

Filed on behalf of Meta Platforms, Inc.

Filed: June 22, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner

v.

COGMEDIA LLC,
Patent Owner

Case No. IPR2026-00248
U.S. Patent No. 10,664,141

**PETITIONER'S OPPOSITION TO PATENT OWNER'S
REQUEST FOR DISCRETIONARY DENIAL**

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1004	Curriculum Vitae of Andrew Cockburn, Ph.D (“Cockburn”)
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1007	U.S. Pre-grant Publication No. 2002/0069105 to de Rosario Botelho et al. (“de Rosario Botelho”)
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1019	Cockburn, A. and Greenberg, S. <i>Making contact: getting the group communicating with groupware. In Proceedings of the conference on Organizational computing systems (COCS '93)</i> (1993)
1020	Cockburn, A., et. al. <i>WebView: A Graphical Aid for Revisiting Web Pages OzCHI'99: Australian Conference on Computer-Human Interaction</i> , (1999)
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1022	Engelbart, Douglas C. and English, William K. <i>A research center for augmenting human intellect</i> (1968)
1023	Borenstein, Nathaniel S. and Thyberg, Chris A. <i>Cooperative work in the Andrew message system</i> (1988)
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I. PTAB IS MOST EFFICIENT AND A TRUE ALTERNATIVE FORUM

The PTAB is the most efficient and best-equipped forum to adjudicate the patentability of expired U.S. Patent No. 10,664,141 (the “’141 Patent”), and will serve as a true, “effective *alternative* to district court patent litigation for resolving [the parties’] disputes over patent validity.” *Magnolia Med. Tech., Inc. v. Kurin, Inc.*, IPR2026-00097, Paper 17, at 2 (Director May 14, 2026). The patent was never enforced during its active life, and was only asserted after expiration due to a lapse in maintenance fees. The Examiner also inexplicably failed to apply prior art during the prosecution of the ’141 Patent that had already been considered during the prosecution of its grandparent and parent patents. The patent is now being asserted against software run on Meta’s backend servers operated in data centers that Meta has spent billions to maintain domestically. There is no trial date in the Parallel Litigation and Meta has entered into a broad stipulation mitigating duplication concerns. Thus, PTAB is the true alternative forum for patentability, and institution is appropriate.

PO’s attempt to invoke discretionary denial fails. First, PO’s claim that 37 CFR § 42.104(b)(4) mandates denial misconstrues the law. Meta properly maps the claims to the prior art, and expert testimony to establish a motivation to combine is expressly sanctioned. Second, while PO asserts that the Petition is weak on the merits, its arguments highlight the exact opposite—that the Examiner materially

erred during prosecution. Finally, PO's reliance on U.S. Government funding is irrelevant, since the documents PO relies on shows the Government's interest was based on features not recited in the challenged claims.

The '141 Patent represents the exact type of low-quality, non-commercialized patent only allowed through clear material error, the Office should review. To prevent the ongoing disruption of legitimate domestic technology infrastructure by an invalid patent, Meta respectfully requests that the Director refer its Petition for consideration on the merits.

II. INSTITUTION IS WARRANTED

PO purports to follow the Director's guidance on "Interim Processes for PTAB Workload Management." DDR, 1. But PO either omits or incorrectly analyzes key considerations under that guidance. Each of these considerations weigh decisively in favor of institution.

A. There Are No Settled Expectations

The '141 Patent was in force for a mere four years before PO abandoned the patent by failing to pay maintenance fees, causing it to lapse on May 26, 2024. EX1033. This exposes the error in PO's calculation, which relies on its initial issuance to the present day. DDR, 8. Settled expectations must be evaluated based on the period the patent was actually in force, not an inflated timeline extended by PO's own neglect. *Apple Inc. v. Ferid Allani*, IPR2025-00856, Paper 11, at 3 (Sept.

4, 2025), confirms a PO cannot retrospectively manufacture settled expectations after a patent has lapsed.

Because the '141 Patent was in force for only four years, PO never developed settled expectations. Meta's Petition is instead a prompt challenge to a lapsed patent asserted retrospectively since PO waited 14 months after lapse to assert it for the first time. Meta therefore reasonably expected non-enforcement, a position squarely supported by *Google LLC v. Sandpiper CDN, LLC*, IPR2025-00806, Paper 13, at 2 (Sept. 12, 2025) (petitioner "expected non-enforcement" where challenged patent was asserted after expiration), and *Globus Medical, Inc. v. Spinelogik, Inc.*, IPR2025-00225, Paper 8, at 2 (June 12, 2025) (same, where patent expired for non-payment of maintenance fees). Granting discretionary denial here would reward a PO who kept a patent dormant until after expiration. Neither PO nor its predecessors have ever licensed nor commercialized the patent. As recognized in *Home Depot U.S.A., Inc. v. H2 Intellect LLC*, IPR2025-00480, Paper 11, at 2 (Sept. 4, 2025) (informative), settled expectations do not arise where a "challenged patent has not been commercialized, asserted, marked, licensed, or otherwise applied in its technology space." Nor has the '141 Patent been asserted in litigation previously. *Id.*

PO's reliance on *Omnivision* and *K. Mizra* to argue that expiration enhances settled expectations mischaracterizes those decisions. *See* DDR, 8. In *Omnivision*,

the petitioner had filed a declaratory judgment action against the challenged patent establishing strong settled expectations. *Omnivision Tech., Inc. v. Re Secured Networks, LLC*, IPR2025-01019, Paper 14, at 2 (Director Oct. 10, 2025). Similarly, in *K. Mizra*, the patent owner had put the petitioner on notice before the expiration of the patent. *See Google LLC, v. K. Mizra LLC*, IPR2025-01437, Paper 15 (Director January 27, 2026). Because PO provided no pre-expiration notice and engaged in no enforcement before the patent lapsed, it cannot retroactively claim discretionary denial's equitable protections.

B. IPR is Necessary To Correct A Material Error By The Office

The challenged claims of the '141 Patent should have never issued. During prosecution, the Examiner identified no patentable novelty and instead issued a statutory double patenting rejection against the claims of the parent U.S. Patent No. 9,817,562 (the "'562 Patent"). EX1002, 114. The Office had a persistent blind spot across the '141 Patent's multi-generational lineage, consistently overlooking the invalidating prior art. The applicant was permitted to continually stack nominal communication elements atop an unpatentable data structure as it descended from its grandparent, U.S. Patent No. 9,524,090 (the "'090 Patent") to the '141 Patent. Consequently, the examination errors from the grandparent '090 Patent and parent '562 Patent carry forward to the '141 Patent resulting in the material error.

**1. Procedural stacking and a terminal disclaimer
overshadowed examination of the merits over the**

prior art

The '141 Patent is the grandchild of U.S. Patent No. 9,524,090 (the "'090 Patent"). During the '090 Patent's prosecution, the Examiner repeatedly found the pending independent claims anticipated by U.S. Pat. Pub. 2003/0115023 to Nickerson et al. ("Nickerson"), which disclosed a system that collected information through a web crawl, rendered them in a uniform format, and allowed users to comment and vote on the collected information. EX1034, 131-138. To overcome this, the applicant changed "comment function" to "message function" in a dependent claim and added this "message function" limitation to the independent claims, resulting in a Notice of Allowance. EX1034, 300; *see also id.*, 342.

Two generations later, during the '141 Patent's prosecution, the same nominal features resurfaced, but the prosecution turned on double patenting rather than the merits. After a double-patenting rejection against the '562 Patent, the applicant copied claims from a parallel continuation that later issued as U.S. Patent No. 10,338,790, arguing minor shifts sufficed to differentiate them. EX1002, 139. The Examiner disagreed, finding the differences "minor and not distinguishing the overall appearance of one over the other," *id.*, 164, confirming no patentable distinction from the '562 Patent. The applicant then filed a terminal disclaimer to force issuance. *Id.*, 174.

The back-and-forth over double patenting eclipsed any substantive evaluation

against the prior art. The Examiner never looked past the double patenting issues to evaluate the pending claims against the invalidating disclosures of Rosenblatt or Nickerson—the very references that the Office had used to reject the comment, voting, copy, and link features two generations earlier. This multi-generational oversight, stemming from the grandparent '090 Patent's prosecution, confirms the '141 Patent was “improvidently granted” and should not “continue to be recognized.” *Magnolia*, IPR2026-00092, Paper 17, at 2.

2. The Office overlooked overlapping nominal features previously found in the prior art applied to the grandparent

The Examiner overlooked that he had expressly found the comment, vote, replicate, and link functions in the references applied to the grandparent '090 Patent. For “comment,” the Examiner found that “Nickerson teaches . . . a comment function by which a user can create a comment relating to the information object.” EX1034, 133. For “vote,” the Examiner found “Nickerson further discloses rating or voting.” *Id.*, 133. For “replicate,” the Examiner found Rosenblatt teaches “[s]haring, via copying . . . information file, through a communications program.” *Id.*, 136. For “link,” the Examiner found that the U.S. Pat. Pub. 2002/0087602 to Masuda et al. teaches that the “extracted data including . . . a hyperlink.” *Id.*, 192.

These nominal features are present in the '141 Patent. Independent claims 1 and 17 of the '141 Patent recite “a comment function,” “a vote function,” “a copy

function,” and “a link function.” Yet, the prosecution history for the ’141 Patent shows no evidence that the same Examiner considered or applied Nickerson, Rosenblatt, or Masuda when evaluating the ’141 Patent.¹ *See generally* EX1002.

3. Correcting a material error by the Office is an appropriate and worthwhile use of Board resources

The Director has repeatedly emphasized that the Office institutes review specifically to reconsider its own decisions and correct possible errors made in the original patent grant, a principle affirmed in *Magnolia*, IPR2026-00097, Paper 17, at 6. A substantial showing of apparent examiner error can overcome other factors that suggest discretionary denial, as demonstrated in *Apple Inc. v. Advanced Coding Technologies LLC*, IPR2025-01103, Paper 11, at 2 (Oct. 17, 2025), and *Anthony Inc. v. ControlTec LLC*, IPR2025-00559, Paper 12 (July 16, 2025), where a material error by the Office justified the use of resources for review. This policy is reinforced by *Xencor, Inc. v. Merus N.V.*, IPR2025-00605, Paper 12, at 2-3 (July 17, 2025), which held that “discretionary denial under 35 U.S.C. § 325(d) is not appropriate because the Office materially erred during prosecution of the challenged patent.” The Board should intervene to correct this compounding error: the Office allowed the ’141 Patent based on a combination of limitations it had already identified in prior art applied two generations earlier.

¹ The ’562 and ’141 Patents faces do not list Nickerson, Rosenblatt, and Masuda.

C. Domestic Investment Confirms Institution Is Appropriate

Institution would protect Meta's massive investment in domestic operations and infrastructure. Recognizing that "the availability of IPRs and PGRs is important to protect American manufacturers," on March 11, 2026, Director Squires issued a memorandum setting forth additional considerations related to U.S. manufacturing in determining whether to institute post-grant proceedings. Here, the Director considers "the extent to which any products accused of infringement in a parallel proceeding are manufactured in the United States or are related to investments in American manufacturing operations" and "the extent to which any products made, sold, or licensed by the patent owner that compete with the accused products are manufactured in the United States." March 11 Memo, at 2. Crucially, the memorandum explicitly dictates that "[i]n the case of method claims, the relevant products for the purposes of this memo are the devices used to carry out the method." *Id.* at 3. Here, Meta has invested billions in the exact physical devices used to execute the accused functionality—the domestic data centers that host and operate the backend infrastructure for the accused Facebook website and mobile application. PO, in contrast, has no competing products, no manufacturing presence, and no domestic operations whatsoever.

The challenged claims are method claims that PO alleges Meta performs through its "'Wall', 'Timeline', 'Profile', 'Feed', and/or 'Newsfeed' features and

functionality that is accessible via, and provided through, [the] Facebook website platform and/or software/mobile application versions of Facebook.com.” EX2015,

3. PO alleges that Meta’s “backend server equipment” perform the claimed methods. *Id.*, 5. These servers are operated as part of Meta’s 28 U.S. data centers supporting its apps and technologies. EX1035, 1; EX1036, 1 (“This is our data hall. This is where all the magic happens that makes Facebook...work”).

Meta’s data centers represent a monumental investment of billions of dollars and tens of thousands of jobs in American infrastructure. For example, Meta broke ground on its Indiana Data Center in 2026, a \$10 billion investment. EX1037. Nationwide, Meta's data center operations have supported over 30,000 skilled trade jobs and 5,000 operational jobs since 2010, directing billions of dollars to American subcontractors and skilled workers. *See* EX1038; *see also* EX1040. In January 2026, Meta also announced an up to \$6 billion multi-year agreement with Corning to supply fiber optic cables for its data centers. *See* EX1040. Conversely, PO has made no domestic investment. PO was recently formed on August 12, 2024, with a principal place of business that is nothing more than the office of its counsel, Sunstein LLP. EX1041. Neither PO nor its predecessors have ever made, sold, or licensed a commercial product under the ’141 Patent. EX1042, 9-10.

To protect Meta’s U.S. operations and its continued investment in domestic manufacturing and jobs, institution is appropriate.

D. *Fintiv* Confirms That Institution Is Warranted

No trial date has been set, the FWD will almost certainly issue before trial in the Parallel Litigation, and Meta has entered a broad *Sotera* stipulation. Thus, the *Fintiv* factors support institution and will further the Board's objectives to advance "efficiency, fairness, and the merits." *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11, at 5-6 (Mar. 20, 2020).

Factor 1 (stay) favors institution because stay is likely. *Imperative Care, Inc. v. Inari Medical, Inc.*, IPR2025-00289, Paper 9, at 2 (June 12, 2025) ("evidence that the district court is likely to grant a stay if this proceeding is instituted" weighs against discretionary denial). Although Judge Murphy (the presiding judge in the Parallel Litigation) has not previously ruled on a motion to stay pending post-grant proceedings, the District of Massachusetts routinely grants such motions. Indeed, since 2024,² the District of Massachusetts granted all six motions to stay pending

² There were seven motions to stay pending IPR filed in the District of Massachusetts since 2024, but one was denied as moot. *SiOnyx, LLC v. Apple, Inc.*, No. 1:24-cv-12354, Dkt. 73 (D. Mass. May 27, 2025). Another was granted as to patents with instituted IPRs, but denied as to patents without instituted IPRs. *Progenics Pharms., Inc. v. MIM Software Inc.*, No. 1:24-cv-10437, Dkt. 102 (D. Mass. May 13, 2025).

IPR that were considered. EX1043.³

Factor 2 (proximity to trial) strongly favors institution because there is no trial date pending. *RØDE Microphones, LLC, et al. v. Zaxcom, Inc.*, IPR2025-00557, Paper 11, at 2 (July 17, 2025) (denying request for discretionary denial noting “there is no scheduled trial date in the co-pending district court litigation”). Even if a trial date were to be set, as PO acknowledges, a trial will likely not occur until December 2027 (DDR, 17), well after the deadline for the Final Written Decision on September 19, 2027. Further, the median time-to-trial statistics for the District of Massachusetts suggest trial would not occur until May 2028 (EX1044, 1). *See Amazon.com, Inc. et al. v. NL Giken Inc.*, IPR2025-00250, Paper 14, at 2 (May 16, 2025) (denying request for discretionary denial based, in part, on time-to-trial statistics suggesting trial would occur six months after final written decision).

Factor 3 (investment in parallel litigation) favors institution. Party and judicial investment in the Parallel Litigation have been limited. *Am. Airlines, Inc. v. Intellectual Ventures I LLC*, IPR2025-00785, Paper 11, at 2-3 (Aug. 29, 2025) (“evidence that there has been little investment in the district court proceedings” weighs against discretionary denial). A claim construction order has not issued, and

³ PO argues that the “district court has not granted a stay light of the Petitions” (DDR, 16) but no motion has been filed. A motion will be filed shortly.

a deadline for the close of fact discovery has not been set. *Snap, Inc. v. SRK Tech. LLC*, IPR2020-00820, Paper 15, at 10 (Oct. 21, 2020) (finding “the District Court proceeding was in its early stages” where “no claim construction orders have issued”). PO argues that a motion to dismiss and motion to transfer venue have already been decided. DDR, 17. But the motion to dismiss was a text order with no analysis (EX2014), and venue transfer was procedural with little, if any, patent analysis (EX2011).

Factor 4 (overlap) favors institution. The District of Massachusetts will almost certainly stay the litigation, having granted all motions to stay on patents with instituted IPRs since 2024. But for the avoidance of doubt, Petitioner has entered a broad *Sotera* “plus” stipulation that will eliminate overlap between the district court litigation and the instant proceeding if instituted. *See Samsung Elec. Co. v. Wilus Institute of Standards and Tech. Inc.*, IPR2025-00933, Paper 11, at 3 (Oct. 10, 2025) (“Petitioner has filed a broad stipulation that reduces the concern of inconsistent outcomes or significant duplication of efforts.”); *Tesla, Inc. v. United States*, IPR2025-00341, Paper 12, at 2 (“Petitioner has filed a broad stipulation” that counsels against discretionary denial). With the *Sotera* “plus” stipulation, Meta has committed not to pursue, if instituted, any combination of a grounds reference with prior art that could not have been raised, such as system prior art. *See* EX1045.

Factor 5 (same party) is neutral. The Board considers “whether the

petitioner and the defendant in the parallel proceeding are the same party” because the Board may exercise its discretion where institution would mean “redoing the work of another tribunal” on the same or substantially same issues for the same parties. Here, even though the same parties are involved in this proceeding and the Parallel Litigation, there is little danger of redoing the work of the district court since Meta has entered a broad stipulation. *Snap*, Paper 15, at 17 (“there is not substantial overlap . . . [thus] we regard the consideration of the fifth *Fintiv* factor as neutral”).

Factor 6 (other considerations) strongly favors institution.⁴ *First*, as discussed *infra*, the Petition presents strong arguments for unpatentability. *See Samsung Elecs. Co. Ltd. v. Dynamics Inc.*, IPR2020-00505, Paper 11, at 14 (Aug. 12, 2020) (finding case merits favor institution). *Second*, institution is consistent with the significant public interest against “leaving bad patents enforceable.” *Thryv, Inc. v. Click-To-Call Techs., LP*, 590 U.S. 45, 55 (2020). Meta has a significant

⁴ PO argues that Meta is engaging in inconsistent claim construction practice (DDR, 19) but fails to identify a single example. PO cannot because Meta applies the same constructions here as in district court. To the extent PO alleges that any construction is inconsistent, Meta will stipulate to use the same construction solely to remove any perceived discrepancy between forums. *See Caption Health, Inc. v. Univ. of British Columbia*, IPR2025-01422, Paper 15, at 3 (Director Dec. 18, 2025).

patent portfolio. Institution here would further the intent of the AIA to prevent the “diver[sion of] resources from the research and development of inventions.” H.R. Rep. No. 112-98, pt. 1, at 48 (2011). EX1042, 7. The failure to remove low-quality patents damages the integrity of the patent system and diverts Meta’s resources from developing true innovation, such as U.S Government-funded Meta projects related to AI. EX1047. *Third*, this Petition is the sole challenge to the ’141 Patent before the Board—a “crucial fact” favoring institution. *Google LLC v. Uniloc 2017 LLC*, IPR2020-00115, Paper 10, at 6 (May 12, 2020).

E. The PTAB Is The Most Efficient Forum And A True Alternative To The Parallel Litigation

“The absence of a scheduled trial date and Petitioner’s broad stipulation reduces the concern of inconsistent outcomes or significant duplication of efforts, and allows this AIA review to function as an alternative to the co-pending litigation.” *Tesla, Inc. v. Bulletproof Property Mgmt., LLC*, IPR2026-00204, Paper 14, at 2-3 (Director June 15, 2026). This is particularly true here—there is no scheduled trial date, a broad stipulation beyond *Sotera*, and the District of Massachusetts has granted every requested stay on an instituted IPR since 2004. *See* Section II.D.

Importantly, the PTAB would serve as a true and more efficient alternative. The Parallel Litigation is Judge Murphy’s first patent case, and he has consistently noted that he “do[es] not have a deep well of experience with patents.” EX1046, 5:8-9. Accordingly, the PTAB is a far more efficient forum to decide the invalidity

of the '141 Patent given its specialized knowledge and familiarity with patent law.

III. PO'S ASSERTIONS THAT DISCRETIONARY DENIAL IS WARRANTED CONFIRM THE OPPOSITE

A. The Prior Art Discloses Each And Every Limitation Of The Challenged Claims And Rule 104(b)(4) Does Not Apply

PO argues “the Director *must* deny institution” because the Petition allegedly uses “expert testimony . . . to supply [a] missing claim limitation.” DDR, 3. (emphasis added). Specifically, PO alleges McQueen does not disclose the “vote indicator that displays number of votes associated with the information object.” *Id.*, 4. Incorrect. As PO acknowledges, the Petition expressly identifies a “configuration for displaying a ‘tally of the votes’ for reviews [] disclosed by McQueen” that meets this limitation. *Id.*, 5 (citing Pet., 36). Thus, the Petition includes no expert gap-filling as prohibited under Rule 104(b)(4) and the Director's July 31 Memorandum.

PO attempts to twist the motivation to combine section into an admission that the limitation is missing, but this misconstrues fundamental patent law. Explaining how a POSITA would utilize a reference's internal teachings is a standard requirement, not an admission of a defect. Even when “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) and *Meta Platforms, Inc. v. Angel Tech. Grp. LLC*, IPR2023-00057, Paper 40, at 19 (May 7,

2024). Petitioner's expert testimony serves this exact legal purpose by supporting the rationale to combine within McQueen, as was expressly sanctioned by the Director. July 31 Memo, at 1 ("General knowledge may still be used in an IPR to support a motivation to combine").

PO's recharacterization of Petitioner's expert testimony as gap-filling is entirely baseless.

B. The Government Only Had Interest In Features Not Recited In The '141 Patent

PO erroneously argues that it is not "an efficient use of the Board's limited time and resources to review the validity of expired patents which the U.S. Government previously invested in, retains a non-exclusive license to, and deemed important to their goal of preserving national security." DDR, 10. The evidence confirms the opposite: the Board should protect the patent system's integrity by reconsidering its decision to issue a patent on technology the Government evaluated and declined to use, despite holding a license.

PO touts that the inventor's technology was examined at the Naval Postgraduate School, but the underlying documentation shows that the examined features have nothing to do with the claimed features of the '141 Patent. DDR, 9. But the article that PO relies upon expressly identifies the features examined—"team participants input their thoughts and information *so algorithms* can arrange and prioritize them" and the "Web-enabled technology [allows] team members [to]

query for the latest information on a specific topics.” EX2010, 4. Crucially, the challenged claims include no such prioritization algorithms nor query function.

C. The Petition Is Exceptionally Strong And Confirms Material Errors Made by the Examiner

1. The Office allowed the '141 Patent based on nominal communication features

As discussed in Section II.B.1, the Examiner only allowed the grandparent '090 Patent after the claims were amended to include a “messaging function” instead of a “comment function.” PO argues that the Petition is weak because the primary reference McQueen is cumulative of the “*nineteen*” distinct references related to instant messaging which Petitioner's expert has affirmed was well known at the time.” DDR, 12. But the challenged claims do not even include a “message function.”⁵ This argument only underscores that institution is necessary to correct this clear Examiner error, consistent with *Padagis US LLC v Neurelis, Inc.*, IPR2025-00464, Paper 12, (Director July 16, 2025) (informative) (examiner's failure to properly handle known art justified Office review).

PO further asserts that the claims are patentable because the Examiner did not put forward prior art “in view of McQueen and a host of instant messaging related references . . . during the prosecution of the '371 Patent.” DDR, 12. Again, the

⁵ Dependent claims 9 and 26 do include an “instant messaging” function.

challenged claims do not include a “message function.” And even if it did, the absence of rejections during the prosecution of the '371 Patent reveals a lack of meaningful evaluation of the references.

The Examiner's search records expose highly constrained review times, precluding any meaningful prior art evaluation. On September 28, 2020, the Examiner ran 16 searches in 25 minutes, averaging less than two minutes per search string. EX1048, 130-32. The final search returned 68 hits at 12:35, but Examiner finalized the workspace five minutes later at 12:40:05, an interval too brief for meaningful review. *Id.* at 132. A subsequent session on February 4, 2021 was similarly rushed, logging 14 searches in roughly 35 minutes. *Id.*, 566-68. The final search string yielded 15 hits at 11:30, yet the Examiner saved the record less than two minutes later at 11:31:55, reinforcing that these results were never substantively reviewed. *Id.*, 568. Crucially, the Examiner ran no messaging-related searches during this entire February session. *Compare id.*, 566-68 with *id.*, 549 (examiner's reasons for allowance).

The Examiner had previously rejected a dependent claim in the grandparent '090 Patent finding that “Rosenblatt teaches . . . causing an information object to be shared with another user via an instant message sent through an integrated instant messaging system.” EX1034, 137. The applicant never traversed Rosenblatt, and the Examiner never explained the withdrawal. Tellingly, Rosenblatt does not appear

on the face of the '141 Patent as considered, confirming the Examiner overlooked messaging disclosures in references previously identified. *See supra* Section II.B.

The '141 Patent is missing the very subject matter that the Examiner found allowable in the parent. But even if the challenged claims did include a “message function”, contrary to PO's assertions, the vast number of well-known instant messaging references does not establish patentability, rather confirming that the Examiner overlooked the teachings of Rosenblatt (and similar references like McQueen) disclosing the allowable subject matter of the challenged claims. *Bulletproof*, IPR2026-00204, Paper 14, at 3-4 (“In the child applications, Joos was cited in an IDS, but the examiner did not apply Joos in any rejection . . . Petitioner persuasively argues that the examiner overlooked certain teachings in Joos that appear to disclose allowable subject matter of the challenged claims.”).

2. The Petition uses expert testimony for context as contemplated in the July 31 Memo

The Petition establishes McQueen discloses the “extract” limitation 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. Petitioner's expert Dr. Cockburn explains an “RSS” format in context of McQueen: “an RSS feed is a standardized file used to syndicate web context, including metadata.” Cockburn Decl, ¶95. “By ‘ingesting’ these standardized XML entries and translating them into discrete ‘blurbs’ within a centralized database 44, . . . McQueen's configuration of

raw data transforms into a distinct information object.” *Id.*

PO contends that Dr. Cockburn’s explanations “contort the RSS-based teaching of McQueen to fit Dr. Keel’s claimed extraction step.” DDR, 13. Not so. Dr. Cockburn’s explanation is exactly the type of expert testimony the July 31 Memo allows “to demonstrate how a skilled artisan would have understood a prior art reference’s disclosure as teaching a claim limitation.” *Id.*, 2. And PO concedes that this exact embodiment is disclosed. DDR, 14 (“Dr. Keel explains that RSS feeds can be used to ‘create an IO that visualizes the most recent items in the RSS file/s and that continuously updates itself.’”). If anything, this limitation demonstrates the strength of the Petition.

To the extent PO argues the RSS embodiment disclosed in the ’141 Patent is unclaimed or disclaimed, that is a legal argument best decided by the Board—particularly here, where Judge Murphy has acknowledged he is still learning patent law, as the Parallel Litigation is his first patent case.

IV. CONCLUSION

Petitioner respectfully requests that the Board reach the merits of the Petition.

Dated: June 22, 2026

Respectfully submitted,

By: / Lisa K. Nguyen /
Lisa K. Nguyen (Reg. No. 58,018)
PAUL HASTINGS LLP
1117 S. California Avenue
Palo Alto, CA 94304
Telephone: 650-320-1800
lisanguyen@paulhastings.com

Counsel for Petitioner
META PLATFORMS, INC.

CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2026, a true and correct copy of the foregoing
**PETITIONER'S OPPOSITION TO PATENT OWNER'S REQUEST FOR
DISCRETIONARY DENIAL** is being served by electronic mail on PO's counsel
of record listed below, pursuant to its Mandatory Notices.

Alexander N. Yow (Reg. No. 82,236)
Friedman, Suder & Cooke
604 E. Fourth Street, Suite 200
Fort Worth, TX 76102
ayow@fsclaw.com

Dave R. Gunter (Pro Hac Vice)
Friedman, Suder & Cooke
604 E. Fourth Street, Suite 200
Fort Worth, TX 76102
gunter@fsclaw.com

Dated: June 22, 2026

Respectfully submitted,

By: / Lisa K. Nguyen /
Lisa K. Nguyen (Reg. No. 58,018)
PAUL HASTINGS LLP
1117 S. California Avenue
Palo Alto, CA 94304
Telephone: 650-320-1800
lisanguyen@paulhastings.com

Counsel for Petitioner
META PLATFORMS, INC.