

Filed: December 19, 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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IPR2025-01333  
U.S. Patent No. 9,263,039

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**PETITIONER'S REQUEST FOR DIRECTOR REVIEW**

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<b>Exhibit No.</b>	<b>Exhibit Description</b>
1001	U.S. Patent No. 9,263,039
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”)
1006	RESERVED
1007	<i>Dialect LLC v. Bank of America, N.A.</i> , Case No. 2:24-cv-00207 (E.D. Tex.), Dkt. 66 (“Second Amended Complaint”)
1008	RESERVED
1009	RESERVED
1010	RESERVED
1011	RESERVED
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1014	RESERVED
1015	RESERVED
1016	RESERVED
1017	RESERVED
1018	RESERVED
1019	RESERVED

1020	RESERVED
1021	D. Walters "Deterministic Context-Sensitive Languages: Part I*" ("Walters"), INFORMATION AND CONTROL 17, 14-40 (1970)
1022	U.S. Patent Application Publication No. 2002/0133354 (" <u>Ross</u> ")
1023	RESERVED
1024	RESERVED
1025	RESERVED
1026	Excerpts from Microsoft Computer Dictionary, 5 <sup>th</sup> edition (2002)
1027	Cattaneo, Marco EGV. "Fuzzy probabilities based on the likelihood function." <i>Soft Methods for Handling Variability and Imprecision</i> . Springer Berlin Heidelberg, 2008.
1028	Shdaifat, I., Grigat, R.R. and Lütgert, S., 2001. Viseme recognition using multiple feature matching. In <i>INTERSPEECH</i> (pp. 2431-2434).
1029	EDTX Calendar, Judge Gilstrap
1030	RESERVED
1031	RESERVED
1032	RESERVED

**I. INTRODUCTION**

Petitioner Meta Platforms, Inc. (“Meta”) respectfully requests Director Review of the decision denying institution of *inter partes* review (“IPR”) of U.S. Patent No. 9.263,039 (the “’039 Patent”).

The facts have changed materially since the decision denying the instant Petition. At the time of that decision, a Final Written Decision (FWD) would have issued only after the trial in PO’s case against Bank of America. Because the *Bank of America* case has since settled, the PTAB would now be the first and most efficient forum to decide patentability of the ’039 Patent, and also ensure consistency with the Board’s prior FWD on the ’039 Patent’s parent.

*First*, the ’039 Patent is currently asserted in both WDTX and NDIL where the FWD here would issue before trial in both. Accordingly, institution would centralize the determination of invalidity of the ’039 Patent with the PTAB, and avoid inconsistent decisions across venues—an intervening fact that occurred after the Director’s decision denying institution which has completely shifted the discretionary considerations.

*Second*, institution is necessary to correct a material error that has already been corrected by IPR for the challenged patent’s parent (U.S. Patent No. 7,640,160, the “’160 Patent”). The Office originally granted the ’160 Patent solely because it included a multi-pass speech recognition limitation. However, the Board recently

issued a FWD finding a claim in the '160 Patent unpatentable because it lacked that very limitation. The challenged claims of the '039 Patent omit that same limitation. Consistent with the FWD on the '160 Patent, the Board should find the child '039 Patent claims unpatentable.

*Finally*, no post-grant proceeding has evaluated the merits of the '039 Patent. A prior IPR filed by Microsoft was denied on discretionary grounds unrelated to the merits because Microsoft's subsidiary had owned the challenged patent. No such facts exist here. Thus, institution provides the first merits evaluation of the '039 Patent since issuance.

To ensure efficiency and consistency across the multiple forums where the '039 Patent is asserted, Meta respectfully requests the Director vacate the decision denying institution and refer the Petition for consideration on the merits.

## **II. INTERVENING FACTS ESTABLISH THE PTAB AS THE FIRST AND MOST EFFICIENT FORUM TO ADJUDICATE PATENTABILITY**

At the time the Director denied institution on November 20, 2025, the *Bank of America* case was scheduled for trial on May 4, 2026—approximately seven months before the anticipated FWD in January 2027. Under those circumstances, a patentability ruling would have issued first in district court. However, on December 4, 2025, the *Bank of America* case was dismissed following settlement. As a result,

this proceeding is now the first (and likely only) forum to adjudicate patentability of the '039 Patent.

This intervening event materially shifts the discretionary considerations and a holistic assessment of the record overwhelmingly confirms that institution is warranted.

**A. Now The PTAB Will Be The First, And Therefore, Most Efficient Forum To Decide Invalidity**

Following the *Bank of America* settlement, the '039 Patent is now asserted in only two venues: the parallel litigation in the WDTX and the litigation against Comcast in the NDIL. In the parallel litigation, trial is scheduled for April 2027 (EX1038)—over two months after the anticipated January 2027 FWD. In the *Comcast* litigation, no schedule is set, but statistics suggest that trial would not occur until at least 2030. EX1039, 47.

These facts establish that the PTAB is the first and most efficient forum to determine patentability of the '039 Patent. As has been noted, 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). This

efficiency is underscored by the broad *Sotera* “plus” stipulation in the parallel litigation, which eliminates overlap with this proceeding, and the lack of schedule in the NDIL case.

The PTAB is also the optimal forum to ensure a consistent result in view of the recent FWD on the parent '160 Patent. *See 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”); *see also Samsung Electronics Co., Ltd., et al. v. Omni Medsci, Inc.*, IPR2025-01250, Paper 16 (December 1, 2025) (referral where FWD found unpatentable other claims of the challenged patent). Having already rendered the parent claim unpatentable, the Board possesses unique expertise in the technology and issues not shared by the WDTX or NDIL forums, which have never considered the '039 Patent or any other PO patents.

**B. The Office Is Best Positioned To Rectify the Material Error  
Already Corrected In The Parent '160 Patent**

During prosecution, the Office materially erred by overlooking that the challenged claims of the '039 Patent omit the very subject matter used to overcome the prior art in the parent application. The claims of the parent '160 Patent were allowed solely based on the “multi-pass speech recognition” limitation. Critically, in the Notice of Allowance, the Examiner expressly distinguished the prior art,

stating that “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 Examiner overlooked, however, that original claim 45 (issued claim 12) omitted this “multi-pass speech recognition” limitation. This material error was rectified when the Board found the sole challenged claim 12 unpatentable in the recent FWD. EX1034, 39.

This same material error persists in the '039 Patent. The challenged claims omit the “multi-pass speech recognition” limitation but also other limitations found in claim 12 of the '160 Patent. *Cf.* EX1035, cl. 12 to EX1001, cl. 13. Because the public relies on the prosecution history to define patentable boundaries, “[i]t is an appropriate use of Office resources to provide consistency and predictability to the public, and to ensure that patent applicant or owner does not take action inconsistent with the judgment in a prior Office proceeding.” *POSCO Co., Ltd. v. ArcelorMittal*, IPR2025-00370, Paper 10, at 3 (June 25, 2025); *see also Embody, Inc. et al. v. LifeNet Health*, IPR2025-00248, Paper 13, at 2 (June 26, 2025) (“[I]t is an efficient use of Board resources to address [] related patents.”).

**C. This Proceeding Provides the First Opportunity for a Merits Evaluation of the '039 Patent**

Institution is warranted because this proceeding represents the sole opportunity for the Board to review the '039 Patent—a “crucial fact” favoring institution. *Google LLC v. Uniloc 2017 LLC*, IPR2020-00115, Paper 10, at 6 (May 12, 2020). Indeed, the Director recently referred another patent asserted in the parallel litigation with no prior post-grant proceeding challenges. *Meta Platforms, Inc. v. Dialect, LLC*, IPR2025-01336, Paper 9 (December 11, 2025). Reviewing both patents together is an efficient use of Board resources. *Advanced Micro Devices, Inc., et al. v. Concurrent Ventures, LLC, et al.*, IPR2025-00478, Paper 10, at \*2 (July 31, 2025) (referral where “the parallel district court proceeding between Petitioner and Patent Owner involves other patents that have been referred to the Board”).

Although Microsoft previously challenged the '039 Patent, the Director denied that petition on discretionary grounds before reaching the merits. EX2001, 2. The Director determined that it was an inefficient use of resources to review a patent owned for years by the petitioner's subsidiary. *Id.*; 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.”). Neither Meta nor its subsidiaries have ever owned the '039 Patent. Thus, the same discretionary considerations do not apply here.

The Director regularly finds that referral is appropriate where no prior merits consideration occurred. *See, e.g., Apple Inc. v. Telcom Ventures LLC*, IPR2025-01237, -01238, Paper 10 (November 20, 2025) (referral despite a prior discretionary denial of another petitioner's IPR). Such is the case here.

### III. CONCLUSION

New facts have completely changed the discretionary denial considerations in this proceeding to ensure that the PTAB would be the first and most efficient forum to determine the invalidity of the '039 Patent. Accordingly, Meta respectfully requests the Director issue an order to vacate the decision denying institution, and refer the instant Petition for consideration on the merits.

Dated: December 19, 2025

Respectfully submitted,

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**CERTIFICATE OF COMPLIANCE**

Pursuant to 37 C.F.R. § 42.24(d), the undersigned certifies that foregoing **PETITIONER'S REQUEST FOR DIRECTOR REVIEW** exclusive of the parts exempted as provided in 37 C.F.R. §42.24(a), contains 1,418 words and therefore complies with the type-volume limitations of 37 C.F.R. §42.24(a).

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 19, 2025, a true and correct copy of the foregoing **PETITIONER'S REQUEST FOR DIRECTOR REVIEW** is being served by electronic mail on Patent Owner's counsel of record listed below, pursuant to it Mandatory Notices:

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