UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner,

v.

DIALECT, LLC,
Patent Owner.

Case IPR2025-01335
Patent 8,015,006

PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL

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PATENT OWNER'S EXHIBIT LIST

Exhibit No.	Description
2001	Decision Denying Institution of *Inter Partes* Review, *Google LLC v. Dialect, LLC*, IPR2024-00748, Paper 11 (PTAB Oct. 11, 2024)
2002	Belcher and Casey, *Hacking the Patent System*, Juelsgaard Intellectual Property & Innovation Clinic Stanford Law School (May 2014)
2003	Members, Unified Patents (available at https://www.unifiedpatents.com/members)
2004	Order Granting Request for *Ex Parte* Reexamination, Control No. 90/015,338 (Sept. 19, 2025)
2005	Complaint in *Dialect, LLC v. Microsoft Corp.*, Civ. No. 2-24-cv-01067 (E.D. Tex. Dec. 20, 2024)
2006	Third Amended Docket Control Order in in *Dialect, LLC v. Microsoft Corp.*, Civ. No. 2-24-cv-01067 (E.D. Tex. Aug. 6, 2025)
2007	Defendant's Preliminary Invalidity Contentions, *Dialect, LLC v. Meta Platforms, Inc.*, Civ. No. 7:25-cv-60 (W.D. Tex. Sept. 17, 2025)
2008	Scheduling Order, *Dialect, LLC v. Meta Platforms, Inc.*, Civ. No. 7:25-cv-60 (W.D. Tex. Aug. 7, 2025)
2009	Decision Denying Institution of *Inter Partes* Review, *Microsoft Corporation v. Dialect, LLC*, IPR2025-00655 (lead case), Paper 12 (PTAB Aug. 14, 2025)
2010	Order Acknowledging Stipulation of Dismissal With Prejudice, *Dialect, LLC v. Amazon.com, Inc*., Civ. No. 1:23-cv-00581 (E.D. Va. Jan. 23, 2025)
2011	List of Unified Patents' *Ex Parte* Reexamination Requests Since March 8, 2023, *MemoryWeb* Decision

Pursuant to the Director's Memorandum issued on March 26, 2025, Patent Owner Dialect, LLC ("Dialect" or "Patent Owner") files this request and brief on discretionary denial, setting forth reasons why the Director should exercise discretion to deny the Petition for *inter partes* review ("IPR") of claims 5 and 6 of U.S. Patent 8,015,006 (the "'006 Patent"), as requested by Meta Platforms, Inc. ("Petitioner" or "Meta").

I. INTRODUCTION

The '006 patent has a priority date of June 3, 2003, and 617 days of patent term adjustment, which means that the '006 patent was expired when Meta filed its Petition. There is no reason for the Board to dedicate over a year's worth of Office resources to review the validity of a patent that has already expired. This logic and policy is magnified here, where the '006 patent has already been the subject of a prior *inter partes* review proceeding that failed on the merits, and is currently the subject of an ongoing *ex parte* reexamination filed by an entity Petitioner funds to privateer patent challenges.

II. HISTORY OF THE SUCCESSIVE CHALLENGES TO THE '006 PATENT

A. Outcome of Google's Prior IPR Petition

Google filed a petition for *inter partes* review on April 5, 2024 challenging claims 1-6 and 9 of the '006 patent. *Google LLC v. Dialect, LLC*, IPR2024-00748, Paper 2 at 17-18 (PTAB Apr. 5, 2024). After briefing concerning Patent Owner's

preliminary response, the Board denied Google's petition on the merits, finding that "[b]ecause Petitioner's arguments and evidence do not address sufficiently persuasively the challenged claims' 'domain agent associated with the determined context,' the record does not demonstrate a reasonable likelihood of Petitioner prevailing with respect to any of the challenged claims." *Google LLC v. Dialect, LLC*, IPR2024-00748, Paper 11 at 20 (PTAB Oct. 11, 2024) (Ex2001).

B. Unified Patent's Responsive *Ex Parte* Reexamination

Unified Patents is funded by founding member Google and member Meta, and operates to challenge patents as a privateer. Ex2002, 6-7; Ex2003, 2. After Google's petition failed, Unified Patents filed a request for *ex parte* reexamination against claims 1-5 of the '006 patent on June 23, 2025. Ex2004, 4. That *ex parte* reexamination was granted on September 19, 2025 and is currently ongoing. *Id*.

C. District Court Challenges

On December 20, 2024, Dialect filed a complaint alleging that Microsoft Corp. infringed Dialect's portfolio of voice processing patents, including the '006 patent. Ex2005, ¶1. Trial in that litigation is scheduled for November 2, 2026. Ex2006.

On February 7, 2025, Patent Owner filed suit against Meta in District Court for the Western District of Texas. Petitioner has served its invalidity contentions

in that matter (Ex2007), and the District Court has set a trial date of April 5, 2027. Ex2008.

III. ARGUMENT

This third attack on the '006 patent should be denied as there is no reason for the Office to spend additional resources to evaluate the expired '006 patent, which is over fourteen (14) years old. Moreover, the Office's decision to allow Unified Patents, acting as a privateer, to challenge the '006 patent via *ex parte* reexamination, along with the failure of an earlier challenge by Unified Patents' founding member Google, weighs against entertaining this follow-on challenge filed by Unified Patents' member Meta.

A. Strong Settled Expectations Favor Denial

The "strong settled expectations" for this 14 year old patent weighs heavily. The '006 patent issued on September 6, 2011, and all three maintenance fees to keep the patent in force were paid. Accordingly, the '006 patent has been in force for over 14 years before Petitioner filed its Petition. Moreover, the '006 patent expired on February 9, 2025. Under current USPTO policy, the '006 patent is not a patent that warrants Board review. *See IRhythm Technologies, Inc. v. Welch*

Allyn, Inc., IPR2025-00363, Paper 10 at 3 (PTAB, June 6, 2025) (Director's Decision Granting Discretionary Denial).[1]

The settled expectations also weigh even more heavily considering that the '006 patent has been involved in commercial transactions, including ownership transfers and settlement of prior litigation. These commercial transactions show that the '006 patent has had recognized value in the industry, and Dialect has been a willing licensor of its portfolio of patents including and related to the '006 patent. In addition to the transfer and license discussed in the Board's discretionary denial decisions in other Dialect IPRs (Ex2009, 2), the '006 patent has been subject to enforcement action in district court followed by settlement, including by Amazon. Ex2010. 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.

Further, Dialect's portfolio has long been known to Meta, with related patent 8,112,275 having been cited during the prosecution of no fewer than thirty-nine Meta patents: 10,936,346; 11,231,946; 11,245,646; 11,249,773; 11,249,774; 11,263,031; 11,263,276; 11,301,521; 11,307,880; 11,308,169; 11,368,420;

[1] IPR2025-00363 is the lead case of five to which this Director's Decision applies.

11,429,649; 11,544,305; 11,636,140; 11,651,586; 11,657,333; 11,663,812; 11,676,220; 11,688,159; 11,704,899; 11,704,900; 11,715,042; 11,715,289; 11,721,093; 11,727,677; 11,842,522; 11,886,473; 11,887,359; 11,908,179; 11,908,181; 12,001,862; 12,008,802; 12,112,530; 12,125,272; 12,131,522; 12,131,523; 12,198,413; 12,374,097; and 12,406,316.

B. The Earlier Unified Patents' *Ex Parte* Reexamination Weighs in Favor of Denial

Unified Patents, a privateer whose business model relies on challenging patents while obscuring the true real-parties-in-interest, filed an *ex parte* reexamination challenging the '006 patent. Meta, a member of Unified Patents (Ex2003, 2), plainly has an interest in Unified Patents' *ex parte* reexamination challenge. Yet, because the *ex parte* reexamination rules do not contain a specific requirement to identify real-parties-in-interest by name, Unified Patents filed its *ex parte* reexamination without identifying Meta or founding Unified Patents' member Google. Similarly, Meta filed its *inter partes* review without naming Unified Patents or mentioning the earlier-filed request for reexamination.

The evidence shows that this pattern of Unified Patents filing *ex parte* reexaminations, leaving practicing entities free to further burden patent owners with *inter partes* reviews, reflects gamesmanship of the highest degree. To wit, in *Unified Patents, LLC v. MemoryWeb, LLC*, IPR2021-01413, Paper 56 (PTAB Mar. 8, 2023), a panel required Unified Patents to identify interested members as real-

parties-in-interest. Then Director Vidal vacated that order based on the now non-precedential *SharkNinja* decision. *Unified Patents, LLC v. MemoryWeb, LLC*, IPR2021-01413, Paper 76 (PTAB May 22, 2023). Nevertheless, the *MemoryWeb* decision establishes a line that demarcates a shift in Unified Patents' challenge strategies.

Prior to the panel's decision in *MemoryWeb*, Unified Patents had filed 279 *inter partes* review challenges. That all ended on March 8, 2023; since the panel's decision in *MemoryWeb*, Unified Patents has not filed a single IPR challenge. Instead, as reflected in Ex2011, Unified Patents switched strategies to exclusively file *ex parte* reexaminations. Indeed, since the panel's decision in *MemoryWeb*, Unified Patents has filed 135 *ex parte* reexamination requests. This plain change in strategy shows two things, (1) that Unified Patents' pronouncements of acting "independently" of its members is puffery at best, and (2) Unified Patents would prefer to continue to rely on loopholes allowing it to conceal the parties on whose behalf it is acting. Moreover, there is requirement for a requester/petitioner to properly certify that *ex parte* reexamination is not prohibited for all real-parties-in-interest, just as certifications are required for *inter parties* review. Not only does MPEP § 2214 require requestors to consider real-parties-in-interest to certify issues of estoppel, but the Director has recently noted that the proper "disclosure of RPIs

serves purposes other than time-bar and estoppel issues." *See* https://www.uspto.gov/subscription-center/2025/ptab-de-designates-decision.

In ordering reexamination of the '006 patent at Unified Patents' request, the Office disregarded both the prior, failed *inter partes* review petition filed by Google and the later, pending *inter partes* review petition filed by Meta. The reexamination panel reasoned that reexamination was warranted because Google's failed challenge was based on different art, and Meta's challenge did not predate Unified Patents' request. Ex2004, 16-17. The reexamination panel did not mention any consideration of the request being improper based on roadmapping. *Id*. The Director is respectfully asked to issue a *sua sponte* investigation into the activities of Unified Patents and the propriety of conducting an *ex parte* reexamination of the '006 patent after Google's failed challenge.

In addition, Patent Owner respectfully requests such investigation to review the policy behind the patent office practice that allows *ex parte* reexamination requests to be made by requesters and real-parties-in-interest who wish to "remain anonymous." MPEP § 2214. Anonymous requests fail to support the Director's statements that "disclosure of RPIs serves purposes other than time-bar and estoppel issues." *See* https://www.uspto.gov/subscription-center/2025/ptab-de-designates-decision.

Turning back to the Meta petition, it should plainly be denied. This follow-on petition against the '006 patent raises concerns of roadmapping. A prior petition against the '006 patent filed by Google was denied on the merits because the references Google relied on failed to satisfy the claim limitations of the '006 patent. *See Google LLC v. Dialect, LLC*, IPR2024-00748, Paper 11, 20 (PTAB Oct. 11, 2024). Meta based its petition, filed nearly a year after Google's petition was denied on the merits, on a completely different set of references than Google. This serial use of the IPR process, which subjects patent owners to multiple challenges on the same patent, is contrary to the Director's recent statements about serial challenges, and presents an additional reason to deny the Petition. Under similar circumstances, the Director has weighed that such roadmapping favors of denial of institution. *See Amazon Web Services, Inc. v. Croga Innovations, Ltd.*, IPR2025-00884, Paper 9 at 2 (PTAB Sept. 3, 2025) (weighing roadmapping in favor of denial where an *ex parte* reexamination filed by Unified Patents (see Ex2007, 2 (index 68)) was pending).

C. District Court Activities Weigh in Favor of Denial

Petitioner's challenges are based on the Ross, Ittycheriah, Ross018, Aridor, Hartono, and Baker references. Pet., 2. Petitioner has presented overlapping validity contentions in the district court proceeding, *see* Ex2007, 30-31 (pdf page)

(also citing the Ross, Ittycheriah, Ross018, Aridor, Hartono, and Baker references against the '006 patent).

Further, trial in the parallel *Meta* case has been scheduled to occur shortly after the date when a final written decision in this case could be expected (around February 19, 2027). Ex2008 (setting April 5, 2027 trial date). Even with this slightly later trial date, the parties will have invested considerable resources into claim construction and validity challenges by the time a final written decision issues in this proceeding.

Additionally, a trial in the parallel *Microsoft* case will occur on November 2, 2026, well before the date for when a final written decision could be expected. While Meta may complain that the *Microsoft* case's trial date should have no bearing on whether Meta's Petition should be discretionarily denied, that is contrary to current Office policy. Specifically, per the Director's September 16, 2025 Memorandum entitled "PTAB consideration of prior findings of fact and conclusions of law,"[2] the parties must keep the Board apprised of developments regarding adjudication of validity or patentability of the challenged patent claims, or substantially similar patent claims, such as claim construction, findings of fact, or conclusions of law, in "any other judicial or administrative matter that would

[2] Available at https://www.uspto.gov/sites/default/files/documents/Memo_re_prior_findings_of_fact_and_conclusions_of_law_9_16_25.pdf.

affect, or be affected by, a decision in the proceeding." This is because the Director's policy requires Office consideration of related adjudications involving the patent-at-issue in a district court, regardless of whether that district court proceeding involves the same petitioner presenting the IPR challenge.

Moreover, the outcome of the *Microsoft* litigation ensures that this IPR would not be an efficient use of Office resources. If Microsoft succeeds in invalidating the '006 patent in district court litigation, then this IPR would not be needed. On the other hand, if Patent Owner is successful in defending the '006 patent's validity in the *Microsoft* litigation, then that outcome should be persuasive evidence to the Board that the same outcome should be reached here. Either way, that District Court outcome is scheduled to occur well before a final decision would be reached in this IPR, and the timing weighs in favor of discretionary denial.

IV. CONCLUSION

When these factors are considered individually, the strong settled expectations based on the age of the '006 patent, the expiration of the patent, the failed prior challenge of the '006 patent on the merits, the ongoing *ex parte* reexamination, and the advanced stage of the co-pending litigations each weigh strongly in favor of discretionary denial and would be sufficient to warrant denial.

However, when these factors are evaluated together, discretionary denial is extremely compelling and should be granted.

For the reasons presented above, Patent Owner respectfully asks that the Director exercise discretion to deny the Petition. No *inter partes* review should be instituted.

Dated: October 17, 2025

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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:

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