

IPR2026-00247
Patent No. 9,817,562

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.
Petitioner,

v.

COGMEDIA LLC
Patent Owner.

Case No. IPR2026-00247
U. S. Patent No. 9,817,562

PATENT OWNER'S PRELIMINARY RESPONSE

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IPR2026-00247

Patent No. 9,817,562

LIST OF PATENT OWNER'S EXHIBITS

Exhibit No.	Description
2020	Patent Owner's Opening Claim Construction Brief
2021	Meta's Petition Challenging the '141 Patent
2022	Meta's Petition Challenging the '371 Patent

I. INTRODUCTION

Petitioner Meta Platforms, Inc. (“Petitioner” or “Meta”) files three serial petitions for *inter partes* review (this “Petition” or the “Petitions”) together challenging the validity of all the claims of Patent Owner’s U.S. Patent Nos. 9,817,562 (the “‘562 Patent”), 10,664,141 (the “141 Patent”), and 11,036,371 (the “‘371 Patent”) (collectively the “Challenged Patents”) asserted against Petitioner in the pending district court litigation.

This first Petition challenges claims 1-3, 5-8, 11-15, and 17-18 of Patent Owner’s ‘562 Patent under 35 U.S.C. § 103 and relies upon the base combination of U.S. Patent No. 7,310,612 (“Ex. 1005” or “McQueen”) and U.S. Patent No. 7,047,030 (“Ex. 1006” or “Forsyth”). Petitioner relies upon McQueen and Forsyth as the base combination for all three of its Petitions. And because Petitioner fails to show a reasonable likelihood of prevailing as to any of the challenged claims, Patent Owner respectfully requests that the Board deny institution as to all three Petitions (IPR Nos. 2026-00247-49).

As set forth in Patent Owner’s Discretionary Denial brief and herein, Petitioner’s challenge as to the ‘562 Patent fails to comply with 37 CFR § 42.104(b)(4) (“Rule 104(b)(4)”) and must be denied for that threshold issue alone. Instead of identifying a teaching in Petitioner’s primary or secondary reference that discloses the ‘562 Patent’s “vote indicator” found in limitation [c.vi] of its sole

independent claim, Petitioner resorts to the use of expert testimony to supply the missing claim limitation. Because Petitioner's improper use of expert testimony constitutes a clear violation of Rule 104(b)(4) this Petition must be denied in view of the Acting Director's July 31, 2025, memorandum.

Setting Petitioner's violation aside, Petitioner's challenge boils down to a modification of McQueen in light of the instant-messaged based teachings in Forsyth. But Patent Owner cited McQueen to the examiner of the '562 Patent during examination of Patent Owner's '371 Patent, which shares a highly similar claim structure and many limitations nearly identical to those found in the '562 Patent. And instant messaging was not a foreign concept during examination. The examiner of Patent Owner's '371 Patent considered *nineteen* instant messaging related references in conjunction with McQueen and Petitioner's expert has affirmed instant messaging was well-known at the time. *See e.g.* Ex. 1003 at p. 47, ¶ 78. At most, the prior art grounds set forth in the Petition are entirely cumulative of challenges which could have been presented by the examiner.

But when faced with McQueen and a host of instant messaging-based references, the examiner did not issue a single prior art-based rejection during examination of the '371 Patent. And similarly, the examiner did not issue a single prior-art based rejection during examination of the '562 Patent. Unsurprisingly, in view of Patent Owner's previous knowledge of, and the examiner's previous

consideration of McQueen, Petitioner’s challenge leaves substantial gaps that it attempts to fill via expert testimony.

Petitioner’s challenge fails to show that either of the claimed (1) “configuring each of the data items into a distinct information object by extracting, from each data item, extracted data including a picture, a heading, and a link to the data item” or (2) “vote indicator that displays a number of votes associated with the information object” present within the sole independent claim of the ‘562 Patent at limitations 1[a] and 1[c.vi] were disclosed, taught, or suggested by either of its references. For this reason, Petitioner has failed to meet its burden to establish a reasonable likelihood that it would prevail with respect to at least one of the claims challenged by the Petition. Institution must be denied.

II. BACKGROUND OF THE ‘562 Patent

A. Information Objects and the Problem to be Solved

The ‘562 Patent claims priority to provisional application No. 60/566,723 filed on April 29, 2004, and Petitioner’s challenge has not contested the ‘562 Patent’s claims’ entitlement to priority as of that date. Ex. 1001 at p. 2; Paper 1 at p. 5. To help orient the Board to the state of the art at the time of Patent Owner’s invention, Patent Owner notes that the ‘562 Patent’s priority date predates the first iPhone by over three years.

The '562 Patent is directed to a “computer-implemented method of interacting with at least one data item [which] includes configuring each of the data items into a distinct information object by extracting, from each data item, extracted data including a heading, a source, graphical and textual material, and a hyperlink.” Ex. 1001 at Abstract. “The method additionally uses the extracted data to make available for display a representation of each of the information objects in a uniform format, wherein the format includes a card, and, within the card, an icon area for graphical and textual material, the heading, the source, a set of indicators, and a mechanism giving graphical access to a set of functions.” *Id.*

The '562 Patent explains that as “[i]nformation availability and accessibility is continuously increasing”, “information commonly exists in different formats, resides in different locations, is dynamically changing, and is used and modified by different people”, which “makes it difficult for users to effectively monitor, analyze and exchange information.” *Id.* at Col. 2, L. 37-42. The '562 Patent notes that conventional information processing systems have a variety of deficiencies. *Id.* at Col. 2-3, L. 46-3. One such “deficiency with conventional information processing systems is that information is represented in different formats and, depending on the format, is stored in different locations.” *Id.* at Col. 2, L. 63-66.

The '562 Patent proposes its distinct “information objects” (“IOs”) which it describes as flexible data structures that can include data files as well as metadata as

a potential solution. *Id.* at Col. 9, L. 3-5. The ‘562 Patent explains that its information object mechanism “solve[s] this deficiency by introducing a standardized information format that represents a piece of information in an abstract way and links to an original piece of information and that has a standardized look thus allowing users to focus on and compare the information content and context rather than be distracted by the information format and location.” *Id.* at Col. 3, L. 4-10.

The ‘562 Patent sets forth multiple different methods of creating its information objects. One method is the creation of information objects via the active extraction of metadata from data items. *See e.g. id.* at Col. 26, L. 34-38. Another method is the creation of information objects through the passive visualization of RSS feeds. *See e.g. id.* at Col. 25, L. 44-48. According to Petitioner’s expert, RSS feeds are standardized XML files that allow users to receive updates from websites or blogs. Ex. 1003 at p. 59 ¶ 92. And as explained by Petitioner’s primary reference, McQueen, the use of RSS’s XML format to simply facilitate the re-publishing and visualization (i.e. display) of content was well known in the art at the time of the invention. Ex. 1005 at Col. 4, L. 44-64. As will be explained in detail below, this type of syndication of content through RSS visualization stands in sharp contrast to the claimed extraction found in each independent claim of the Challenged Patents.

The ‘562 Patent’s Figure 10 illustrates “a diagram of IO operations including IO creation”¹ showcasing the different sources from which information objects may be obtained (highlighting added):

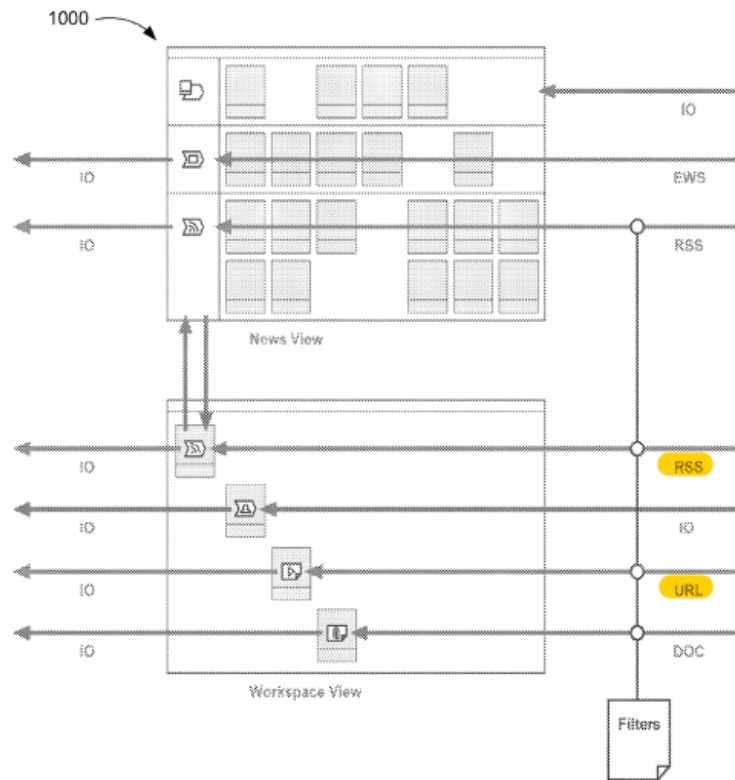


FIG. 10

B. Creation of Information Objects via Extraction

When describing its extraction embodiment, the ‘562 Patent explains that when a user drags a URL from a web browser, its invention “will create an IO that hyperlinks to that URL and *automatically extracts* (from the URL destination) a

¹ Ex. 1001 at Col. 25, L. 1-2.

picture and a heading that is displayed in the IO's picture and heading bar.” *Id.* at Col. 25, L. 42-45.² The ‘562 Patent also states that “[t]he IO picture and the IO heading are added automatically if an appropriate picture and heading can be *extracted*”³ and that its invention “provides the information object by filtering a web page associated with a URL to create the information object by automatically *extracting meta-data including at least one of a heading, a picture, and a link to the URL.*” *Id.* at Col. 26, L. 34-38. This extraction step is explicitly required by every independent claim of the Challenged Patents. *See* Ex. 1001 at Cl. 1(a); Ex. 2002 at Cl. 1(a.i) and Cl. 17(a.i); and Ex. 2003 at Cl. 1(a.i) and Cl. 15(a.i).

C. The Creation of Information Objects via RSS Feed Visualization

The ‘562 Patent also explains that RSS feeds can be used to “create an IO that visualizes the most recent item in the RSS file/s and that continuously updates itself.” *Id.* at Col. 25, L. 46-48. It also notes that “user[s] can drag one or more RSS URLs onto a News View row which will add and displays the content of RSS URLs on the News View row as a sequence of IOs.” *Id.* at Col. 26, L. 5-8. The ‘562 Patent describes its News View’s purpose which is “to help users monitor large numbers of RSS feeds in a quick and easy comprehensible format” and that News View can be used as an “RSS feed generator” where “[u]sers can add RSS files by simply

² Emphasis added throughout unless otherwise specified.

³ *Id.* at Col. 25, L. 23-25.

dropping an IO or an RSS URL onto a row in News View.” *Id.* at Col. 16, L. 30-46.

In doing so, the ‘562 Patent teaches a second method of creating information objects that instead of requiring the claimed active extraction step, can simply create information objects via the visualization and display of RSS feeds.

D. File History of the ‘562 Patent

The ‘562 Patent did not receive a single prior art-based rejection during examination and the examiner indicated the claims were allowable in his first office action. Ex. 1002 at p. 204.

E. Challenged Claims

Petitioner challenges the validity of claims 1-3, 5-8, 11-15, and 17-18 of Patent Owner’s ‘562 Patent through this Petition. Independent claim 1, the only independent claim in the ‘562 Patent, is reproduced below:

1. [Pre] A computer-implemented method, in which at least one computer initiates execution of software instructions to perform computer processes, the method being for interacting with at least one data item obtained from at least one source and rendering the at least one data item accessible from a database system, wherein the at least one source is external to the database system, the computer processes comprising:
[a] configuring each of the data items into a distinct information object by extracting, from each data item, extracted data including a picture, a heading, and a link to the data item;

[b] storing data corresponding to each of the information objects in the database system;

[c] using the extracted data from a plurality of the data items to make available for display a representation of each of at least two of the information objects in the database system, the at least two information objects being selected for display, the representation being in a uniform format, wherein the format includes a card, and, within the card, in uniform locations thereof, the picture, the heading, a set of indicators, and a function mechanism giving graphical access to a set of functions,

[c.i] wherein the functions include: an instant messaging function, by which users having access to the card can exchange author-and time-stamped messages relating to the information object, such messages being associated with the information object and accessible to users who view the information object;

[c.ii] a vote function, by which each user having access to the card can provide one vote for the information object;

[c.iii] replicate function, by which each user having access to the card in a first collection of cards can cause the card to be replicated in a second collection of cards; and

[c.iv] a link function, by which each user having access to the card can invoke the link to the data item; and

[c.v] wherein the indicators include: a message indicator that displays a number of instant messages associated with the information object; and

[c.vi] a vote indicator that displays a number of votes associated with the information object; and

[d] wherein the database system is configured to allow (i) each user to have at least one user-selected collection of cards in the database system and (ii) each card in the database system, with any associated picture and heading, and other associated data, regardless of the collection in which it may have first appeared, to be accessible and replicable across card collections of users.

F. Petitioner's Grounds of Challenge

Ground	Claims	Basis	References
1	1-3, 6, 7, and 11	Obviousness	McQueen-Forsyth
2	2	Obviousness	McQueen-Forsyth-Csaszar
3	5, 14, and 15	Obviousness	McQueen-Forsyth-Briggs
4	7	Obviousness	McQueen-Forsyth-Briggs-Colas
5	8	Obviousness	McQueen-Forsyth-Rieger
6	12, 13, 17, and 18	Obviousness	McQueen-Forsyth-Knapp
7	13	Obviousness	McQueen-Forsyth-Briggs-Knapp

Patent Owner does not purport to present all of its rebuttal arguments herein and reserves its right to present further argument and evidence related to these prior art references, the combinations thereof, and the content of the Petitions later in this proceeding, consistent with the Board's Rules and practice. No waiver is intended by any argument withheld by Patent Owner at this stage of the proceeding.

III. CLAIM CONSTRUCTION

Consistent with Patent Owner's positions in the district court proceeding, Patent Owner believes each term should be given its plain and ordinary meaning, with no further construction required. Ex. 2019 at p. 2-3.

As noted in Patent Owner's discretionary denial brief, Petitioner is engaging in inconsistent claim construction practice by "seeking broader constructions at the Board to support a patentability challenge while seeking narrower constructions in litigation to avoid infringement liability" which the Director has previously cautioned against.⁴ Before the district court, Petitioner seeks construction of *eight* claim terms whereas here, Petitioner has not requested a single construction. *Compare* Ex. 2019 at p. 2-3 to Paper 1 at p. 12. Petitioner has done so under the guise of requesting plain and ordinary meaning in the district court while simultaneously proffering narrowing constructions defining what that plain and ordinary meaning should be. Ex. 2019 at p. 2-3. This approach to claim construction has also required Petitioner to rely on two different experts across the forums.

As explained in Patent Owner's Opening Claim Construction Brief, Petitioner's claim construction strategy before the district court has been to "invoke[] 'plain and ordinary meaning' in name only, relying on its label but not its

⁴ See *Revvo Technologies, Inc., v. Cerebrum Sensor Technologies, Inc.*, IPR2025-00632, Paper 20 at 4 (Director November 3, 2025) (precedential).

substance” by “labeling its constructions as ‘plain and ordinary meaning,’” in an attempt “to evade the scrutiny that would otherwise attach if it candidly presented only the substance of its constructions.” Ex. 2020 at p. 5-6.

Not only is Petitioner advocating for inconsistent positions in the two forums, but Petitioner is doing so in a manner incompatible with the challenge it has put before the Board. Before the district court, Petitioner has sought a narrowing construction of “instant messaging function” to mean “realtime communication function” and “comment function” to mean “function that allows a user to remark or annotate.” Ex. 2019 at p. 2. But before the Board and Director, Petitioner has stated that either function would allow for *real-time*, dynamic interaction between mobile devices. *See* Paper 1 at p. 14; Ex. 2021 at p. 28; Ex. 2022 at p. 27.

Consistent with Patent Owner’s warning to the district court, the Board “should be wary from the start of Defendant’s litigation-inspired attempts to import additional, narrowing limitations into broader claim language” while simultaneously advocating for broad claim interpretations in their Petitions to support a patentability challenge. Ex. 2020 at p. 5.

IV. DISCUSSION OF THE ALLEGED PRIOR ART

A. McQueen

McQueen’s “invention relates to electronic catalog systems, and to personalization algorithms used to provide personalized content to users of such

systems.” Ex. 1005 at Col. 1, L. 9-11. McQueen explains that “[w]eb sites and other types of interactive systems commonly host electronic catalogs for assisting users in locating and evaluating various types of items” which may include physical products, journal articles, stock assets, and/or any other type of item that may be represented in a database. *Id.* at Col. 1, L.13-19.

“To enhance the browsing experience of users, electronic catalog systems commonly implement various types of features for assisting users in efficiently locating and evaluating catalog items” such as “recommendation algorithms for recommending specific catalog items to users” which are “commonly recommended based on the purchase histories, browsing histories, and other types of user profile data reflective of users’ interests.” *Id.* at Col. 1, L. 23-31.

McQueen explains that some electronic catalog systems “allow users to post reviews on specific catalog items” which are “typically displayed on a detail page for that item.” “In some cases, the associated user interface provides an option for users to vote on whether a particular review is helpful” and a “current tally of the votes submitted on a particular review is typically displayed to assist readers in assessing the review.” *Id.* at Col. 1, L. 32-38.

But McQueen notes that despite these features “electronic catalogs commonly *lack* the types of *compelling content* needed to attract and maintain the interests of users” because “operators of such systems typically lack the resources needed to

generate such content.” *Id.* at Col. 1, L. 44-49. McQueen’s invention seeks to address the lack of compelling content found in electronic catalog systems by disclosing “[a]n electronic catalog system [which] provides an interface for users to author and post pieces of content, referred to as ‘blurbs,’ for viewing by other users” wherein “blurbs submitted by a particular author are made available for viewing in an author-specific blog (web log) format.” Ex. 1005 at Abstract.

McQueen describes its blurbs as “short postings” authored by its users which may “be associated with specific items in the electronic catalog.” *Id.* at Col. 1, L. 54-58. McQueen explains that its system contains two types of blurbs, internal and external. Blurbs created via McQueen’s blurb authoring pipeline through which users can author and submit pieces of content are referred to as “internal blurbs” and blurbs obtained from other sources are referred to as “external blurbs”. *Id.* at Col. 5, L. 4-9. McQueen provides an exemplary internal blurb in its Figure 4 reproduced below:

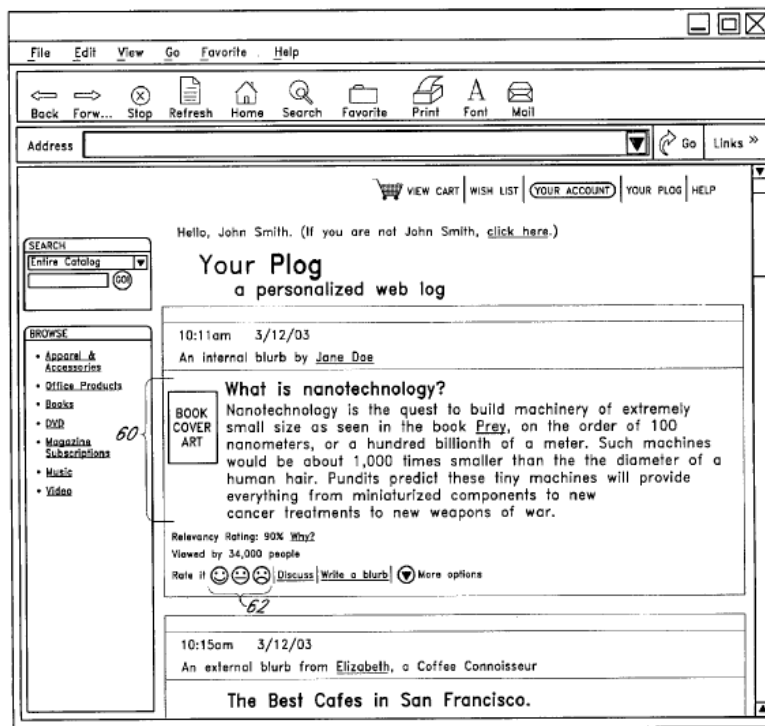


FIG. 4

McQueen explains that its external blurbs can “be obtained from other, independent sources, such as through RSS feeds from external web sites that host blogs.” *Id.* at Col. 1, L. 61-63. McQueen explains that RSS is “an XML format for syndicating web content”, that an “RSS feed is generally an RSS-format web page that is used as a recurring source of content”, and that the “use of RSS to share and license web content across web sites is well known in the art.” *Id.* at Col. 4, L. 46-60. McQueen further explains that each “RSS page may [sic] is preferably retrieved periodically, such as several times a day, to check for new items” such as blog entries, which can be added to the blurbs database as blurbs. *Id.* at Col. 4, L. 60-64.

And McQueen's system architecture can contain "[a]n RSS feed component" "for populating the blurbs database 44 with blurbs obtained from external sources" by "locating new RSS pages, periodically checking known RSS pages for new entries, and adding new entries to the database as external blurbs." *Id.* at Col. 11, L. 46-52 (emphasis in original).

To further its goal of providing compelling content that will attract and maintain the interests of users, McQueen discloses a blurb selection algorithm in the form of "a personalized blurb selection component [that] selects specific blurbs to present to users of the catalog" which are "preferably selected based at least in part on a history, referred to as an 'item selection history,' of the catalog items selected by the target user to purchase, view, review, rate, and/or perform some other type of action." *Id.* at Col. 1-2, L. 64-3. McQueen provides users the "option to explicitly or implicitly vote on or 'rate' each blurb" and uses "[t]he votes cast on a particular blurb [to] affect the extent to which that blurb is thereafter selected to present to other users" by "tak[ing the votes] into consideration in selecting the frequency with which new blurbs from that author are to be displayed to specific target users." *Id.* at Col. 2, L. 39-47. In this way, McQueen uses user interaction as input to its algorithm to "provide[] fresh, targeted content from a wide range of authors to users" that "is selected based on the item selection histories of the target users" and "tends to be highly informative and relevant." *Id.* at Col. 2, L. 48-55.

B. Forsyth

Forsyth's invention "relates to a *group communication method* for a wireless information device." Ex. 1006 at Col. 1, L. 15-16. Forsyth explains that while there "is a proliferation of different text based messaging systems which allow members of a group[] to communicate with one another", "no single system fully and successfully accommodates the unique characteristics of communicating between groups of mobile users." *Id.* at Col. 1, L. 54-60. And while "[t]he concept of the group has previously been of limited importance in telephony, other than for conference calling", "wireless information devices have the potential to greatly enhance the importance of the group." *Id.* at Col. 2, L. 61-64.

Forsyth seeks to provide a solution to this problem through "[a] group communication method for a wireless information device, in which the method comprises the step of using an application independent object which defines or references members of a group in a way that enables communication to take place between two or more members of the group." *Id.* at Abstract. This solution was "founded on the insight of providing an object which *defines solely the identities of members of a group*" and is thus application (and hence also content) independent." *Id.* at Col. 2, L. 24-27. "This means that a group created in one application (e.g. for text based instant messaging) can immediately be used in other applications (e.g. a diary/agenda application could use that same group as the recipient list for an

invitation to a meeting); a voice application could use that same group to allow a voice call to be conferenced across to all group members.” *Id.* at Col. 2, L. 27-34.

Forsyth describes an implementation of its present invention, called Forums, wherein “a new group object can be created when a user defines the recipients of a message, or (going beyond a simple messaging application) whenever the user defines the desired participants to be involved in group communication” and “can be defined independently of any specific task or application.” *Id.* at Col. 2, L. 48-52.

Forsyth discloses the creation of two types of groups, public and private. “Private groups would typically be used amongst individuals who already know each other in some way”⁵ and “[p]ublic groups are collections of people with interests in common, who do not necessarily know each other prior to their membership of a group.” *Id.* at Col. 17, L. 5-7. Regardless of whether the group is private or public, Forsyth teaches that group populations can change and as a result, “[u]sers must be able to see all the personae that are members of a given group.” *Id.* at Col. 16, L. 38-39. And Forsyth notes that private groups come with a degree of trust that does not exist in public groups and therefore, in public groups “a system of permission is required.” *Id.* at Col. 17, L. 48-50.

⁵ *Id.* at Col. 13, L. 63-64.

C. McQueen and Forsyth are Cumulative of Art Considered by the Examiner, and Discussed in the Specification

Petitioner's challenge is cumulative of art considered by the examiner and discussed in the '562 Patent. Petitioner's challenge effectively jams Forsyth's instant-messaging based teachings into one of either McQueen's "Discuss" element, found solely in McQueen's Figure 4 and for which McQueen *provides no narrative description in the specification*, or McQueen's "More options" drop-down menu found in Figure 4 with limited narrative description provided in the specification. Paper 1 at p. 13-14. But if McQueen combined with an instant-messaging based reference were sufficient to support a patentability challenge, such a challenge was readily available to the examiner.

During examination of Patent Owner's '371 Patent, McQueen was cited to and considered by the same examiner who examined each of the Challenged Patents. Ex. 2003 at p. 2. And during examination of the '371 Patent, the examiner considered *nineteen* different references related to the concept of instant messaging which Petitioner's expert has affirmed was well known at the time. *See e.g.* Ex. 1003 at p. 47, ¶ 78. Notably, the '371 and '562 Patents share substantially similar claim structures and many nearly identical limitations, meaning that the examiner's allowance of the '371 Patent over McQueen necessarily implicated claim elements

challenged by Petitioner here. And neither the ‘371 nor ‘562 Patent received a prior art-based rejection during prosecution.

Simply put, in view of highly similar claims and functionally identical art, the examiner had all the necessary ingredients to put forth substantially the same challenge as Petitioner has done here yet declined to do so.

**V. THE PETITION FAILS TO DEMONSTRATE A REASONABLE
LIKELIHOOD OF PREVAILING UNDER ANY ASSERTED
GROUND**

Institution is only permissible when the Petition establishes a “reasonable likelihood that the petitioner would prevail with respect to at least one of the claims challenged in the petition.” 35 U.S.C. § 314(a). Petitioner fails to meet this threshold requirement because every prior art reference relied upon by Petitioner fails to disclose, teach, or suggest at least Limitations 1[a] and 1[c.vi] of the only independent claim of the ‘562 Patent and thus, the Board must deny institution. *Par Pharm., Inc. v. TWi Pharms., Inc.*, 773 F.3d 1186, 1194 (Fed. Cir. 2014) (petitioner bears burden of proving every claim limitation is disclosed in the prior art); *Medichem, S.A. v. Rolabo, S.L.*, 437 F.3d 1157, 1164 (Fed. Cir. 2006) (consideration of any motivation to combine and reasonable expectation of success is only reached “if all the elements of an invention are found in a combination of prior art references”).

A. The Petition Must be Denied under Rule 104(b)(4)

Petitioner's challenge must be denied because Petitioner has failed to show or even allege that either McQueen or Forsyth, separately or in combination, teach the vote indicator limitation present in the only independent claim of the '562 Patent.

Limitation [c.vi] of independent claim 1 of the '562 Patent states:

[c.vi] a vote indicator that displays a number of votes associated with the information object

The '562 Patent's only independent claim describes the configuring of data items into distinct information objects through extraction as well as the subsequent display of a representation of the extracted data in a uniform format which contains, among other things, a set of indicators. Ex. 1001 at Cl. 1. Limitation [c.vi] describes one of the indicators found in the uniform format and requires not only that the claimed indicator be a vote indicator, but that such indicator display a number of votes associated with the given information object.

Petitioner's challenge does not cite to Forsyth as evidence that limitation [c.vi] was disclosed, taught, or suggested in the art and instead relies on an expert testimony-based modification of McQueen to state that McQueen renders this limitation obvious. Paper 1 at p. 36. This type of argument has been expressly forbidden by the Acting Director. Ex. 2006.

Under Rule 104(b)(4), a petition “must specify where each element of the claim is found in the prior art patents or printed publication relied upon[.]” And on July 31, 2025, the Acting Director emphasized that the USPTO will “enforce and no longer waive” this requirement. *Id.* at p. 1. As a practical matter such enforcement means that “expert testimony, common sense, and other evidence that is not ‘prior art consisting of patents or printed publications’” “***may not be used to supply a missing claim limitation.***” *Id.* (emphasis added). The Acting Director made clear that “[p]er 35 U.S.C. § 312(a)(4), the Board shall deny an IPR petition that fails to comply with Rule 104(b)(4).” *Id.* This is consistent with the Board’s previous guidance that extensive reliance on expert testimony “may suggest that the questions are better resolved in an Article III court.” *See* FAQs for Interim Processes for PTAB Workload Management, Q.22.

Because Petitioner’s challenge identifies McQueen’s blurbs as being equivalent to Petitioner’s claimed information object⁶ and Petitioner does not so much as allege that either its primary or secondary reference teaches the claimed vote indicator that displays a number of votes associated with those blurbs, Petitioner’s challenge violates Rule 104(b)(4) and must be denied.

⁶ *See* Paper 1 at p. 23.

Petitioner's own words establish its failure to comply with Rule 104(b)(4). Instead of identifying a teaching in Petitioner's primary or secondary reference that discloses the limitation, Petitioner resorts to the use of expert testimony to modify the teachings of McQueen and supply the missing limitation by stating that (1) "**McQueen renders this limitation obvious**"; (2) "it would have been obvious to display a 'current tally of the votes' (a vote indicator)"; and (3) "[a] POSITA indeed would have appreciated that the configuration for displaying a 'tally of the votes' for reviews as disclosed by McQueen would have just as easily and helpfully applied to a tally of total votes for a blurb[.]" Paper 1 at p. 36.

As will be discussed in Patent Owner's section regarding motivation to combine, Patent Owner disagrees that a POSA would have been motivated to apply the "tally of the votes" for reviews disclosed by McQueen to a blurb. Regardless, Petitioner's failure to identify a patent or printed publication that discloses the claimed vote indicator associated with an information object is fatal. Here, there is no need for the Board or the Director to analyze what would have been "obvious" because Rule 104(b)(4) and the Acting Director's July 31, 2025, memorandum prohibit Petitioner from using expert testimony to supply this missing limitation.

B. The Petition fails to show that the ‘562 Patent’s Claimed Extraction Step was Taught

Setting Rule 104(b)(4) aside, to avoid denial of institution, Petitioner must convince the Board that McQueen's passive RSS visualization, which merely receives and displays syndicated content, is equivalent to the active extraction step recited in the ‘562 Patent’s claims. In view of the ‘562 Patent’s unequivocal distinction between RSS visualization and active extraction as well as Patent Owner’s explicit decision to claim the latter, the record simply cannot support such a conclusion. And because Petitioner has failed to show that either McQueen or Forsyth teach the extraction limitation present in the only independent claim of the ‘562 Patent, their challenge must be denied.

Limitation 1[a] of independent claim 1 of the ‘562 Patent states:

[a] configuring each of the data items into a distinct information object by extracting, from each data item, extracted data including a picture, a heading, and a link to the data item;

Limitation 1[a] is directed towards the ‘562 Patent’s described method of creating distinct information objects through the extraction of extracted data including a picture, heading, and link to the data item, which the ‘562 Patent uses to make available for display a representation of the information objects in a uniform format. Ex. 1001 at Cl. 1. This is consistent with the ‘562 Patent’s stated desire to provide “a standardized information format that represents a piece of information in

an abstract way and links to an original piece of information and that has a standardized look thus allowing users to focus on and compare the information content and context rather than be distracted by the information format and location.” *Id.* at Col. 3, L. 5-10.

Petitioner’s challenge does not cite to Forsyth as evidence that Limitation 1[a] was disclosed, taught, or suggested in the art and instead relies solely on McQueen. Petitioner devotes but four paragraphs of its one-hundred-four-page Petition to Limitation 1[a], and in doing so relies entirely on McQueen’s passive RSS-based teachings. Paper 1 at p. 23-25. And Petitioner’s argument as to extraction rests entirely on an erroneous, *single conclusory assertion* that equates the converting or saving of blogs and blog entries as blurbs to the ‘562 Patent’s extraction step, which Patent Owner reproduces in its entirety:

The aforementioned elements are *extract[ed] from each* of the blog and blog entry *data items* because, as discussed previously (§VIII.C.1), the system converts or saves each blog and blog entry from an external source as one or more “blurbs,” EX1005, 4:44-5:3; the information is sourced from the “blogs” and blog entry *data items*, and thus *extract[ed]* therefrom. EX1005, 4:13-5:3, 5:52-6:3, 7:55-64, 8:4-16, FIG. 1; Cockburn, ¶98.⁷

⁷ Paper 1 at p. 25 (emphasis in original).

Petitioner's argument seeks to equate the alleged sourcing of information from blogs and/or blog entries and their subsequent saving as blurbs to the '562 Patent's claimed extraction step. Petitioner's challenge fails under either scenario.

The first half of Petitioner's challenge must fail because it mischaracterizes McQueen as teaching the sourcing of information from blogs to create blurbs. Not only does McQueen *never* disclose the saving or conversion of a blog as a blurb but McQueen also *never* uses any form of the word convert at all in its disclosure. Instead, McQueen simply explains that its blurbs are uploaded to its database "via RSS feeds from various external web sites that host blogs", that each "RSS page may [sic] is preferably retrieved periodically . . . to check for (blog entries, news articles, etc.)", and that "items located through this process are added to the blurbs database 44 as blurbs." Ex. 1005 at Col. 4, L. 55-64 (emphasis in original). McQueen also explains that its RSS feed component is used to "locat[e] new RSS pages, periodically checking known RSS pages for new entries, and adding new entries to the database 44 as external blurbs." *Id.* at Col. 11, L. 46-50 (emphasis in original). In doing so, McQueen teaches that its RSS component simply retrieves blog entries from RSS feeds which it adds to its system as blurbs. McQueen discloses no interaction between its RSS component and the external websites or blogs themselves and discloses no sourcing of information therefrom. Because McQueen's

RSS component does not interact with the blog itself or source any information therefrom, the blogs in McQueen cannot constitute the claimed data item.

Because McQueen's RSS component does not interact with external websites or blogs, the only issue left before the Board is whether McQueen's adding of new blog entries to the database as external blurbs constitutes the claimed extraction step. The second half of Petitioner's challenge fails no better.

Not only does Petitioner give its extraction challenge short shrift, but Petitioner also does not point to a single portion of McQueen's disclosure where any form of the word extract is used or any teachings constituting Patent Owner's extraction step exist. Instead, Petitioner invites the Board to equate two distinct concepts while simultaneously providing no rationale for doing so. The Board should decline Petitioner's invitation.

As set forth above, the '562 Patent discloses and distinguishes multiple methods of creating information objects including creation via active extraction and creation via the passive visualization of RSS feeds. The '562 Patent's extraction method "provides the information object by filtering a web page associated with a URL to create the information object by automatically *extracting meta-data including at least one of a heading, a picture, and a link to the URL*"⁸ and the RSS

⁸ Ex. 1001 at Col. 26, L. 34-38.

method simply “create[s] an IO that visualizes the most recent item in the RSS file/s and that continuously updates itself.” Ex. 1001 at Col. 25, L. 46-48.

As explained above, McQueen simply teaches the addition and visualization of blog entries as blurbs through the retrieval of content from RSS feeds and McQueen’s RSS component never interacts with the external websites that host the blogs or the blogs themselves. Petitioner has identified no portion of McQueen that describes anything resembling the active extraction step recited in the ‘562 Patent’s claims but has invited the Board to equate McQueen’s passive RSS visualization with the ‘562 Patent’s active extraction step without explanation. But at a fundamental level, how could McQueen teach the claimed extraction step, which the ‘562 Patent explicitly distinguished from RSS visualization, if McQueen never interacts with the actual external website or blog itself? Instead of providing the Board with an answer to this question, Petitioner camouflaged its self-serving expansion of McQueen’s teachings by identifying both blogs and blog entries as the claimed data item and alleging that the sourcing of information therefrom must constitute extraction. Not only is Petitioner’s approach inconsistent with and unsupported by the teachings in McQueen but it is also explicitly distinguished by the ‘562 Patent’s specification.

Because Petitioner provides no rationale for how the sourcing of blog entries for McQueen’s blurbs could satisfy the ‘562 Patent’s extraction step and can point

to no disclosure from either of its references showing that Patent Owner's extraction step was taught, disclosed, or suggested, Petitioner's challenge must be denied.

C. A POSA Reading McQueen would have No Motivation to Combine it with the Instant Messaging based Teachings of Forsyth

While Patent Owner contends that the Petition must be denied because it fails to show that either McQueen or Forsyth teach key limitations of the '562 Patent claims, Patent Owner also contends that a POSA would have no motivation to combine McQueen and Forsyth.

Taking everything Petitioner and its expert say as true, Petitioner's motivation to combine rationale still does no more than describe the ways a POSA *could* have combined McQueen and Forsyth, rather than provide a rationale for why a POSA *would* have been motivated to do so. Because this is insufficient to support an obviousness challenge, Petitioner's challenge should be denied. *Belden Inc. v. Berk-Tek LLC*, 805 F.3d 1064, 1073 (Fed. Cir. 2015) (holding that "obviousness concerns whether a skilled artisan *not only could* have made but *would* have been motivated to make the combinations or modifications of prior art to arrive at the claimed invention.").

Petitioner's articulated motivation to combine rationale seeks to jam Forsyth's instant messaging based teachings into McQueen's "Discuss" element or as a part of its "More options" drop-down menu because doing so would allegedly (1) help

McQueen “to facilitate user interaction” with its blurbs; (2) “have been an obvious and predictable combination of known elements for known improvements”; (3) “enhance[] user experience with the blurbs by allowing for real-time, dynamic interaction between mobile devices”; and (4) “have made it ‘far easier for people to reach similar individuals than ever before’” thereby “increasing user social engagement and collaboration.” Paper 1 at p. 13-15 (internal citations omitted throughout).

While Petitioner’s motivation to combine argument is undoubtedly aspirational, it is wholly untethered from the motivations expressed in the references themselves and infected with hindsight bias. As set forth above, both references unequivocally describe the problems they are trying to solve.

McQueen aims to provide the “*compelling content* needed to attract and maintain the interests of users” typically lacking in electronic catalog systems due to the “operators of such systems typically lack[ing] the resources needed to generate such content.” Ex. 1005 at Col. 1, L. 44-49. McQueen provides this content through its blurbs and “personalized blurb selection component [that] selects specific blurbs to present to users”⁹ to provide content that is “highly informative and relevant.” *Id.* at Col. 2, L. 53-55.

⁹ *Id.* at Col. 1, L. 64-66.

Forsyth aims to provide the first “single system [that] fully and successfully accommodates the unique characteristics of communicating between groups of mobile users.” Ex. 1006 at Col. 1, L. 54-60. Forsyth teaches that it provides a system for group communication that is “founded on the insight of providing an object which *defines solely the identities of members of a group*” and is thus application (and hence also content) independent.” Ex. 1006 at Col. 2, L. 24-27. Forsyth also requires that “[u]sers must be able to see all the personae that are members of a given group.” *Id.* at Col. 16, L. 38-39. Forsyth notes that private groups come with a degree of trust that does not exist in public groups and therefore, in public groups “a system of permission is required.” *Id.* at Col. 17, L. 48-50.

But Petitioner’s motivation to combine rationale is agnostic to the drastically different problems and motivations set forth by the two references. At no time does Petitioner ever link the “improvements” it emphasizes would be realized by McQueen’s implementation of Forsyth to any actual teaching or motivation found in the references.

A POSA reading McQueen is focused on one thing and one thing only: generating the most compelling content possible for electronic catalog systems by providing high quality blurbs through McQueen’s personalized blurb selection component. Nowhere in McQueen is there any discussion of a need or desire to increase peer-to-peer communication regarding blurbs. And at no point does

Petitioner explain how incorporating Forsyth's instant messaging-based teachings would provide for more compelling blurbs, refine McQueen's personalized blurb selection component to improve the quality of the blurbs presented to a given user, or further any goal set forth by McQueen. Instead, Petitioner relies on hindsight to describe what a POSA *could* have done to "improve" McQueen in the abstract, rather than tying such a motivation back to anything taught by McQueen itself.

Petitioner's motivation to combine rationale is also silent to the differences in social architecture present in McQueen and Forsyth. McQueen aims to provide its electronic catalog systems with the most compelling content possible to capture the attention of an undefined number of individuals not limited in time, scope, or by any other characteristic. Forsyth on the other hand teaches a distinct form of group communication that is solely defined by one characteristic, the members of the group.

Simply integrating Forsyth's group-limited instant messaging-based teachings into McQueen's unbounded system is in direct contradiction to Forsyth's purpose. The style of communication taught by Forsyth is not meant to be open to an undefined number of individuals who have no relation to one another, no identified commonalities, and no way of determining the number or identity of users who are able to view their content. Instead, Forsyth's teachings are directed towards a distinct and specified group whose members are identified and consistent no matter

the form of communication or content involved. Taking Forsyth and implementing it in McQueen’s unbounded system strips away the sole defining characteristic of Forsyth’s group object. Rather than grapple with the specific characteristics of Forsyth’s teachings and why a POSA would see its group object as a natural fit with McQueen’s infrastructure, Petitioner has simplified Forsyth to be a generic instant messaging-based reference in order to fit its combination.

Because Petitioner has failed to articulate why a POSA *would* have been motivated to combine McQueen and Forsyth, institution should be denied.

D. A POSA Reading McQueen would have No Motivation to Modify its Blurbs to Contain Vote Indicators

As set forth in Patent Owner’s Discretionary Denial Brief and herein, Petitioner has dressed up its expert testimony-based modification of McQueen under the guise of a motivation to combine argument. While Patent Owner believes its Rule 104(b)(4) argument conclusively shows that Petitioner has improperly supplied this missing claim limitation via expert testimony, Patent Owner also contends there would be no motivation for such a modification.

Petitioner’s articulated motivation to combine rationale seeks to apply the “current tally of the votes submitted on a particular review [that] is typically displayed to assist readers in assessing the review”, which Petitioner likens to a vote indicator, to the blurbs found in McQueen, thereby supplying a vote indicator which

would be associated with the blurb. Petitioner states that such a combination would (1) “have assisted readers in assessing the blurb and any corresponding review”; (2) “have provided an immediate visual metric of quality or popularity, enabling users to quickly distinguish between ‘good’ and ‘poor’ content”; (3) “have provided immediate social information, allowing users to instantly gauge post popularity”; and (4) “have helped users filter through noise” “by highlighting ‘more popular proposals[.]’” Paper 1 at p. 16-17.

But Petitioner’s motivation to combine section overlooks entirely the way McQueen already utilizes the votes cast on a particular blurb to accomplish each and every goal Petitioner seeks to accomplish through its combination without the need for a tally of the votes to be displayed on the blurb itself. As set forth above, McQueen provides users the “option to explicitly or implicitly vote on or ‘rate’ each blurb” and uses “[t]he votes cast on a particular blurb [to] affect the extent to which that blurb is thereafter selected to present to other users” by “tak[ing the votes] into consideration in selecting the frequency with which new blurbs from that author are to be displayed to specific target users” such that McQueen’s system is able to “provide[] fresh, targeted content from a wide range of authors to users” that “is selected based on the item selection histories of the target users” and “tends to be highly informative and relevant.” Ex. 1005 at Col. 2, L. 39-55.

In this way, McQueen uses the votes cast on a particular blurb to provide users fresh, highly relevant content that has been vetted by McQueen's system for quality without the need for further display to end users. Nowhere in McQueen's disclosure does McQueen concern itself with providing indicators for social information or indicate that users struggle to filter through noise in its system. In fact, McQueen's personalized blurb selection component already guarantees that users shall not need to wade through noise or low-quality blurbs by using measurable criteria, such as the votes cast on a blurb, to dictate the order and frequency at which given blurbs are shown to users. Because a POSA would understand that McQueen's use of the votes cast on a blurb already achieves the goals sought by Petitioner's combination, a POSA would have no motivation to modify McQueen to add a displayed vote tally.

VI. CONCLUSION

Not only is Petitioner's challenge deficient in view of its failure to comply with Rule 104(b)(4) but it is also no more than a repackaging of the already considered McQueen with a "new" instant messaging reference in order to present substantially the same obviousness challenge that was available to the examiner.

And as detailed above, Petitioner's challenge fails to show that either of its references disclose, teach, or suggest critical elements of the challenged claims found in limitations [a] and [c.vi] of claim 1, the only independent claim of the '562 Patent, or that a POSA would be motivated to combine McQueen and Forsyth.

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Because Petitioner's challenge fails to establish a reasonable likelihood that it would prevail with respect to at least one of the claims challenged in their Petition, Patent Owner respectfully requests that the Board deny institution of Meta's Petition with respect to all grounds asserted and all challenged claims.

Dated: June 19, 2026.

Respectfully submitted,

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CERTIFICATION UNDER 37 C.F.R. §42.24(d)

I hereby certify that the word count for the foregoing Patent Owner's Preliminary Response is 7,886 words, which is within the limit set in 37 C.F.R. §42.24(b)(1).

CERTIFICATE OF SERVICE

I hereby certify that on this the 19th day of June, 2026, a true and correct copy of the foregoing PATENT OWNER'S PRELIMINARY RESPONSE was served via electronic mail upon counsel of record for Petitioner at the following address:

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