UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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META PLATFORMS, INC.
Petitioner,

v.

COGMEDIA LLC
Patent Owner.

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Case No. IPR2026-00249
U. S. Patent No. 11,036,371

PATENT OWNER'S AUTHORIZED SUPPLEMENTAL BRIEF ADDRESSING PETITIONER'S OPPOSITION TO DISCRETIONARY DENIAL

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I. Petitioner Knowingly Misrepresented Facts Material to the Settled Expectations Analysis

To combat PO's settled expectations, Petitioner begins its Oppositions to the '562 and '371 by stating both patents were "only asserted after expiration due to a lapse in maintenance fees." Paper 11 at 1; IPR2026-00247, Paper 11 at 1. Petitioner then states that "PO affirmatively abandoned the ['562] patent" and thus, Petitioner could not have anticipated the enforcement of the patents. IPR2026-00247, Paper 11 at 3-4. Not only are these statements false, but Meta knew of their falsehood.

Both Patents expired on April 29, 2025, ***due to term***. Both patents claim priority to a first non-provisional dated April 29, 2005, and received ***zero*** days of PTA. *See* Ex. 1001 at p. 1-2; Ex. 2002 at p. 1-2. The alleged non-payment of maintenance fees was for fees purportedly due on November 14, 2025, and June 15, 2025, after the patents expired. IPR2026-00247, Ex. 1033; IPR2026-00249, Ex. 1033. Meta's challenge as to the '371 acknowledges that it understood this fundamental truth yet maintained its position, nevertheless. *See* Paper 11 at p. 2, FN 1 (conceding the '371 Patent expired on April 29, 2025).

II. Petitioner's Claim Construction Positions are Inconsistent

Petitioner has been engaging in inconsistent claim construction practice by seeking broader constructions at the Board to support its validity challenge while seeking narrower constructions in litigation to avoid infringement liability. The Director has previously identified such practice as grounds for rescinding institution.

Revvo Technologies, *Inc., v. Cerebrum Sensor Technologies, Inc.*, IPR2025-00632, Paper 20 at 4-6 (Director November 3, 2025) (precedential). Petitioner has done so by proffering constructions for ***eight*** terms in the district court that serve to narrow the claim scope while offering no constructions before the Board. Paper 10 at 12.

By way of example, Meta's Petitions state that both the claimed "instant messaging function" and "comment function" would allow for "real-time" communication,[1] yet Meta has sought a construction before the district court that attempts to exclude such an interpretation with respect to the claimed comment function. Paper 10 at 13. Meta cannot play fast and loose with its constructions across different forums.

III. Petitioner's Opposition is Also Inconsistent with its Own Challenge

Meta's Opposition for the first time states that its Petition expressly identifies a teaching from McQueen that meets the entirety of the '562 Patent's limitation [c.vi] and thus, its Petition has no expert gap-filling prohibited under Rule 104(b)(4). Paper 11 at 15. This is false. Petitioner's challenge identified the "tally of the votes" for reviews in McQueen as disclosing a "vote indicator"[2] but used expert testimony to fill in the remainder of this limitation. The entirety of this limitation reads as follows:

> [c.vi] a vote indicator ***that displays a number of votes associated with the information object*** (emphasis added)

[1] Paper 1 at p. 13; Ex. 2021 at p. 26; Ex. 2022 at p. 27.
[2] Ex. 2021 at p. 36.

If Petitioner believed that the 'tally of the votes' for reviews in McQueen disclosed the complete limitation, both Petitioner and its expert would have said so. Instead, in its Petition, Meta likened the 'current tally of the votes' for reviews disclosed by McQueen to a "vote indicator" then relied on its expert to supply the remainder of the limitation. Ex. 2021 at p. 36. Petitioner has identified no printed publication disclosing a vote indicator that ***displays a number of votes associated with the information object***, as required. This is prohibited by Rule 104(b)(4).

Meta cannot retroactively rehabilitate its challenge in its Opposition. It must live with its Petition and expert declaration. But even accepting Meta's new theory, it still fails because the 'tally of the votes' identified by Meta is "***for reviews***", not blurbs, and because Meta identified blurbs as the claimed information object, not reviews, its recharacterization is inconsistent with the entirety of its Petition. Ex. 2021 at p. 35.

IV. Petitioner's Stipulation is Defective

On March 18, 2026, Meta filed its Petitions and served invalidity contentions including challenges based on the combination of McQueen and Forsyth. Ex. 2016 at 89. On June 22, 2026, Meta filed what it purports to be a "Sotera plus" stipulation. Ex. 1045; Paper 11 at 12. A true Sotera stipulation is triggered upon institution and irreversible so that "an *inter partes* review is a 'true alternative' to the district court proceeding." *Sotera Wireless, Inc., v. Masimo Corporation*¸ IPR2020-01019, Paper

12 at 18-19 (PTAB Dec. 1, 2020) (precedential as to § II.A). This is not what Meta has provided. Meta's stipulation contains a carve out preserving its rights to "pursue any grounds of invalidity" in the district court "if the PTAB declines institution ***or rescinds institution of the IPR***[.]" Ex. 1045.

Meta's conditioning of its stipulation not only on institution, but the maintenance thereof, completely neuters its effects and incorrectly implies rescission is entirely out of its control. Meta's carve out requires PO to continue to litigate duplicative invalidity challenges because the risk of rescission of institution is not alleviated until at least a final written decision. Further, in numerous circumstances, the grounds upon which the Director has previously chosen to rescind institution were based on the petitioner's conduct. Meta is the party who unilaterally determines whether it will continue to engage in inconsistent claim construction practice across forums or violate its stipulation to the Board. Neither the Director nor PO are involved in such decisions.

PO has spent the last three months litigating duplicative invalidity challenges that Meta's stipulation purports to moot, yet allows Meta to restore at any moment through its own conduct. Meta's stipulation as written is no more than its own escape hatch from the PTAB. Meta cannot have its cake and eat it too.

Dated: June 29, 2026.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this the 29th day of June, 2026, a true and correct copy of the foregoing AUTHORIZED SUPPLEMENTAL BRIEF ADDRESSING PETITIONER'S OPPOSITION TO DISCRETIONARY DENIAL was served via electronic mail upon counsel of record for Petitioner at the following address:

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