

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 IPR2025-01333  
Patent 9,263,039

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**PATENT OWNER'S AUTHORIZED RESPONSE TO  
PETITIONER'S REQUEST FOR DIRECTOR REVIEW<sup>1</sup>**

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<sup>1</sup> This Response was authorized by the Director via email and is being timely filed within five business days of that authorization. *See* Ex. 3100.

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**PATENT OWNER’S EXHIBIT LIST**

Exhibit No.	Description
2001	Decision Denying Institution of <i>Inter Partes</i> Review, <i>Microsoft Corporation v. Dialect, LLC</i> , IPR2025-00657, Paper 12 (PTAB Aug. 14, 2025)
2002	Patent Owner Preliminary Response, <i>Microsoft Corporation v. Dialect, LLC</i> , IPR2025-00657, Paper 7 (PTAB July 15, 2025)
2003	Defendant’s Preliminary Invalidity Contentions, <i>Dialect, LLC v. Meta Platforms, Inc.</i> , Civ. No. 7:25-cv-60 (W.D. Tex. Sept. 17, 2025)
2004	Redacted Order in <i>Dialect, LLC v. Samsung Electronics Co., Ltd.</i> , Civ. No. 2-23-cv-00061 (E.D. Tex. Aug. 28, 2023)
2005	Order Acknowledging Stipulation of Dismissal With Prejudice, <i>Dialect, LLC v. Amazon.com, Inc.</i> , Civ. No. 1:23-cv-00581 (E.D. Va. Jan. 23, 2025)
2006	Second Amended Docket Control Order in <i>Dialect, LLC v. Bank of America, N.A.</i> , Civ. No. 2:24-cv-00207 (E.D. Tex. June 27, 2025)

## I. INTRODUCTION

Petitioner seeks Director Review of the decision denying institution of *expired* U.S. Patent No. 9,263,039 (the "'039 Patent"), arguing that "facts have changed materially since the decision denying the instant Petition." Paper 11 (hereinafter, "Request"), 1. The change alleged by Petitioner is the recent settlement of the *Bank of America* litigation between Patent Owner and third-party Bank of America, N.A. Petitioner contends that this settlement changes the denial calculus because that case will no longer be going to trial. But Petitioner completely overlooks that the Director has already acknowledged the "strong settled expectations" surrounding the '039 patent (Ex2001, 2), and this recent settlement actually bolsters the Director's wisdom of weighing the settled expectations heavily in favor of discretionary denial. No Director Review is warranted here.

Additionally, Petitioner's allegation that the recent *Bank of America* settlement somehow changes the denial calculus is, in and of itself, an odd position for Petitioner to take given that Petitioner previously informed the Director that the outcome of the *Bank of America* litigation had no bearing on this IPR. Specifically, Petitioner argued that "the validity of the '039 Patent will be litigated between Meta and PO regardless of what happens in the *Bank of America* litigation." Paper 9 (hereinafter, "Opp."), 13. Despite previously treating the *Bank*

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*of America* litigation as irrelevant to the discretionary denial analysis, now Petitioner changes its strategy and argues that the settlement in that litigation is “an intervening fact that occurred after the Director’s decision denying institution ***which has completely shifted the discretionary considerations.***” Request, 1 (emphasis added). This assertion is not credible.

A quick review of the Table of Contents in Petitioner’s Opposition to the Request for Discretionary Denial reveals just how unimportant the *Bank of America* litigation was to Petitioner’s arguments prior to the Director’s discretionary denial. That Table of Contents is reproduced below:

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Opp., i. As can be seen in this Table of Contents, Petitioner’s discussion of the *Bank of America* litigation shows up on page 13 as the fifth-best argument, *after* Petitioner’s arguments on material error, the *Fintiv* factors, consistency and efficiency, and the prior discretionary denial of Microsoft’s petition against the ’039 patent (of which Meta’s current Petition is a copycat). Thus, not only did the Petitioner explicitly argue that the outcome of the *Bank of America* litigation has

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no bearing on this IPR, but its Table of Contents shows that this argument was unimportant, deserving only fifth place in their order of arguments.

It is simply not credible that a factor so unimportant to Petitioner's prior opposition now allegedly takes top billing and carries so much weight that it somehow tips the entire discretionary denial analysis in Petitioner's favor. This is wrong for many reasons, including that the recent *Bank of America* settlement reinforces the holistic review of the discretionary denial analysis with concrete evidence of the acknowledged settled expectations in the '039 patent.

Petitioner also incorrectly argues that a recent final written decision in another proceeding—IPR2024-00753—is a changed circumstance warranting Director Review. Req., 1. But this assertion attempts to mislead the Director on undeniable facts. The Final Written Decision in IPR2024-00753 issued on October 17, 2025, *two weeks before* Petitioner filed its Opposition to the Request for Discretionary Denial, on October 31, 2025. Petitioner's Opposition addressed this FWD in IPR2024-00753, and the Director was not persuaded. Simply put, this prior FWD is not a changed circumstance warranting Director Review, and Petitioner is wrong to allege otherwise.

Indeed, Petitioner leans on these unpersuasive reasons to argue in favor of institution, without acknowledging the many factors that weigh in favor of discretionary denial. Considered in full, the Request for Director Review advances

no change that tips the balance already determined by the Director upon full and holistic consideration of all the relevant factors. No Review is warranted, and the discretionary denial should stand.

## **II. PATENT OWNER RAISED NUMEROUS UNREBUTTED REASONS WARRANTING DISCRETIONARY DENIAL**

Patent Owner's Request included numerous unrebutted reasons why discretionary denial is warranted in this proceeding. At a high level, those reasons include the age of the '039 patent, which is expired and does not warrant a year's worth of Office resources to review its validity. Additionally, the '039 patent was the subject of a prior failed *inter partes* review proceeding filed by Microsoft, which was denied in part because Microsoft's subsidiary was a prior owner of the '039 patent and sold the '039 patent for value before later challenging its validity. The Office discretionarily denied Microsoft's petition following a holistic assessment including "strong settled expectations" based on the age of the '039 patent. *Microsoft Corporation v. Dialect, LLC*, IPR2025-00657, Paper 12, 2-3 (PTAB Aug. 14, 2025) (Ex2001).<sup>2</sup>

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<sup>2</sup> In denying the Microsoft Petition, the Board also noted 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,

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Additionally, Petitioner continues to turn a blind eye to why it is wrong to institute a copycat petition that mirrored the challenges raised by Microsoft. As acknowledged in the instant Petition, Meta's Petition is a "a copycat of the petition from *Microsoft Corporation v. Dialect, LLC*, IPR2025-00657 on the 039 Patent." Pet., 1. In its Request, Petitioner acknowledges that a "prior IPR filed by Microsoft was denied on discretionary grounds unrelated to the merits because Microsoft's subsidiary had owned the challenged patent." Req., 2. Petitioner then brazenly asserts that "No such facts exist here." *Id.* Just because this IPR petition has a different petitioner name on the cover does not change the fact that all of the challenges were prepared and developed by Microsoft against a patent that its subsidiary previously owned and sold for value. In effect, Meta simply tries to run with a baton passed to it by Microsoft, not realizing that Microsoft was already disqualified from the race. The Microsoft petition, and the grounds contained therein, were tainted and Petitioner offers no reason why the taint should be attenuated simply by changing the petitioner's name.

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the party now advocates for its unpatentability." *Id.* By submitting the current copycat Petition, Meta does nothing more than present itself as Microsoft's alter ego for carrying out the challenge that was already deemed "not an appropriate use of Office resources." *Id.*

Nothing in Petitioner's current Request for Director Review can change the age of the '039 patent, the Office's prior determination that settled expectations as to the '039 patent warranted discretionary denial, or the taint associated with the Microsoft Petition. The factors that favored denial of the Microsoft Petition remain in place and favor denial here as well. And as already noted above, the settlement of the *Bank of America* litigation only increases the weight that should be given to those settled expectations.

### **III. THE BANK OF AMERICA SETTLEMENT SHOWS THAT THE DIRECTOR'S POLICIES ARE WORKING EFFICIENTLY**

It is notable that Bank of America, N.A. was a listed real party in interest to the prior Microsoft petition against the '039 patent. Following the denial of the petition from *Microsoft Corporation v. Dialect, LLC*, IPR2025-00657, Patent Owner reached a settlement of its disputes with Microsoft and Bank of America. Thus, the denial of that petition led to both administrative and judicial efficiencies, and furthered the strong settled expectations surrounding the '039 patent. While Petitioner alleges that this settlement somehow compels the Director to turn tide and review of the merits of this IPR, the contrary is actually true: Dialect has shown itself to be a willing licensor with a history of settling its infringement disputes. As Patent Owner argued in its Request for Discretionary Denial, "As a matter of policy, the IPR system should not be employed by Petitioners as a tool for hold outs to gain leverage in negotiations against a willing licensor with a

history of settling its infringement disputes with others in the industry.” Paper 7, 5. Again, no Director Review is warranted here on an expired patent with a history of settlements of its infringement disputes with industry entities.

**IV. PETITIONER'S ARGUMENTS REGARDING THE '160 PATENT DO NOT REPRESENT A CHANGED CIRCUMSTANCE WARRANTING DIRECTOR REVIEW**

Petitioner also tries to leverage a recent cancellation of a single claim (claim 12) in U.S. Patent 7,640,160 in IPR2024-00753 as a changed circumstance warranting Director Review. Req., 1. But Petitioner omits that the Final Written Decision in IPR2024-00753 issued on October 17, 2025, *two weeks before* Petitioner filed its Opposition to the Request for Discretionary Denial, on October 31, 2025. Petitioner's Opposition addressed this FWD in IPR2024-00753, and the Director was not persuaded. Simply put, this prior FWD is not a changed circumstance warranting Director Review, and Petitioner is wrong to allege otherwise.

Moreover, the outcome in IPR2024-00753 does not compel institution here. Petitioner suggests that a claim must include a “multi-pass speech recognition” limitation to be insulated from an allegation of examination error. Req., 4-5. But such generalizations overlook the specific deficiencies of Petitioner's challenges against the expressly-recited features of the challenged claims. Here, the weaknesses of Petitioner's challenges on the merits, particularly as to claimed

elements [13.6], [13.7], and [13.8] in the sole independent claim being challenged, were the subject of substantial discussion in Patent Owner's Request for Discretionary Denial. Those weaknesses, also discussed briefly below in Section V, confirm the patentability of the challenged claims over Petitioner's challenges. The outcome in the '160 patent's FWD does not compel cancellation here and cannot resuscitate Petitioner's deficient challenges.

#### **V. THE MERITS OF PETITIONER'S CHALLENGES ARE WEAK**

As noted, Petitioner suggests that a claim must include a "multi-pass speech recognition" limitation to be insulated from an allegation of examination error. Req., 4-5. But that argument fails to consider the full scope of the limitations actually found in claim 13. Those limitations, which the Examiner did consider, confirm that the merits of the Petition remain weak as explained in the preliminary response filed in the Microsoft IPR and in this proceeding. *See* Ex2002; Paper 8 ("POPR"). The merits of the asserted challenges also rely heavily on expert testimony to fill in disclosure gaps in the asserted references in violation of USPTO policy and 35 U.S.C. § 311(b), and the Petitioner's Grounds reflect a completely incorrect understanding of the "Ross" reference.<sup>3</sup> Granting a Director Review in this case would unnecessarily require the merits panel to wade through Petitioner's mishandling of Ross's disclosures.

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<sup>3</sup> Ex. 1022, U.S. Patent Application Publication No. 2002/0133354 ("Ross").

Once again, addressing these merits flaws at a high level, Petitioner points to Ross's "recency of relevant access to the context" as allegedly disclosing a "relevance score" as claimed in element [13.7]. Pet., 56. Per Ross, the context grammars in a context list are ordered based on priority of prior access, but this order has nothing to do with any comparison of text combinations from a current user query. Rather, the ordering is established prior to processing a current query, and the process of ordering of context grammars exists separate from and independent of any comparison of a current query's text combinations to entries in the context stack. Therefore, it is wrong for Petitioner to contend that the priority order of a context manager's entries is "based on results from comparing the text combinations to entries in the context description grammar," as claimed in element [13.7]. Even if Ross's order of grammars in the context stack had some bearing on the relevancy of each grammar, that order is not "based on results from comparing the text combinations [in a query being evaluated] to entries in the context description grammar," as claimed in element [13.7]. Rather, the order simply relates to which grammar in the stack was last accessed for a previous query.

Further, element [13.6] requires the step of "accessing *a plurality* of domain agents that are associated with the context description grammar," but Ross selects only the first application that has a grammar that can accept the user's phrase,

regardless of where in the stack that grammar is arranged. *See* Ross, [0053]. This disclosure confirms that element [13.6] is missing from Ross.

Petitioner’s theory has at least one more shortcoming. In element [13.8], claim 13 performs the step of “selecting one or more domain agents *based on results from the relevance score.*” (emphasis added). Applying this method of “selecting” to Petitioner’s incorrect characterization of Ross would require selecting the most recent grammar in the stack every time because, according to Petitioner, the top entry is always the entry with the highest “relevance score.” This is not how Ross works.

While Ross does order the context stack such that the most recently *previously* accessed grammar is positioned on the top of the stack, this order has no inherent bearing on the relevance of that grammar entry to the *current* query’s text combinations. Per Ross, “[t]he context manager 50 tests the utterance against these grammars (indicated by the contexts 70 in the context list 62) in priority order, and passes the commands on to the first application 26 that has a grammar that will accept the phrase.” Ross, [0053]. In other words, if the third grammar in Ross’s stack is the first grammar that will accept a user’s phrase, this means that Ross is bypassing two higher grammars with—according to Petitioner—higher relevance scores to reach the third grammar. And again, Ross is only accessing one grammar, the first grammar that can accept the phrase in question.

Ross does not fit the claimed steps of claim 13, including the step of “accessing *a plurality* of domain agents that are associated with the context description grammar” (element [13.6]), the step of “generating a relevance score based on results from comparing the text combinations to entries in the context description grammar” (element [13.7]), and the step of “selecting one or more domain agents based on results from the relevance score” (element [13.8]).

The Petition's addressing of the claimed elements [13.6], [13.7], and [13.8] is wrong, and this is fatal to the Petition. Indeed, this error confirms that the Petition's challenge as to claim 13 is not strong, but rather facially deficient and unlikely to succeed. Moreover, the other challenged claims each depend from claim 13, thus confirming that each challenge presented in the Petition is deficient.

As such, the weakness of Petitioner's merits argument further weighs in favor of discretionary denial because there is no reason to dedicate Office resources to address the merits of these plainly deficient challenges.

## **VI. CONCLUSION**

For the reasons presented above, the Director should deny Petitioner's Request for Director Review. The Director's decision to discretionarily deny the Petition was correct, founded on a proper balance of factors, and no intervening changes demand a different outcome. No *inter partes* review should be instituted.

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Dated: December 30, 2025

/Wayne M. Helge/

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

T: (571) 208-0186

Email: [whelge@bdiplaw.com](mailto:whelge@bdiplaw.com)

Email : [jwilson@bdiplaw.com](mailto:jwilson@bdiplaw.com)

Counsel for Patent Owner

**CERTIFICATE OF SERVICE**

I hereby certify that on this date, a true and correct copy of the foregoing document was served via email, by consent, to Petitioner by serving the correspondence email addresses of record as follows:

Lisa K. Nguyen (Reg. No. 58,018)  
David M. Tennant (Reg. No. 48,362)  
Diane E. Ghrist (*pro hac vice* to be filed)  
Rachel Wu Hankinson (*pro hac vice* to be filed)  
ph-meta-dialectipr@paulhastings.com

Dated: December 30, 2025

/Wayne M. Helge/  
Wayne M. Helge (Reg. No. 56,905)  
Counsel for Patent Owner