

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GETTATTLE, INC.
Petitioner

v.

AFTERWORDS, INC.
Patent Owner

IPR Case No. 2025-00677
Patent No. 10,430,811

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

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I. Introduction

U.S. Patent No. 10,430,811 (“the ‘811 Patent”) is subject to the present *Inter Partes* Review. See Decision Granting Institution of *Inter Partes* Review, p. 31. Petitioner files the present Reply to Patent Owner’s (PO) Response.

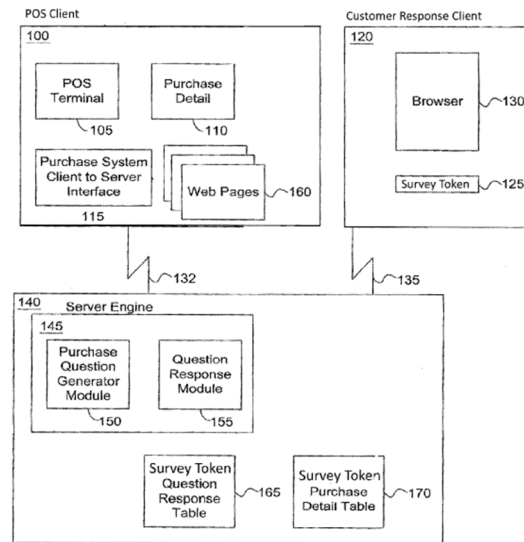
For elements of Patent Owner’s Response not directly addressed herein, Petitioner does not concede Patent Owner’s positions but instead relies on the previously-submitted position of record.

II. Patent Owner’s Construction of “Point-of-sale Interface” is improper

PO seeks construction of the term “point-of-sale interface” to be “software or hardware for sending **or receiving** transaction data generated by at a point of sale.” PO’s Response, p. 9 (emphasis added).

PO claims that the POS interface generally discloses “software or hardware that facilitates the communication of data generated at a point of sale.” PO’s Response, p. 10. Petitioner submits PO takes this general characterization to a conclusion beyond the actual scope of the specification of the ‘811 Patent, including Fig. 2.

Fig. 2 illustrates the POS Client 100 includes the “Purchase System Client to Server Interface.” But, the ‘811 Patent expressly states that the “[p]urchase system client to server interface 115 provides an interface between purchase system client 100 and server 140.” EX1001, col. 6, lines 3-5.



The ‘811 Patent clearly places the interface 115 within the POS client 100 and thus is part of that processing system. This interface 115 then does not receive transaction data generated by the point of sale because it is within the point of sale and would not need to receive said data.

Moreover, PO asserts their claim construction should be based on ‘811 Patent, col. 7, lines 6-8 stating “[p]urchase system client 100, server 140, and customer response client 120 may reside on the same electronic device...” This is incorrect because this passage does not say the individual elements within the client 100, server 140 and client 120 can be placed in different systems 100, 140, 120. Rather, from an architectural perspective and as recognized by a person of ordinary skill in the art (POSITA), merely placing the client 100 on the same processing system as the server engine 140 does not cure the ‘811 Patent’s express disclosure of how the

interface 115 is embedded within the POS client 100 or how such a broad interpretation overcomes the express disclosure of Fig. 2.

As such, Petitioner submits PO's requested claim construction of the term "point-of-sale interface" must be rejected.

III. Patent Owner's Construction of "Survey Module" is improper

PO seeks construction of the term "survey module" to be "software code with executable logic for implementing a survey." PO's Response, p. 18. This construction seeks to narrow the term by now-imparting "with executable logic."

Claim 1 recites "generating a Survey Module comprising software code for displaying the at least one survey." *See* EX1001, col. 26, lines 28-30. Claim 19 recites "a Survey Module comprising software code for displaying the at least one Survey Question as an integrated component within a graphical user interface." *Id.* at col. 29, lines 7-10. Neither claim 1 nor claim 19 include "executable logic," where PO had full opportunity during the prosecution of the '811 Patent to add this qualifier.

Patent Owner throughout its argument declares that the specification of the '811 Patent provides support for the proposition that "the claimed Survey Module is not a mere label for any survey content that shows up on a device." *See* Patent Owner's Contingent Motion to Amend, p. 17. Specifically, Patent Owner repeatedly cites the following language from the specification of the as-filed '811 Patent: "The

survey may be assembled into *an autonomous, self-contained, web-container package with branching logic* that changes the questions presented or the order of the questions presented based upon a survey respondent's answers to prior survey questions.” Ex. 1001, col. 11, lines 30-34 (emphasis added).

The operative word in the PO-cited passage is “may.” The ‘811 Patent, by use of the term “may” implies that branching logic may be one embodiment. Now the PO wants this Board, via claim construction, to say that executable code and branching logic are required in claim 1. This is improper and PO’s claim construction should be denied.

Alternatively, Petitioner submits the term survey module should be given its actual stated meaning of “software code for displaying the at least one Survey Question.”

IV. The ‘811 Patent Claims are anticipated by Douglas

Petitioner asserts Douglas¹ as prior art for the following grounds for unpatentability:

Ground	Claims Challenged	35 U.S.C. §	Reference(s)/Basis
1	19	102	Douglas
2	1-7, 10, 13, 16, 18	102	Douglas

¹ U.S. Publication No. 2015/0193794 (“Douglas”, EX1007) with a priority date of January 8, 2014.

A. Douglas discloses a “survey module”

PO submits Douglas fails to identically disclose the claimed survey module. This is incorrect and the claims of the ‘811 Patent are unpatentable as being anticipated by Douglas.

Douglas states:

The web pages delivered to client device may include, for example, HTML documents, which may include images, style sheets and **scripts** in addition to the text content. EX1007, ¶54 (emphasis added).

Both Petitioner and PO are in agreement on a definition of a POSITA, specifically a person “familiar with ... network-based technologies” as well as “2-3 years of experience in software engineering.” Petition for Inter Partes Review, p. 10. PO’s Response, p. 8.

Under this definition, a skilled artisan would know the term “scripts” with reference to HTML documents refers to a set of instructions written in a scripting language. Moreover, a skilled artisan would know “script” in Douglas does not mean a pre-existing set of words, such as a script a speaker reads from, because this would be inconsistent with Douglas listing “scripts” separate from “in addition to the text content.”

Douglas discloses software code embedded within messages sent from the survey server to the client device or any other device used for conducting the survey. Moreover, the express disclosure of Douglas anticipates the Survey Module

regardless of differing claim constructions. If using PO's construction of "software code with executable logic for implementing a survey," the Douglas script is a form of executable logic. If using the plain meaning as recited in claims 1 and 19 of "software code for displaying the at least one Survey Question," Douglas teaches this Survey Module via the general HTML Document as well as the more explicit script within the HTML document.

The Douglas teaching of HTML documents and scripts further falls squarely within PO's Expert's definition. Mr. Zatkovich defines software code as a "portion of software that specifically contains instructions that can be stored and executed (i.e. can be run) on a computer." Declaration of Ivan Zatkovich, EX2001, ¶79. Mr. Zatkovich gives several examples of exemplary software, including JavaScript, which is a type of "script" as referenced by Douglas. *Id.* at ¶ 80.

For further clarification, Mr. Zatkovich states that HTML itself is not a programming language. *Id.* at ¶81. It is recognized that hypertext mark-up language is a mark-up language, different from an executable language. But this finding does not alter the above analysis because Douglas does not refer to sending only mark-up language but expressly states an "HTML document, which may include ... scripts."

Not only does Douglas expressly disclose the Survey Server as claimed by the '811 Patent, but PO's own expert confirms such disclosure by stating that

“JavaScript” is an example of software code including programs written in computer programming language.

PO’s expert further misstates that Douglas requires “software that is already present on the customer’s computer device such as a Web Browser.” Declaration of Ivan Zatkovich, EX2001, ¶92. In fact, to a person skilled in the art, the web browser is a local software application for receiving the HTML document and then executing elements in the HTML document. As this HTML document can include scripts (e.g. JavaScript), this web browser is identical to system of the ‘811 Patent and the browser application is the conduit for executing the script (e.g. JavaScript) sent from the Survey System 101 of Douglas.

B. Douglas discloses the Vendor Survey Interface

PO further asserts Douglas fails to disclose the claimed Vendor Survey Interface, to which Petitioner disagrees. PO focuses on the “benefits” of the ‘811 Patent over Douglas but fails to account for the exact claim language actually recited in Claims 1 and 19. PO’s Response, p. 32-33.

PO states:

Another novel feature over Douglas is that the Patent Owner’s Survey Module software code can be executed by the vendor interface to display survey questions as an integrated component within a GUI. *Id.*, Claims 1 & 19. The GUI generated by the vendor survey interface can be a merchant-branded website that incorporates the Survey Module.

Douglas states only that a survey question can be “presented to the customer device on the user interface,” EX1007, Douglas ¶ [0033],

which is distinct from the functionality claimed by Patent Owner of executing Survey Module software code to display a survey as “*an integrated component within* a graphical user interface.” EX1001, ‘811 Patent, Claims 1 & 19. (emphasis in the original)

This is incorrect and not properly supported. For instance, Claim 1 recites element (c) “a vendor survey interface configured to perform” processing operations (i) – (vi). EX1001, col. 26, lines 31-43. These operating steps relate to interactions with the “survey server” as well as displaying the survey and transmitting data back to the server.

As cited above, Douglas expressly discloses:

The applications may provide one or more user interfaces on the customer device 106 that accept inputs from the customer, provide the inputs to the survey system 101 and/or merchant 107, and output information to the customer on a screen of customer device 106. The one or more software applications may be provided by survey system 101, or merchant 107, or a third party. The one or more applications may be web-based applications and/or native mobile applications installed on the computer device 106. EX1007, ¶18.

Douglas discloses that the “native mobile application” can be a web browser. *Id.* Or alternatively, this web-based application can be a HTML browser running an embedded script (e.g. JavaScript). *Id.*

Douglas further states “[a] survey may be presented as a notification ... or presented to the customer device on the user interface.” EX1007, ¶33. Therefore, where Douglas discloses the output of the Survey System 101 can be an HTML document having a script therein, this expressly discloses not only the claimed vendor survey

interface of claim 1, but also the method steps (e)-(g) of Claim 19. *See* EX1001, col. 29, lines 7-15.

C. Douglas discloses a “campaign data structure”

Claims 1 and 19 both recite “a campaign data structure having survey question data and a configurable Condition that is satisfied by the detection of a given purchase detail identifier.” EX1001, col. 26, lines 14-17 and col. 28, lines 61-63. PO now seeks to narrow this limitation as reciting “a system that generates survey questions using logical operations that check whether a configurable condition is satisfied by comparing transaction data to purchase details stored to a vendor database.” PO’s Response, p. 34.

However, PO has not submitted the term “campaign data structure” for construction. Petitioner submits this term is given its ordinary and customary meaning of (a) data of survey questions; and (b) a “condition” tied to a data representing a particular purchase. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1312-1313 (Fed. Cir. 2005) (“[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art at the time of invention...”); *see also* Changes to the Claim Construction Standard for Interpreting Claims in Trial Proceedings Before the Patent Trial and Appeal Board, 83 Fed. Reg. 51340, 51342 (Oct. 11, 2018) (replacing the broadest reasonable

interpretation standard with “the same claim construction standard used by Article III federal courts”).

The scope of this term “campaign data structure” is further tied directly with claim 1(b)(ii) reciting survey server operations of “(C) determining whether the transaction data includes the given purchase detail identifier ... and if the configurable Condition is satisfied, generating a Survey Question using the given survey question data and the purchase detail identifier.” EX1001, col. 26, lines 22-28. Claim 19 recites similar terminology. *See* EX1001, col. 29, lines 1-6.

Therefore, the campaign data structure involves correlating questions with transactions. Douglas discloses exactly this correlation. While PO may assert that Douglas does not disclose the exact campaign data structure of logical operators, Douglas discloses the campaign data structure under its ordinary and customary meaning.

Douglas states that “[t]he trigger signal may comprise purchase data associated with a purchase made by customer at merchant 107.” EX1007, ¶27. Douglas further states “[t]he purchase data may comprise ... the product type.” EX1007, ¶27. “The trigger signal may comprise product data. Product data may include a Universal Product Code (UPC) of a product, an RFID tag, or other information related to the product.” EX1007, ¶28.

Here, Douglas discloses transaction data (e.g. purchase data associated with a purchase) and the transaction data including purchase detail identifier and product data such as a UPC.

Douglas further states “[s]urvey generator 103 may create one or more surveys for customer device 106 based on the received trigger signals.” EX1007, ¶33. To obviate further doubt, Douglas states “[t]he survey may ask about the products purchased” as well as “[t]he content of a survey may depend on the type of trigger signal (or the various combinations of trigger signals). EX1007, ¶33.

Douglas further teaches this survey to be interactive. “The survey may be interactive, and provide further questions to the customer based on how the customer responds to the initial query or queries.” EX1007, ¶34.

Based on the foregoing, Douglas is disclosing the claimed campaign data structure of the ‘811 Patent. Douglas uses trigger signals to send transaction data to the survey server, where the survey server generates unique survey questions based thereon. This process in Douglas directly correlates to the “campaign data structure” of the ‘811 Patent which involves correlating questions with transactions.

D. Douglas discloses a “vendor database”

Claim 1 recites “a vendor database storing a plurality of purchase detail identifiers.” EX1001, col. 26, lines 12-14. According to its ordinary and customary meaning, “a vendor database” is any data structure or medium storing “purchase

detail identifiers.” Here the qualifying term “vendor,” at best implies that the purchase detail identifiers can relate to or are associated with a vendor.

Douglas supports disclosing a vendor database because Douglas directly discloses surveys relating to specific commercial locations, e.g. vendors. Douglas states “[t]he trigger signal may comprise purchase data associated with a purchase made by customer at merchant 107.” EX1007, ¶27. Douglas further states “[t]he purchase data may comprise ... the name of the merchant.” *Id.* Moreover, Douglas states that the “components depicted in Fig. 1² may store information in various electronic storage media” therefore this discloses a “database.” *Id.* at ¶14.

PO states “Douglas also omits mention of pre-existing survey questions stored to a campaign data structure.” PO’s Response, p. 35. PO further seeks to characterize Douglas as lacking disclosure of pre-existing survey questions. *Id.* at p. 36. This is incorrect, contrary to the actual disclosure of Douglas and incongruent with the actual claims of the ‘811 Patent.

First off, Douglas lists numerous sample survey questions and specific conditions (trigger signals). *See e.g.*, EX1007, ¶ 34.

Secondly, it is disingenuous to assert that Douglas clearly discloses generating surveys based on trigger signals, but lacks any foundation for pre-existing questions,

² which includes the survey system 101

or that a skilled artisan would read Douglas and not be able to implement the system because a failure of what questions to ask.

Finally, PO seeks to claim pre-existing survey questions, but a careful review of the '811 Patent provides no such terminology. Rather, Claims 1 and 19 recite “survey question data.” This is data about a survey question, but not necessarily a pre-determined or pre-existing survey question.

In fact, dependent claims 10 and 13 further emphasize that one cannot interpret claim 1 to include “pre-existing survey questions” since only claims 10 and 13 of the '811 Patent recite “a Product Survey Question” and “a Service Mode Survey Question.” Where again, even these dependent claims recite the construction of a survey question based on purchase detail identifiers and the broad term “survey question data.”

Therefore, Douglas discloses the vendor database because Douglas discloses survey questions generated based on trigger signals including merchant information (i.e. vendor).

V. The '811 Patent Claims are anticipated by Ganesh

Petitioner has asserted Ganesh³ as prior art for the following grounds for unpatentability:

³ U.S. Publication No. 2014/0337098 (“Ganesh”, EX1008) with a priority date of May 9, 2013.

Ground	Claims Challenged	35 U.S.C. §	Reference(s)/Basis
3	19	102	Ganesh
4	1-7, 10, 13, 16, 18	102	Ganesh

A. Ganesh discloses a Survey Module

PO asserts that Ganesh fails to disclose a survey module as claimed in the ‘811 Patent. Petitioner submits this is incorrect and Ganesh discloses a survey module.

As understood, PO submits Ganesh’s Survey Server and TOP Module 540B are network-based requiring survey processing solely on the server 105A. Rather, Ganesh states:

Notably, it is also envisioned that the various functions described herein, whether explicitly or inherently described, relative to the TOP module 540B in survey server 105A may also be performed by a TOP module 540A in POS 125 in some embodiments. That is, it is envisioned that the provisioning of a TOP survey may be accomplished in some embodiments by a TOP module 540A integrated within a POS 125 and in communication with a database 120A. EX1008, ¶39.

Ganesh discloses survey content that “may have been preselected or may be *dynamically selected based on* any number of factors including, but not limited to... *responses to previously pushed questions.*” EX1008, ¶ 6 (emphasis added). Figure 5 of Ganesh illustrates an example of provisioning a dynamic time of purchase (“TOP”) survey to a consumer during check-out. EX1008, Fig. 5. Ganesh describes this process in part as follows:

Subsequently, at decision block 570, the survey server 105A determines if more survey content is available. If “yes” then the method 500 proceeds to block 575 and a next survey content is selected from the database 120A. As described above, the next survey content may be selected based on feedback provided in answer to previously pushed survey content, for example. Ex. 1008, ¶ 66.

Further, Ganesh contemplates that “one of ordinary skill in programming is able to write computer code... to implement the disclosed invention... so disclosure of a particular set of program code instructions... is not considered necessary for an adequate understanding of how to make and use the invention.” EX1008, ¶ 76.

PO asserts Ganesh does not disclose a survey module because Ganesh’s TOP module 540A or TOP module 540B and the accompanying Ganesh specification does not expressly state the “generation of software code.” PO’s Response, p. 37. This assertion misstates the actual language of claims 1 and 19. This error is further compounded by Mr. Zatkovich attesting to this misstatement. EX2001, Zatkovich Decl. ¶¶ 117-118.

Claim 1 recites “(ii) the survey server computing device is configured to perform the operations comprising ... (D) generating a Survey Module comprising software code for displaying the at least one Survey Question.” EX1001, col. 26, lines 18-30. Claim 19 recites “(e) generating by the survey server, a Survey Module comprising software code for displaying the at least one Survey Question.” EX1001, col. 29, lines 7-10. Thus, claims 1 and 19 of the ‘811 Patent do not recite generation

of software code or code having executable logic. They recite “software code for displaying.”

Meanwhile, Ganesh discloses in numerous instances the display of a survey to the customer. In fact, one could not argue otherwise as presenting a survey is a *sine qua non* of Ganesh.

Moreover, PO asserts Ganesh communicating with the survey server 105A between questions obviates anticipation. Petitioner again submits these elements are not actually claimed in the ‘811 Patent. PO recites benefits of the ‘811 Patent but these benefits are not directly recited in the claims and thus have no bearing on an anticipation analysis.

B. Ganesh discloses a Campaign Data Structure and Vendor Database

PO further asserts Ganesh fails to disclose a campaign data structure and a vendor database. As understood, PO’s assertions are based on Ganesh disclosing a selection algorithm but not providing “quantitative or qualitative methods” used in the algorithm. PO’s Response, p. 40.

Claims 1 and 19 recite “a campaign data structure having survey question data and a configurable Condition that is satisfied by the detection of a given purchase detail identifier.” EX1001, col. 26, lines 14-17 and col. 28, lines 61-63.

Again, PO seeks to impart terminology not within the claims. There is no recitation of quantitative or qualitative methods in these claims. Rather, the

campaign data structure consists of two elements: (a) survey question data; and (b) a configurable condition.

Clearly Ganesh discloses survey question data as Ganesh generates survey questions. Further, Ganesh clearly discloses configurable conditions as Ganesh generates survey questions relating to items being purchased. For example, Ganesh discloses “by monitoring the items being scanned and transmitting the data to the survey server, TOP survey content selection algorithms executed by the survey server 105A may select survey content directed to the items that are being purchased by the consumer.” EX1008, ¶64.

Moreover, Ganesh states:

Additionally, one of ordinary skill in programming is able to write computer code or identify appropriate hardware and/or circuits to implement the disclosed invention without difficulty based on the flow charts and associated description in this specification, for example. Therefore, disclosure of a particular set of program code instructions or detailed hardware devices is not considered necessary for an adequate understanding of how to make and use the invention. EX1008, ¶76.

Further, Ganesh discloses purchase detail identifiers by noting items being purchased. Ganesh’s survey is a time of purchase survey and is tied directly to a consumer “in a retail location.” EX1008, ¶54. Therefore, by extension, Ganesh knows and tracks both the vendor (retailer) and the items being purchase and thus discloses the vendor database as claimed.

Given the foregoing, Ganesh discloses both a campaign data structure and a vendor database as recited in the claimed limitations of the ‘811 Patent.

VI. Word Limit

Pursuant to 37 C.F.R. §42.24, Petitioner attests that this Reply Brief is under the limit of 5600 words.

VII. Conclusion

For the foregoing reasons, Petitioner submits the asserted claims of the ‘811 Patent remain unpatentable as being anticipated by both Douglas and Ganesh.

Respectfully submitted,

Dated: April 7, 2026

/ Timothy J. Bechen /
Timothy J. Bechen, Lead Counsel
Reg. No. 48,126

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, this is to certify that I caused to be served a true and correct copy of the foregoing **PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE** by electronic mail upon Patent Owner at the correspondence address of the Patent Owner as follows:

J. Todd Timmerman (Counsel for Patent Owner)
Jeffrey Fabian (Counsel for Patent Owner)
Shumaker, Loop & Kendrick, LLP
101 East Kennedy Boulevard, Suite 2800
Tampa FL 33602

Respectfully submitted,

Dated: April 7, 2026

/ Timothy J. Bechen /
Timothy J. Bechen, Lead Counsel
Reg. No. 48,126