made the subject of dispute by the patent owner’s response, the Board is free to make its own factual findings grounded in the evidence presented to it, without being bound to choose between the

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specific positions the parties advocated.” *Corephotonics, Ltd. v. Apple Inc.*, 84 F.4th 990, 1004 (Fed. Cir. 2023). In this case, the Petition observed that for limitation 1[c]-1[d], Nicholas disclosed a number of different user interface options for advertising buy options, including drop-down menus and selectable lists – in many cases on the very same web pages where the number of impressions is selected. (Petition, 21-22 (citing Nicholas, EX1003, Figs. 8-9, showing drop-down menus and selectable lists for selecting date/time ranges and the desired channels or websites for the advertisement).) The Board thus properly observed that Nicholas itself discloses user interface tools allowing for selection from pre-populated options presented to the user, so the distinction urged by Patent Owner’s construction would not have moved the obviousness needle even if it were adopted. (FWD, 38-40.) The Board did not improperly invalidate the challenged claims *sua sponte* on this ground, as the Board had already found that Nicholas fully discloses the disputed limitations under their proper construction. The Board’s observations about Nicholas’s other interface elements rested entirely on evidence already of record.

Patent Owner makes no serious attempt to argue that its claim construction, if adopted, would provide any non-obvious distinction over the prior art. *See In re Mouttet*, 686 F.3d 1322, 1331 (Fed. Cir. 2012) (“Where ‘a patent claims a structure already known in the prior art that is altered by the mere substitution of one element for another known in the field, the combination must do more than yield a predictable

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result.”) (quoting *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007)). Patent Owner instead relies on the uncontroversial observation by Petitioner’s expert that requiring selection of a number of impressions from a list of possible values may be less flexible than a text box allowing the advertiser to specify an exact number. (EX1026, ¶28.) But this discussion was provided in the context of explaining that Patent Owner’s interpretation lacks intrinsic support. (*Id.* (“I find nothing in the ’898 patent suggesting any attempt to limit the flexibility of the advertiser in such a way.”).) Petitioner’s expert never suggested that a skilled artisan would find anything non-obvious or technologically challenging about selecting a number from a list of values instead of entering that same number through a text entry box, particularly when those alternatives were disclosed in Nicholas itself.

B. The Board Correctly Found that the Prior Art Discloses Claim Limitation 1[k]

Limitation 1[k] recites the step of, “based on determining *a number of valid impressions* are met, electronically collecting, by the one or more processors, a share of the advertising revenue to be transmitted to the web property content owner.” The Board found this limitation satisfied for two independent reasons. Patent Owner has identified no error with either.

1. The Board Correctly Interpreted Limitation 1[k]

Patent Owner first argues that limitation 1[k], which merely recites “a number” of valid impressions, requires a plurality of valid impressions. But the

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claim only requires “a number” of valid impressions, and one (1) is obviously “a number.” Limitation [k] thus encompasses one or more than one valid impression.

In rejecting Patent Owner’s argument, the Board observed that it “seeks to rewrite the plain language of the subject limitation.” (FWD, 47.) Patent Owner’s argument rested on the erroneous proposition that the phrase, “a number of valid impressions,” necessarily required more than one impression. (*Id.*) Someone could be asked to “count the number of cars in the parking lot,” but that does not require that there be more than one car in the lot. The Board properly rejected Patent Owner’s attempted rewrite of the plain claim language. *See K-2 Corp. v. Salomon S.A.*, 191 F.3d 1356, 1364 (Fed. Cir. 1999) (“Courts do not rewrite claims; instead, we give effect to the terms chosen by the patentee.”).

Patent Owner now argues that its construction is supported by the surrounding claim language, but it is not. Patent Owner points to earlier limitations in claim 1 that recite limitations relating to determining that an impression is valid and that a number of valid impressions have occurred. (Request, 9-10.) But nothing in limitation 1 [k] refers back to impressions in these earlier limitations. Patent Owner made the deliberate choice to draft limitation 1 [k] using the indefinite article “a,” *i.e.*, “*a* number of valid impressions,” and thus made this limitation not dependent on any number of impressions recited earlier in the claim. Indeed, as noted, “a number” of valid impressions could be just one.

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Patent Owner's arguments about the neighboring limitations in claim 1 are also irreconcilably inconsistent. The Petition argued that limitation 1[k] does not require a particular number of impressions, and does not, for example, require the "predetermined number of impressions" recited earlier in the claim. (Petition, 48.) Patent Owner never disputed this before the Board, and does not dispute it on Director Review. Instead, Patent Owner argues only that, based on the surrounding claim language, limitation 1[k] requires some unspecified plural number of impressions – without ever arguing that this unspecified plurality is tied to any number previously recited in the claim. Patent Owner cannot have it both ways: it cannot invoke the earlier limitations to constrain the number of impressions in limitation 1[k] while simultaneously ignoring what those very limitations say.

Had Patent Owner intended to require a "plurality" of valid impressions, it would have said so in limitation 1[k], as evidenced by its use of "plurality" in a number of other contexts in the patent. For example, limitation 1[c] recites "a plurality of buy options," and the word "plurality" appears numerous times in the written description to refer to "a plurality of advertising buys," a "plurality of advertisers," and a "plurality of client systems." ('898, Abstract, 3:34-38.) The fact that Patent Owner knew how to specify a "plurality" of items when it wanted to do so, but did not write limitation 1[k] to recite "a *plurality* of valid impressions," further supports the Board's interpretation.

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Patent Owner does not dispute that, under the Board's interpretation, limitation 1[k] is disclosed by the Nicholas-Mayadas combination. As the Board explained, Mayadas discloses that "[a]n amount from the escrow account is paid out each time an advertisement is served," and that the advertiser's account is debited. (FWD, 44-45; Mayadas, EX1005, ¶¶38, 43.) Nothing more is required by the claim.

2. The Board Correctly Found that Collecting Revenue After a Plurality of Valid Impressions Would Have Been Obvious

The Board further found that, even if limitation 1[k] were not satisfied by a single valid impression, the limitation would still have been obvious over Nicholas in view of Mayadas. Patent Owner does not meaningfully address the ample evidence in the record establishing that, in light of the well-known CPM (cost-per-thousand ("mille")) model disclosed in Nicholas, it would have been obvious to collect revenue after 1,000 impressions (or after all impressions had been delivered). (Petition, 49-51; EX1002, ¶¶147-149.) The Petition explained that Nicholas itself discloses advertisement pricing based on CPM. (*Id.*) Patent Owner's counsel conceded at the oral hearing, in fact, that CPM was "a known pricing scheme," and one that is "mentioned in the '898 patent itself." (Hearing Tr., Paper 48, 29:26-30:4; *see also* '898, 6:16-18.) For example, a CPM of \$35 defines a package of 1,000 advertising impressions (each costing three and a half cents).

The Board observed and agreed that CPM "is not simply a pricing framework," but "defines a commercial unit in the delivery of Internet advertising

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impressions, thus making it obvious for collection of revenue to occur upon delivery of 1,000 ads (or after all requested impressions).” (FWD, 48 (citation omitted).) The Board explained that “Patent Owner does not offer *why* the known commercial unit in the delivery of Internet advertising impressions (i.e., CPM) would not have at least fairly suggested to the relevant artisan collecting funds for transmission to a web property content owner *after one or more such units have been delivered* (e.g., after 1,000 advertising impressions).” (FWD, 49 (emphasis in original).)

Patent Owner contends that the Board’s reasoning “conflates the unit used to calculate price with the event that triggers collection of advertising revenue.” (Request, 13.) But as the Board noted, CPM is not simply a vehicle for advertising price calculation – it defines *how* advertising impressions are actually packaged for purchase and delivery. It is undisputed that Mayadas discloses collection of revenue for advertising impressions, and the Board correctly found that it would have been obvious to collect revenue after one or more of these CPM packages were delivered. Patent Owner identifies no error in the Board’s analysis. Nor can Patent Owner escape its own concession, noted above, that CPM pricing is “mentioned in the ’898 patent itself” and does not dispute that it was a well-known industry metric at the time of the invention. (Hearing Tr., Paper 48, 29:26-30:4.)

The Petition also explained the several motivations a skilled artisan would have had to adapt Mayadas to collect revenue after delivery of each, or all, CPM

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packages. (Petition, 50-51; EX1002, ¶¶ 148-149.) The Petition explained that these intervals “would have been among a small number of potential times” when the collection would have been expected to occur in light of the well-known CPM packaging, and this would have improved the efficiency of the system by reducing the number of times the billing and collection steps occurred. (*Id.*) Patent Owner now argues that this efficiency rationale is insufficient (Request, 14), but Patent Owner never challenged that rationale in its arguments to the Board and cites no contrary evidence to support its new arguments on Director Review.

Patent Owner instead told the Board that changing the collection interval would have undermined the risk reduction features of Mayadas. (Patent Owner Response, Paper 35, 36-37.) But the Board found that the risk reduction feature in Mayadas was not pertinent to the proposed combination, and if anything, it would have been *enhanced* by reducing the collection interval because, in the event of a problem, more money would have remained in the escrow account in light of the reduced frequency of revenue collection. (FWD, 48.) Patent Owner offers only attorney argument but no contrary evidence. (Request, 15.)

III. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that Patent Owner’s Request for Director Review be denied.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify, pursuant to 37 C.F.R. § 42.6(e), that a complete copy of the attached **AUTHORIZED RESPONSE TO DIRECTOR REVIEW REQUEST** was served on August 14, 2026, upon the parties via electronic mail:

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