

Filed: September 24, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner,

v.

COGMEDIA LLC,
Patent Owner.

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

**PETITIONER'S REQUEST FOR REHEARING
UNDER 37 C.F.R. § 42.71(d)**

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Petitioner Meta Platforms, Inc. (“Petitioner” or “Meta”) respectfully requests rehearing pursuant to 37 C.F.R. § 42.71(d) of this proceeding along with related IPR2026-00248 and IPR2026-00249 to ensure consistency with the Office’s policies and the decisions of the Director and the district court.

I. INTRODUCTION

The notice denying institution (Paper 15, “Notice”) in this proceeding should be reversed. The Petition presents compelling merits, thus the Notice almost certainly reflects adoption of one or more of the four arguments from the POPR. But these arguments are inconsistent with the Office’s guidance on expert testimony, the Director’s decision denying PO’s request for discretionary denial, and the district court’s recent claim construction order¹. Adoption of any of these arguments is a misapprehension of the record that requires rehearing for correction.

First, the POPR incorrectly states that the Petition violates Rule 104(b)(4) because it fails to specify where the “voting indicator” limitation is found in McQueen. But as explained in Petitioner’s Opposition to Request for Discretionary Denial (Paper 11, “Opposition”), the Petition expressly identifies a “configuration for displaying a ‘tally of the votes’ for reviews [] disclosed by McQueen” and merely

¹ *Cogmedia LLC v. Meta Platforms, Inc.*, C.A. No. 1:25-cv-12127-BEM, 2026 WL 2409829, at *1 n.2 (D. Mass. August 18, 2026) (“Markman Order”).

relied on expert testimony to explain why a POSITA would combine the multiple embodiments within McQueen consistent with the Office's July 31, 2025 Memorandum ("July 31 Memo"). Indeed, the Director necessarily rejected PO's argument in referring the Petition for consideration on the merits.

Second, the POPR argues that the RSS feed disclosed in McQueen cannot meet the "extract" limitation in the challenged claims. But the patent itself discloses an RSS embodiment that mirrors the disclosure in McQueen. PO argues that this is a disclaimed embodiment, manufacturing a distinction between active and passive extraction and arguing that the claimed limitation only covers active extraction. Not only is this disclaimer found nowhere in the record, but PO's argument runs directly afoul of the district court's claim construction order that does not apply disavowal or lexicography to any term, and in fact, confirms that "[n]either party argues that disavowal or lexicography applies." Markman Order, at 1 n.2.

Third, the POPR improperly guts the multiple motivations to combine the teachings of McQueen and Forsyth enumerated by the Petition, complaining that they are "untethered from the motivations expressed in the references themselves." But the Office specifically sanctions the application of motivations to combine outside the references, stating: "General knowledge may still be used in an IPR to support a motivation to combine." July 31 Memo, at 1; *see also Dystar Textilfarben GmbH v. C.H. Patrick Co.*, 464 F.3d 1356, 1366 (Fed. Cir. 2006) ("[E]vidence of a

motivation to combine need *not* be found in the prior art references themselves, but rather may be found in the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved.”) (quotations omitted).

Last, the POPR dismisses the motivations to modify the blurb embodiment within McQueen to include the vote tally from its review embodiment. Specifically, the POPR states that users do not need “to wade through noise or low-quality blurbs” using a tally. POPR, at 35. But this again, contradicts the district court’s claim construction order construing “voting function” to mean “function that expresses a preference, choice, or reaction” and finding that this “voting may be used to reach a decision” by the majority (Markman Order, at 6-7), which is supported by a tally.

At bottom, the integrity of the Office requires consistency across its policies and decisions and vigilance to avoid contradictions with the district court. Thus, to protect the Office’s integrity, the Notice’s misapprehension based on the POPR requires rehearing and institution of all challenged claims.

II. BACKGROUND

A. The ’562 Patent

The ’562 Patent is directed to methods for a collaborative “information collection management system.” EX1001, 4:13-14. The claimed methods extract information from external sources and organize that “information in a standardized format” presented as information objects. *Id.*, 4:49-50. The information objects are

“associated with functions that enhance the collaborative use of information” such as a voting function and instant messaging function. *Id.*, 4:53-54.

B. The Procedural History

On March 18, 2026, Meta filed the instant Petition requesting *inter partes* review of the '562 Patent relying primarily on a combination of the teachings of McQueen and Forsyth. On May 15, 2026, PO filed its Request for Discretionary Denial. In its Request, PO argued that the Petition should be denied based on Rule 104(b)(4) alleging that the Petition used expert gap-filling to supply the “voting indicator” limitation and that the merits of the Petition were weak because McQueen’s disclosure of RSS identified in the Petition was disclaimed from the scope of the “extract” limitation.

On June 20, 2026, Meta filed its Opposition. In response, PO requested authorization for the parties to submit supplemental briefing to address, among other things, Meta’s alleged “attempts to rewrite its Petition” on what constitutes a “vote indicator.” EX3100. The Board authorized supplemental briefing, and on June 29, 2026, PO filed a supplemental brief (Paper 12), and on July 2, 2026, Meta filed its response to PO’s supplemental brief (Paper 13). On August 6, 2026, the Director referred the Petition for consideration on the merits. In doing so, the Director necessarily rejected PO’s Rule 104(b)(4) and RSS arguments, as well as PO’s claims that Meta had asserted inconsistent claim constructions in the Parallel Litigation.

But also on June 19, 2026, PO filed its POPR. The POPR repeated the Rule 104(b)(4) and RSS arguments set forth in PO's Request for Discretionary Denial, and additionally included two new arguments claiming that there was no motivation to combine the different embodiments of McQueen and that there was no motivation to combine the teachings of McQueen and Forsyth.

Concurrently, on July 24, 2026, the district court held a Markman hearing in the Parallel Litigation pending in the District of Massachusetts. And on August 18, 2026, the district court issued its claim construction order. A week later, on August 25, 2026, the Director issued the Notice denying institution on the merits.

III. LEGAL STANDARD

"A party dissatisfied with a decision may file" a request for rehearing, "identify[ing] all matters the party believes the Board misapprehended or overlooked." 37 C.F.R. § 42.71(d).

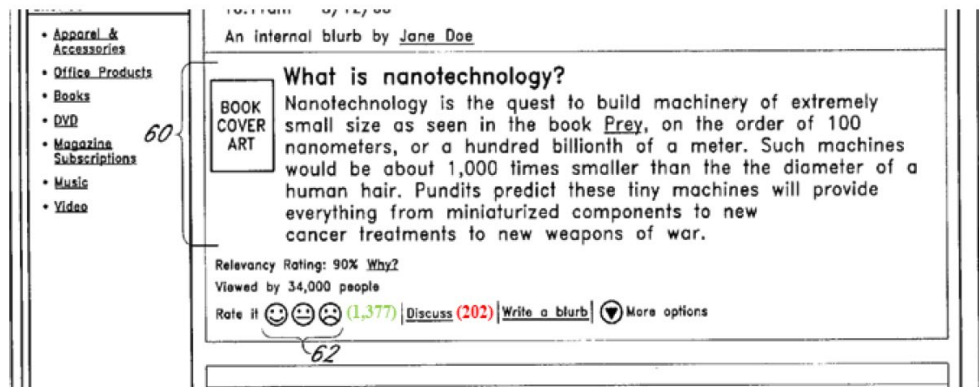
IV. ARGUMENT

A. The Director's Referral Necessarily Rejects the PO's Rule 104(b)(4) Argument

Adoption of PO's argument that Meta used its expert to gap-fill the vote indicator limitation conflicts with the July 31 Memo and the Director's decision to deny PO's request for discretionary denial.

Limitation 1[c.vi] of the sole independent claim of the '562 Patent recites "a vote indicator that displays a number of votes associated with the information

object.” The Petition establishes that McQueen discloses “displaying a ‘tally of votes’ for reviews,” and that a POSITA would have been motivated to apply this “tally of total votes for [a review also to] a blurb (that includes or does not include a review).” Pet., 36; *see also* EX1005, FIG. 4 (cited by Pet., 37). Thus, Meta properly mapped “vote indicator” to McQueen’s “tally of the votes,” and its expert merely explained why it was a routine application for a POSITA to apply McQueen’s vote-tallying to its “blurb” feature as below.



EX1005, FIG. 4 (annotated) (cited by Pet., 37)

PO twists this combination of different embodiments in McQueen into an alleged admission that limitation 1[c.vi] is missing. Specifically, PO argued that “the Director must deny institution” because the Petition allegedly uses “expert testimony ... to supply [a] missing claim limitation” in violation of Rule 104(b)(4). DDR, 3, 5. But as Meta repeatedly emphasized in discretionary denial briefing (Opposition, 15-16; Supp. Resp., 3-4), when (as in the Petition) “combining multiple embodiments from a single reference ... there must be a motivation to make

the combination and a reasonable expectation that such a combination would be successful.” *In re Stepan Co.*, 868 F.3d 1342, 1346 n.1 (Fed. Cir. 2017); *see also Meta Platforms, Inc. v. Angel Tech. Grp. LLC*, IPR2023-00057, Paper 40, at 19-20 (May 7, 2024). Explaining how a POSITA would utilize a reference’s internal teachings is a standard requirement, not an admission of a missing limitation.

PO repeatedly states that “Rule 104(b)(4) and the Acting Director’s July 31, 2025, memorandum prohibit Petition from using expert testimony to supply [a] missing limitation.” POPR, 23. And PO is correct that the Rule and Memo strictly prohibit using expert testimony to conjure a limitation that is entirely absent from the prior art. But that is not the case here. Indeed, PO effectively concedes as much, admitting in another section of its brief that it merely “disagrees that a POSA would have been motivated to apply the ‘tally of votes’ for review disclosed by McQueen to a blurb” (POPR, 23)—not that the “vote indicator” limitation is missing.

After extensive discretionary denial briefing on this issue (including supplemental briefs from both parties), the Director ultimately referred this proceeding for consideration on the merits (Paper 14), necessarily rejecting PO’s arguments. Petitioner’s expert testimony explained how a POSITA would logically combine explicit disclosures in McQueen. And this expert testimony serves the exact legal purpose expressly sanctioned by the Office: “General knowledge may still be used in an IPR to support a motivation to combine.” July 31 Memo, at 1; *see*

also GD Energy Products, LLC v. Kerr Machine Co., PGR2025-00031, Paper 11, at 2 (June 25, 2025) (rejecting argument that petitioner improperly relied on expert testimony finding “that the testimony is merely complying with regulations requiring disclosure of ‘underlying facts or data,’” quoting 37 C.F.R. § 42.65(a)).

Given the extensive history on this issue, the Notice’s decision to deny institution on the merits was startling. If the Notice rests upon PO’s Rule 104(b)(4) argument, it conflicts with the July 31 Memo and the Director’s referral decision, and must be reversed.

B. The PO’s RSS Theory is Inconsistent with the Director’s Referral and the District Court’s Markman Order

A merits denial that rests on PO’s RSS theory contradicts the district court’s claim construction order and the Director’s referral decision.

The Petition established that McQueen discloses the “extract” limitation of the challenged claims by teaching a “system [that] converts or saves each ‘blog,’ which may be in a different ‘RSS’ format, as one or more ‘blurbs’ or blurb posts.” Pet., 23. As Meta’s expert explains, “an RSS feed is a standardized file used to syndicate web content, including metadata” and “‘ingesting’ these standardized XML entries and translating them into discrete ‘blurbs’ within a centralized database 44 ... transforms [the data] into a distinct information object.” Cockburn Decl., ¶95; *see also* Pet., 23.

In fact, McQueen’s disclosure is materially the same as that disclosed in the ’562 Patent. The specification explains that “[a] user can drag a URL from a web browser onto a Workspace View which will create an IO that hyperlinks to that URL and *automatically extracts* (from the URL destination) a picture and a heading that is displayed in the IO’s picture and heading bar.” EX1001, 25:40-45. Critically, the specification goes on *in the next sentence* to use RSS as an example of such extraction: “The user can drag an RSS URL onto a Workspace View which will create an IO that visualizes the most recent item in the RSS file/s and that continuously updates itself.” *Id.*, 25:45-48.

In a transparent attempt to engineer a hole in the Petition, PO manufactures a disclaimer for the “extract” limitation:

[T]o 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.

POPR, 24 (emphases added). But the record fatally contains no such evidence of an “unequivocal distinction between RSS visualization and active extraction” or “Patent Owner’s explicit decision to claim the latter.” Notably, despite such bold statements, the only parts of the intrinsic record that PO cites to are two completely

unrelated descriptions of extraction (POPR, 27, citing EX1001, 26:34-38) and RSS (*id.*, 28, citing 25:46-48) that in no way distinguishes one from another, let alone disclaims the RSS extraction from general extraction. Quite the opposite—RSS is plainly an example of the automatic extraction described in the prior sentence. EX1001, 25:45-48.

Indeed, PO's position is inconsistent with its position in the Parallel Litigation, which was ultimately adopted in the district court's claim construction order. In particular, during the Markman hearing, PO repeatedly emphasized that it was not asserting that disavowal applies to any term in the patent, captured in the district court's claim construction order, which expressly recognized that "[n]either party argues that disavowal or lexicography applies." Markman Order, 1 n.2.

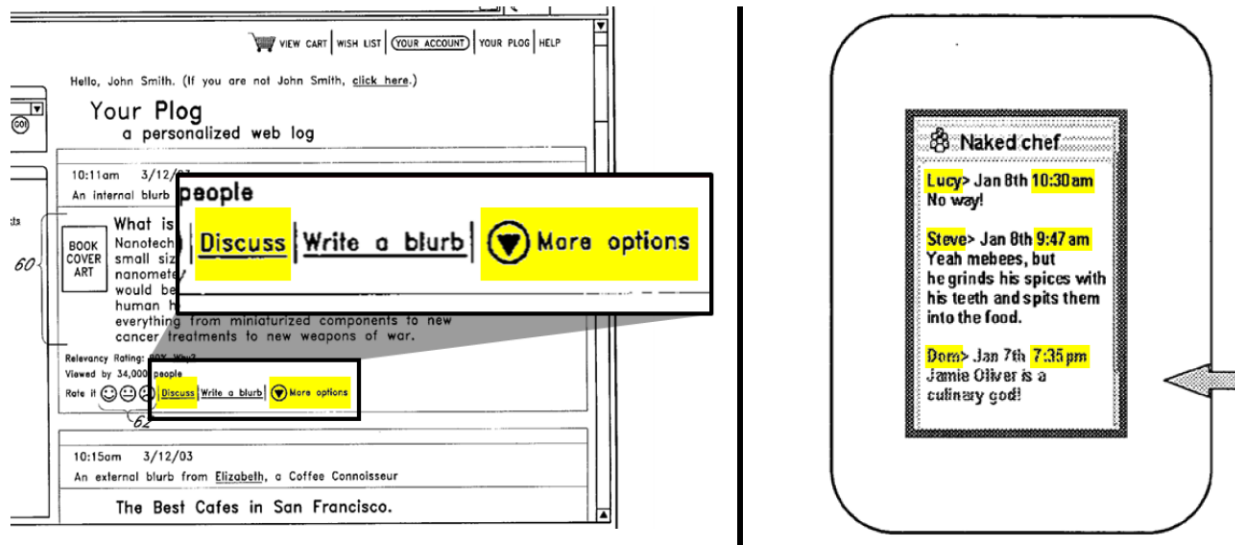
Importantly, the parties also devoted significant briefing regarding discretionary denial on this issue. PO dedicated nearly 4 pages of its 20-page brief requesting discretionary denial on this issue. DDR, 12-16. But once again, the Director necessarily rejected this argument in referring this proceeding for consideration on the merits. Paper 14.

Denying institution on the merits on this basis makes no sense. PO's RSS theory is inconsistent with the district court's claim construction order and the Director's merits referral of the Petition.

C. The Office Expressly Sanctions Motivations to Combine Outside the References

Dismissing the motivations to combine the teachings of McQueen and Forsyth articulated in the Petition because they are not found in the references is contrary to the law and the July 31 Memo.

The Petition established that a POSITA would have been motivated to implement McQueen such that clicking on the “Discuss” or an option in the “More Options” drop-down menu would activate the instant messaging function taught by Forsyth as shown below in the figures. Pet., 30-32. As PO acknowledges, the Petition articulates multiple motivations for this combination: it would “(1) help McQueen ‘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.’” POPR, 29-30 (citing Pet., 13-15).



EX1005, FIG. 4 (left) (annotated); EX1006, FIG. 7 (right) (annotated).

Despite these numerous articulated motivations, PO claims that they must be rejected because they are “undoubtedly aspirational” and “wholly untethered from the motivations expressed in the references themselves.” POPR, 30. PO complains that: “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.” POPR, 31. On that flawed premise, PO insists that the articulated motivations merely express “what a POSA *could* have done to ‘improve’ McQueen in the abstract, rather than tying such motivation back to anything taught by McQueen itself.” POPR, 32 (emphasis original). But PO is wrong as a matter of law, and as captured in the July 31 Memo.

“It has long been the law that the motivation to combine need not be found in prior art references, but equally can be found ‘in the knowledge generally available

to one of ordinary skill in the art.’” *Nat’l Steel Car, Ltd. v. Canadian Pac. Ry., Ltd.*, 357 F.3d 1319, 1337 (Fed. Cir. 2004) (quoting *In re Jones*, 958 F.2d 347, 351 (Fed. Cir. 1992)). With that foundation, the July 31 Memo reaffirmed that “[g]eneral knowledge [such as expert testimony, common sense, and other evidence] may still be used in an IPR to support a motivation to combine.” July 31 Memo, at 1. Thus, contrary to PO’s assertions, it is rudimentary that motivations to combine need not tie back “to any actual teaching or motivation found in the references.” POPR, 31.

PO’s argument that there is no motivation to combine McQueen and Forsyth because those articulated in the Petition are not found in the references is legally incorrect. Denial of institution cannot be premised on this erroneous argument.

D. Dismissal of the Motivations to Include a Vote Tally Contradicts the District Court’s Markman Order

The Petition established that a POSITA would have been motivated to include McQueen’s vote tally with its blurbs. Rejecting these identified motivations rejects the findings of the district court’s claim construction order.

As PO acknowledged, the Petition expressly identified at least four motivations to combine: the 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.”’” POPR, 34 (citing Pet., 16-17). Put simply, the disclosed vote tally provided multiple ways for users to reach a decision on the popularity of a post.

Notably, this is also how the district court described the purpose of voting in its claim construction order. As the district court explained, “the record here makes clear that the ‘vote’ contemplated is that of an individual user who is expressing their reaction to or preference regarding a given object.” Markman Order, at 7 n.7. Notably, the district court recognized this “voting may be used to reach a decision” citing to contemporaneous art that explained “[e]ach discussion item may itself include at least one vote/poll item that allows discussion participants to decide issues related to the discussion.” *Id.*, at 6. Thus, consistent with the identified motivations, a tally “captures the *outcome* of a vote, in which individual voters submit their choices or preferences and by which a decision is ultimately made” and provides the “decision by a majority.” *Id.*, at 7 n.7 (emphasis original).

In conflict with the district court’s findings, the POPR demands rejection of the identified motivations because “users shall not need to wade through noise or low-quality blurbs by using measurable criteria, such as the votes cast on a blurb.” POPR, 35. The POPR argues that the users of the McQueen system do not need the vote tally because McQueen itself already uses the tally “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.” *Id.* But just because McQueen has already used the tally to curate the blurbs shown to the users, does not mean that displaying the tally on those shown blurbs does not serve a purpose—the same purpose identified in the district court claim construction order. Indeed, PO’s acknowledgement that McQueen already uses a vote tally only underscores how easy it would be to modify McQueen’s blurbs to further display this tally on the shown blurbs to provide the “*outcome* of the vote” that would enable users to “reach a decision” and “decide issues related to the discussion.” Markman Order, at 7 n.7.

Accordingly, accepting PO’s argument that there is no motivation to modify McQueen’s blurbs to contain vote indicators rejects the district court’s findings on the purpose of the “voting function.”

V. CONCLUSION

For the reasons above, Petitioner respectfully requests that the Board grant this request for rehearing and institute trial.

Respectfully submitted,

September 24, 2026

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CERTIFICATE OF SERVICE

The undersigned certifies that a complete copy of this Petitioner's Request for Rehearing Under 37 C.F.R. § 42.71(d) was served on the official correspondence address below for the patent owner via electronic mail, as agreed to by counsel, on September 24, 2026:

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