

Filed: October 31, 2025

Filed on behalf of Meta Platforms, Inc.

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.

DIALECT, LLC,  
Patent Owner

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Case No. IPR2025-01333  
U.S. Patent No. 9,263,039

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

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1002	File History of U.S. Patent No. 9,263,039
1003	Declaration of Dr. Henry Houh
1004	CV of Dr. Henry Houh
1005	U.S. Patent No. 6,964,023 (“Maes”)
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1021	D. Walters "Deterministic Context-Sensitive Languages: Part I*" ("Walters"), INFORMATION AND CONTROL 17, 14-40 (1970)
1022	U.S. Pat. App Pub. No. 2002/0133354 ("Ross")
1023	Reserved
1024	Reserved
1025	Reserved
1026	Excerpts from Microsoft Computer Dictionary, 5th edition (2002)
1027	Cattaneo, Marco EGV. "Fuzzy probabilities based on the likelihood function." Soft Methods for Handling
1028	Shdaifat, I., Grigat, R.R. and Lütgert, S., 2001. Viseme recognition using multiple feature matching.
1029	EDTX Calendar, Judge Gilstrap
1030	Reserved
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<b>Exhibit No.</b>	<b>Description</b>
1033	Joint Notice of Voluntary Dismissal of Certain of Plaintiff's Claims without Prejudice, <i>Dialect, LLC v. Meta Platforms, Inc.</i> , C.A. No. 7:25-cv-00060-DC-DTG (W.D. Tex. June 9, 2025)
1034	<i>Google LLC v. Dialect LLC</i> , IPR2024-00753, Paper 36 (Oct. 17, 2025)
1035	U.S. Patent No. 7,640,160 to Di Cristo et al. (the "160 Patent")
1036	Order Granting Defendant's Motion to Stay, <i>Peter Pedersen v. Monday.com, Inc.</i> , No. 6-22-cv-00923-ADA-DTG (W.D. Tex. March 13, 2024)
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1041	Letter from Meta Platforms, Inc. to Dialect LLC regarding Stipulation, dated August 27, 2025

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1043	Complaint for Patent Infringement and Damages and Demand for Jury Trial, <i>Dialect, LLC v. Samsung Electronics Co., Ltd., and Samsung Electronics America, Inc.</i> , No. 2:23-cv-61-RG, (E.D. Tex. February 17, 2023)
1044	Petitioner's Response to Patent Owner's Request for Discretionary Denial, <i>Microsoft Corp. v. Dialect, LLC</i> , IPR2024-00657, Paper 9 (July 16, 2025)

**I. INSTITUTION IS THE MOST EFFICIENT USE OF RESOURCES**

The PTAB is the most efficient and best-equipped forum to determine the patentability of U.S. Patent No. 9,263,039 (the “’039 Patent”). *First*, institution is necessary to correct a material error. The Office allowed the claims of the parent patent of the ’039 Patent (U.S. Patent No. 7,640,160, the “’160 Patent”) solely because they included a multi-pass speech recognition limitation. This limitation, however, is absent from the claims of the ’039 Patent. In fact, in a recent FWD, the Board held unpatentable the challenged claim of the ’160 Patent that likewise omitted this limitation. *Second*, the FWD here will issue at least two months before trial in the parallel litigation, and current time-to-trial statistics suggest that the gap will be even larger—that the FWD will issue ten months ahead of trial. Regardless, there will be no overlap as Meta has entered a *Sotera* “plus” stipulation. *Third*, the ’039 Patent is currently asserted in multiple district courts (NDIL, WDTX, EDTX), where the FWD here would issue before trial in all but one. Thus, institution would promote efficiency and consistency, particularly given the Board’s recent FWD on the substantially similar ’160 Patent.

In contrast, PO requests discretionary denial based on facts that have no relation to Meta. *First*, PO effectively argues that Meta’s Petition should be denied because Microsoft’s Petition was discretionarily denied on the same patent. But Meta is not Microsoft. This distinction is critical given the primary basis for the

discretionary denial was that Microsoft's wholly-owned subsidiary previously owned the patent. No such facts exist with Meta.

*Second*, PO argues that strong settled expectations favor denial. Not so. Although the '039 Patent issued in 2016, Meta was not aware of the challenged patent until the parallel litigation was filed. Notably, Meta holds thousands of patents of its own but never once cited to the '039 Patent. Indeed, PO recently dismissed its pre-suit indirect and willful infringement claims in the parallel litigation because there was no factual support for pre-suit knowledge of the '039 Patent. And, if anything, Meta had settled expectations that PO would not enforce its patent against Meta since the patent is now expired, and PO waited until the eve of expiration to file the parallel litigation.

*Finally*, PO argues the Petition is weak because it relies on expert testimony to fill in gaps. But PO fails to identify any limitation that relies on expert testimony instead of a disclosure in the asserted references. PO further makes a last-ditch effort to argue Ross does not disclose the claimed *relevance score* but PO relies on mischaracterizations of the patent, prior art, and Petition, and an unsupported (and unsupportable) claim construction.

At bottom, the Director's efficiency and consistency objectives confirm that the PTAB is the best forum to determine patentability of the '039 Patent. PO's request for discretionary denial should be denied.

## **II. PO IGNORES CONSIDERATIONS THAT ESTABLISH THAT THE PTAB IS THE MOST EFFICIENT FORUM**

PO purports to follow the Director's guidance on "Interim Processes for PTAB Workload Management." DDR, 1. However, PO ignores key considerations under that guidance—namely, whether institution is necessary to correct a material error, the *Fintiv* factors, and the efficiency and consistency in addressing validity of a patent that is asserted in multiple forums. Each of these considerations weigh decisively in favor of institution.

### **A. IPR Is Necessary To Correct A Material Error By The Office**

#### **1. The Office allowed the parent of the '039 Patent based on the multi-pass speech recognition limitation.**

The '039 Patent claims priority to the '160 Patent. EX1001, 1-2 (section (63)). During prosecution of the '160 Patent, the Examiner found all pending claims anticipated by U.S. Patent No. 7,137,126 ("Coffman") or obvious over Coffman and a secondary reference. EX1042, 208-209. In response to this office action, the applicant cancelled all pending claims, and added a new set of claims including "a multi-pass speech recognition engine." EX1042, 221-227. The Applicant emphasized that Coffman only uses unspecified speech engines, not a multi-pass speech engine:

Coffman offloads speech recognition to external engines...Coffman does not disclose the specific techniques that the speech recognition engines use to transcribe utterances...Accordingly, Coffman does not disclose at least the

features of “a multi-pass speech recognition engine [as recited].”

EX1042, 229. After some back and forth regarding whether some of the recited features of the multi-pass speech recognition engine included new matter, the Examiner allowed the claims. In the Notice of Allowance, the Examiner specifically referenced “multi-pass speech recognition”:

Claims 37, 41-43, 45, and 46, as amended now define patentable subject matter. Specifically, independent claims 37, 41, 45, and 46 each recite receiving a natural language at a computer comprising a multi-pass speech recognition module.

EX1042, 382. The '160 Patent then issued on December 29, 2009. EX1035 (cover).

**2. The Office materially erred by overlooking claims that omitted the allowable subject matter.**

Although the Office only allowed the claims of the '160 Patent based on inclusion of a multi-pass speech recognition limitation, it overlooked that issued claim 12 (original claim 45) omits this limitation. This oversight constitutes material error as underscored by the Board's recent FWD of October 17, 2025, finding claim 12 of the '160 Patent unpatentable. EX1034, 39.

Critically, the same material error carries over to the challenged claims of the child '039 Patent. Like the '160 Patent, the '039 Patent omits the multi-speech recognition limitation that formed the basis for allowance for its parent '160 Patent. In fact, the claims of the '039 Patent are even broader, as they also exclude several limitations present in the '160 Patent. *Cf.* EX1035, cl. 12 to EX1001, cl. 13.

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

The Director has repeatedly emphasized the importance of correcting material errors made by the Office. *Apple Inc. v. Advanced Coding Technologies LLC*, IPR2025-01103, Paper 11, at 2 (Oct. 17, 2025) (“Petitioner provides persuasive evidence that the Office erred in a manner material to the patentability of the challenged claims.”); *Anthony Inc. v. ControlTec LLC*, IPR2025-00559, Paper 12 (July 16, 2025) (“Petitioner appears to show a material error by the Office, and it is an appropriate use of Office resources to review the potential error.”).

This is so even when PO argues it had strong settled expectations. *Skullcandy, Inc. v. Earin AB*, IPR2025-00690, Paper 9, at 2 (July 31, 2025) (“While ordinarily [strong settled expectation] counsels for discretionary denial, Petitioner persuasively explains that the patent examiner materially erred during prosecution of the challenge patent.”); *Xencor, Inc. v. Merus N.V.*, IPR2025-00605, Paper 12, at 2-3 (July 17, 2025) (“discretionary denial under 35 U.S.C. § 325(d) is not appropriate because the Office materially erred during prosecution of the challenged patent”).

For example, in *Activision Blizzard, Inc. v. Milestone Entertainment, LLC*, the Director considered four patents, finding that discretionary denial is not appropriate for three because they had not been in force for a significant amount of time and the PO had not developed strong settled expectations. The remaining patent had “been in force for almost twelve years, creating strong settled expectations for Patent

Owner.” IPR2025-00708, -00711, -00712, -00713, Paper 11, at 2 (August 14, 2025).

But the petitioner presented “evidence that the challenged claims omit limitations added during prosecution of the parent patent that appear to have been the patent examiner’s reason for allowing the parent patent’s claims.” *Id.* at 2-3. Accordingly, the Director concluded “[u]nder these circumstance, it is an efficient use of Board resources to address the [remaining patent] as well.” *Id.*

Like *Activision*, the Office allowed the challenged claims of the parent patent of the '039 Patent based solely on the presence of a specific limitation. Yet “additional evidence and facts warrant reconsideration of the prior art [and] arguments.” *Ecto World LLC v. Rai Strategic Holdings Inc.*, IPR2024-01280, Paper 13, at 6 (May 19, 2025) (precedential). Here, because the Board has already reconsidered and found unpatentable the parent patent of the '039 Patent that omitted the allowable limitation, the Board should likewise reconsider the '039 Patent, which omits that same limitation.

#### **B. *Fintiv* Confirms That Institution is Warranted**

The FWD will issue before trial in the parallel litigation and Meta has entered a broad 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 Counts has not previously ruled on a contested motion to stay pending post-grant proceedings, Magistrate Judge Gilliland (who often decides similar motions for Judge Counts) has granted such motions if the post-grant proceeding is instituted at an early stage of the case (*see* EX1036) or if the FWD issues before trial (*see* EX1037). Both would occur here, since institution would occur before discovery opens (*see* EX1038), and the FWD will issue before trial (*see* Factor 2 below).

**Factor 2 (proximity to trial)** strongly favors institution because the FWD will issue by January 31, 2027, at least two months before trial in the parallel litigation currently scheduled for April 5, 2027 (*see* EX1038). *See FreightCar Am., Inc. v. Nat'l Steel Car Ltd.*, IPR2025-01046, Paper 20, at 2 (Oct. 10, 2025) (“likely that a final written decision in these proceedings will issue before a district court trial occurs” weighs against discretionary denial); *Am. Airlines, Inc., et al. v Intellectual Ventures I LLC*, IPR2025-00785, Paper 11, at 2-3 (Aug. 29, 2025) (“likely that a final written decision in this proceeding will issue before a district court trial occurs, reducing concern of inconsistent outcomes or significant duplication of efforts”). Further, the trial date will likely slip, as the current median

time-to-trial statistics for the Western District of Texas is 32.8 months (*see* EX1039), suggesting that trial will not take place until November 2027, ten months after the FWD deadline. *See Amazon.com, Inc. et al. v. NL Giken Inc.*, IPR2025-00250, Paper 14, at 2 (May 16, 2025) (time-to-trial statistics suggesting trial would be six months after the FWD weighs against discretionary denial).

**Factor 3 (investment in parallel litigation)** favors institution. There has been little party and judicial investment in the parallel litigation. *Am. Airlines, Inc.*, IPR2025-00785, Paper 11, at 2-3 (“evidence that there has been little investment in the district court proceedings” weighs against discretionary denial). A claim construction order has not issued, and fact discovery does not open until February 2026, after the institution decision issues. *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”).

**Factor 4 (overlap)** strongly favors institution because 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., Ltd. 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). In addition to the *Sotera* stipulation, if instituted, Meta has agreed not to pursue any combination that includes a reference listed in the grounds, including in combinations with any other prior art that could not have been raised, such as system prior art. *See* EX1041.

**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 the present 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*, 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. *First*, the Petition presents strong arguments for unpatentability, particularly in view of the FWD of the parent '160 Patent. *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). Indeed, Meta has a significant patent portfolio of its own, and 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). *Third*, this Petition is the sole challenge to the '039 Patent before the Board—a “crucial fact” favoring institution. *Google LLC v. Uniloc 2017 LLC*, IPR2020-00115, Paper 10, at 6 (May 12, 2020).

### **C. The PTAB is Best Positioned to Ensure Consistency and Efficiency**

When “the litigation between the parties would proceed to several district court trials in different jurisdictions, resolving the dispute between the parties at the Office would be more efficient.” *Harbor Freight Tools USA Inc., et al. v. Champion Power Equipment, Inc.*, IPR2025-00805, Paper 20, at 2 (Sept. 19, 2025); *Berkshire Hathaway Energy Co. v. Birchtech Corp.*, IPR2025-00274, Paper 23, at 2 (July 2, 2025). In addition to the *Bank of America* litigation pending in EDTX and the parallel litigation pending in WDTX, the '039 Patent is also asserted against Comcast in NDIL. Thus, the '039 Patent will proceed to trial in three different district courts, potentially resulting in three wildly inconsistent outcomes.

Given the Board's familiarity with the subject matter from the IPR on the '160 Patent, resolving the validity of the '039 Patent at the PTAB would be more efficient and promote consistency. *Mercedes-Benz Group AG v. The Phelan Group, LLC*, IPR2025-00413, Paper 13, at 2 (June 25, 2025) (referral where “claims of a related patent were recently found unpatentable”). Efficiency is further supported by the fact that the FWD here would issue before trial in two of the three pending

litigations. As discussed, the parallel litigation in WDTX will occur at least two months before the FWD, if not more. EX1038. And the NDIL case does not have a schedule, but the time-to-trial statistics suggest that trial would not occur until 2030. EX1039, 47.

### **III. PO'S REFERENCED CONSIDERATIONS CONFIRM THAT DISCRETIONARY DENIAL IS NOT APPROPRIATE**

PO requests discretionary denial only confirms that the PTAB is the most efficient forum for determining patentability of the '039 Patent.

#### **A. The Microsoft Discretionary Denial Does Not Apply To Meta**

PO argues “[r]eaching a different decision here than in the Microsoft IPR could result in reversing that well-reasoned decision.” DDR, 4. But a different decision here would reverse nothing. If anything, the Microsoft IPR underscores why discretionary denial is not appropriate here since the same facts are not present.

*First*, the Microsoft decision emphasizes that “it is not an appropriate use of Office resources where a party’s wholly owned subsidiary owned, maintained, sold, and retained a license for a patent, but, as is the case here, the party now advocates for its unpatentability.” EX2001, 2; *see also Analog Devices, Inc. v. Number 14 B.V.*, IPR2025-00550, Paper 10, at 2 (July 16, 2025) (“It is not an appropriate use of Office resources where a party or its real party in interest applied for and was issued a patent, but, as is the case here, now advocates for its unpatentability.”). But Meta did not know of the patent, let alone own it.

*Second*, the Microsoft decision also focuses on the parallel litigation of Microsoft's real party in interest, Bank of America, where it was "unlikely that a final written decision in the[] proceedings w[ould] issue before district court trial occurs, resulting in significant duplication of effort, additional expense for the parties, and a risk of inconsistent decisions." EX2001, 3. Again, those facts do not apply to the instant proceeding. Here, the FWD will issue months, if not a year, before the parallel district court trial, and Meta has entered a *Sotera* "plus" stipulation additionally mitigating any risk of inconsistent outcomes.

*Last*, the Microsoft decision found "strong settled expectations for Patent Owner, and Petitioner does not provide any persuasive reasoning why an *inter partes* review is an appropriate use of Board resources." EX2001, 2-3. But in opposition to discretionary denial, Microsoft did not identify this critical material error that occurred during prosecution (EX1044, 19-23), nor did it have the FWD for the '160 Patent (*cf.* EX1043, 25 (filed July 16, 2025) to EX1034, 1 (issued October 17, 2025)). Thus, the Director did not previously consider that the PTAB is the best forum to ensure consistency with another related decision, and to correct a material error by the Office.

PO further argues that "[s]hould Meta convince the Office to institute an *inter partes* review, seemingly nothing could prevent Microsoft from filing another petition and moving to join Meta's *inter partes* review." DDR, 4. This argument

misses the point. Even if Microsoft were to file another petition and seek joinder, the Director retains discretion to deny institution. In particular, Microsoft would be required to demonstrate exceptional circumstances for institution and joinder, as the one-year bar has already passed for both Microsoft and its real party of interest Bank of America. *See Realtek Semiconductor Corp. v. ParkerVision, Inc.*, IPR2025-00324, Paper 11, at 3 (June 25, 2025) (“Petitions filed by time-barred parties should proceed only in exceptional circumstances.”).

**B. The Bank of America Litigation in East Texas Does Not Impact The Meta Litigation in West Texas**

PO's arguments that the activities in the *Bank of America* case favor discretionary denial is misplaced. DDR, 6-7. Again, Meta is neither Microsoft nor its real party in interest Bank of America, and PO has not made (and cannot make) arguments to the contrary.

As a threshold, the validity of the '039 Patent will be litigated between Meta and PO regardless of what happens in the *Bank of America* litigation. Thus, the query is whether validity of the challenged patent is better litigated in the PTAB or the parallel litigation in WDTX. The query is not between the PTAB and the *Bank of America* litigation in EDTX.

PO argues the activities in the *Bank of America* litigation favors discretionary denial because “the Director's policy requires Office consideration of related adjudications involving the patent-at-issue in a district court, regardless of whether

[the] district court proceeding involves the same petitioner presenting the IPR challenge,” citing to the Director’s September 16, 2025 Memorandum entitled “PTAB consideration of prior findings of fact and conclusions of law.” DDR, 6-7. But the September 16 Memo counsels against discretionary denial, not for it.

Specifically, the September 16 Memo states that “if the Board reaches an initial or final decision on a finding of fact or conclusion of law that is different than the prior finding or conclusion of the Office, district court, or the ITC, the Board shall explain in the institution or final written decision why a different outcome is warranted.” Put simply, the Board *must* consider outcomes in other forums. But there is no such requirement in WDTX. Thus, institution would ensure consistency since the Board would necessarily need to consider the outcome of the *Bank of America* litigation in EDTX. In stark contrast, denial would force PO to litigate the validity of the ’039 Patent again in the parallel litigation in WDTX, potentially leading to a completely different outcome as compared to that in EDTX.

Indeed, PO effectively admits that institution promotes both efficiency and consistency. PO states “if Patent Owner is successful in defending the ’039 patents’ validity in the Bank of America litigation then that outcome should be persuasive evidence to the Board that the same outcome should be reached here.” DDR, 7. No such consideration will be given in the parallel litigation in WDTX.

**C. Settled Expectations Support Institution, Not Denial**

PO argues that settled expectations support discretionary denial. DDR, 3-5. They do not. To the contrary, settled expectations favors institution.

Meta had no knowledge of the challenged patent. Unlike other proceedings where petitioner cited to the challenged patent in the prosecution of its own patents on related subject matter, Meta never cited to the '039 Patent. *Cf. iRhythm Technologies, Inc. v. Welch Allyn, Inc.*, IPR2025-00363, Paper 10 (June 6, 2025) (“Petitioner was aware of it as early as 2013—having cited the then-pending application that issued as the challenged patent in an Information Disclosure Statement Petitioner filed in its own patent application”).

Neither PO nor its predecessors ever provided Meta with actual notice of the challenged patent. *Cf. NVIDIA Corp. v. Neural AI, LLC*, IPR2025-00606, Paper 18, at 3 (July 31, 2025) (“Petitioner had actual notice of the challenged patents and Petitioner’s failure to seek early review of the patents favors denial.”); *Google LLC v. SoundClear Tech. LLC*, IPR2025-00344, Paper 15, at 3 (Aug. 4, 2025) (“Petitioner had knowledge of the challenged patents as early as 2019.”). Indeed, with no evidence that Meta had knowledge of the '039 Patent, PO recently dismissed its indirect and willful infringement in the parallel litigation. EX1033.

PO argues that Meta should have known about the '039 Patent through its prior litigation with Amazon and Samsung. DDR, 5. But the '039 Patent was never

even asserted against Samsung. EX1043, 1. Regardless, to the extent that there were any settled expectations, Meta had the expectation that PO would not enforce the '039 Patent. The patent already expired on August 5, 2025, with PO only filing the parallel litigation shortly before expiration. *See Google LLC v. Sandpiper CDN, LLC*, IPR2025-00806, Paper 13, at 2 (Sept. 12, 2025) (challenged patents asserted after expiration, and therefore petitioner “expected non-enforcement”); *Apple Inc. v. Ferid Allani*, IPR2025-00856, Paper 11, at 3 (Sept. 4, 2025) (no discretionary denial where “Patent Owner did not assert the challenged patents against Petitioner until after they expired”); *Globus Medical, Inc. v. Spinelogik, Inc.*, IPR2025-00225, Paper 8, at 2 (June 12, 2025) (“expected non-enforcement of the challenged patent” asserted after expiration). Thus, Meta had an expectation that PO would not assert the '039 Patent as there was virtually no life left on the patent.

#### **D. The Petition Is Strong**

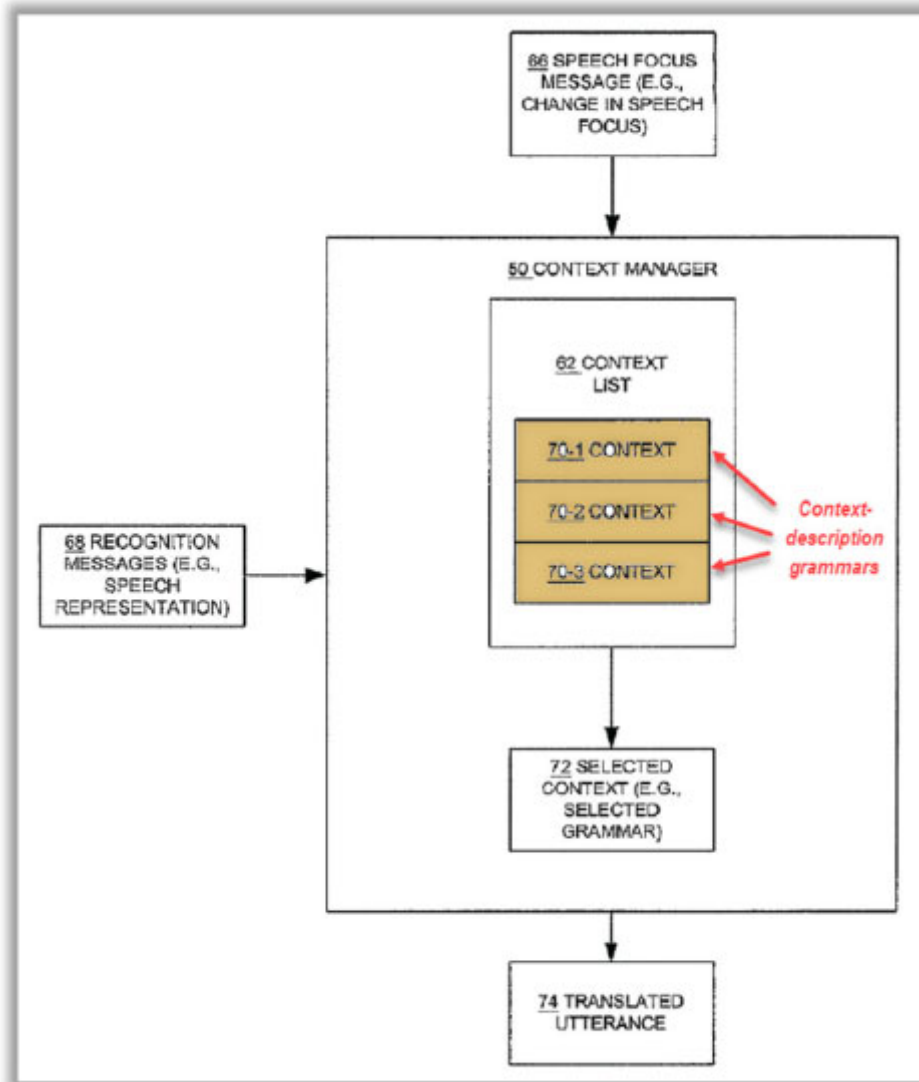
PO argues that “the merits of the petition remain weak.” DDR, 7. But in its brief, PO disputes only one limitation (the recited *relevance score*). *Id.*, 7-12. And more importantly, PO's arguments regarding that one limitation are not credible.

As an initial matter, PO argues that “the merits of the asserted challenges rely heavily on expert testimony to fill in disclosure gaps in the asserted references.” DDR, 7. But “Patent Owner does not identify any portions of the expert testimony that suggest Petitioner is using its expert to fill gaps in the prior art.” *iRhythm*,

IPR2025-00363, Paper 10, at 2 (finding failure to identify gaps filled by expert testimony does not weigh in favor of discretionary denial). That is because PO cannot identify such gaps. The Petition plainly establishes where each and every limitation of the challenged claims is taught or suggested by the combination of Maes and Ross. *See generally* Pet. The Petition does not rely on expert testimony to fill in any gaps. *Id.*

PO subsequently argues that the Petition incorrectly relies on Ross to disclose the recited *relevance score* in elements [13.6], [13.7], and [13.8]. DDR, 8. Specifically, PO argues that the “recency of relevant access to the context” characteristic of Ross cannot be the *relevance score*. *Id.* But this argument is based on a mischaracterization of Ross and the positions in the Petition, and an unsupported claim construction that is inconsistent with the intrinsic evidence.

*First*, PO argues that the “recency of relevant access to the context” cannot be the *relevance score* because element [13.7] requires that the *relevance score* is *based on results from comparing the text combinations to entries in the context description grammar*. DDR, 9. But that is exactly how the recency of relevant access characteristic is determined in Ross.



**Ross, Figure 4**

The Petition explains that this characteristic is based on “the last application 26 that the user touched or talked to,” which is determined upon matching (*comparing*) processed spoken utterances (*text combinations*) to data (e.g., the phrases, keywords, and operators) in an application’s grammar (*entries in the context description grammar*). Pet. 56-59. PO ignores this disclosure in Ross and explanation in the

Petition, and fails to explain why this is insufficient to meet element [13.7]. DDR, 8-9. Instead, PO focuses on Ross's disclosure on priority of prior access that relate to the results, not to the comparison. *Id.*

*Second*, PO argues that Ross does not meet the *accessing a plurality of domain agents that are associated with the context description grammar* of element [13.6] because "Ross selects only the first application that has a grammar that can accept the user's phrase." DDR, 9-10. But this argument improperly conflates two limitations. Specifically, element [13.8] requires *selecting one or more domain agents based on the results from the relevance score*. This is exactly what Ross discloses. *See also* Pet. 59-61. And to select that first application, Ross discloses accessing multiple speech-enabled applications, such as word processing application, mail application, spreadsheet application, calendar application and stock monitoring application, thus disclosing element [13.6]. Pet. 54-56.

*Third*, PO argues that the selection of the domain agent is not *based on results from the relevance score*. DDR, 10. This is just PO's first argument re-packaged. PO again focuses on Ross's disclosure of the priority of prior order in the context stack, instead of the relevant disclosure on comparing the processed spoken utterances to data (e.g., the phrases, keywords, and operators) in an application's grammar. Pet. 56-61.

Ultimately, PO urges the Director to construe the term *relevance score* to exclude consideration of the most recently accessed grammar. DDR, 11. Specifically, PO argues that “whether the most recently accessed grammar can process a user’s phrase—and would therefore be somehow relevant to the user’s query—is a separate question.” *Id.* But the specification teaches the opposite. Indeed, the specification expressly teaches that the “age of the contexts” is used as a scoring variable. EX1001, 23:25-29. Thus, the intrinsic evidence does not support PO’s narrow construction.

#### IV. CONCLUSION

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

Dated: October 31, 2025

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](mailto:lisanguyen@paulhastings.com)

*Counsel for Petitioner*  
**META PLATFORMS, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that on October 31, 2025, 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 Patent Owner's counsel of record listed below, pursuant to its Mandatory Notices.

Wayne M. Helge (Reg. No. 56,905)  
James T. Wilson (Reg. No. 41,439)  
**Bunsow De Mory LLP**  
277 S. Washington St., Suite 210, #1088  
Alexandria, VA 22314  
whelge@bdiplaw.com  
jwilson@bdiplaw.com  
erobinson@bdiplaw.com.

Dated: October 31, 2025

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](mailto:lisanguyen@paulhastings.com)

*Counsel for Petitioner*  
**META PLATFORMS, INC.**