

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner,

v.

K.MIZRA LLC,
Patent Owner.

Case IPR2025-01436
Patent 8,234,705

PATENT OWNER'S PRELIMINARY SUR-REPLY¹

¹ This filing was authorized via email from the Board. *See* Ex. 3001.

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Rather than refining the disputed issues to help the Board evaluate the merits of its challenges, Petitioner's Preliminary Reply only deepens the unnecessary confusion surrounding Petitioner's merits theories regarding the '705 patent.

I. Under Petitioner's Construction, Element [1.5] is Missing from Freund

Petitioner first criticizes Patent Owner for addressing element [1.5] under what Petitioner calls "an unaccepted District Court (DC) construction of the phrase 'includes at least one of an ... and an'" Reply, 1. This is baffling because the construction addressed by PO was the very construction Petitioner advanced in the Petition. Pet., 18 (arguing for a conjunctive construction). And when Petitioner then incorrectly asserts that the "claims are unpatentable under any construction," Petitioner cites to the Petition without further explanation. Reply, 1 (citing to but not discussing Pet., 18-20, 29-34). Petitioner's silence is no surprise, however, because nowhere in these cited pages does Petitioner identify an attestation of cleanliness in Freund, which would be required under Petitioner's conjunctive construction. Indeed, rather than "overlook" anything in Freund, the POPR stepped through the Petition's antivirus "challenge option" and demonstrated that Freund lacks any attestations of cleanliness. The Reply's general waving at a batch of pages in the Petition confirms that Freund's disclosure is lacking, as is the Petition.

As PO explained in the POPR, Freund's focus is on computers that are out of compliance, not computers that satisfy some undisclosed attestation of

cleanliness. *See* POPR, 9-13. And Petitioner's reliance on the '705 patent disclosing what "may act as a cleanliness assertion" in its system cannot be relied upon to supply what Freud is missing. Petitioner's attempt to reinterpret Freund based on the '705 disclosure only reinforces Petitioner's improper hindsight recreation of the claims.

II. Petitioner's Reliance on Pujare and Lewis Remains Confusing and Unsupported

The Reply completely fails to address—much less rebut—that the Petition does not identify a motivation to combine Pujare with Freund, Ball, and/or Lewis. POPR, 15. This argument remains unrebutted, and is certainly not answered by Reply's wrong distraction about whether PO understood that citations to EX1009 "are to Pujare" (Reply, 1-2). The POPR clearly states that Pujare "is cited only once without any explanation of its relevance to the challenge." POPR, 15 (citing Pet., 34, which cites to "EX1009"). The Reply does not remedy this defect.

III. Petitioner's Claim Construction Arguments Fail to Address the Means-Plus-Function Failure in the Petition

Petitioner improperly alleged that "remediation host" is a mean-plus-function term and thus indefinite. Pet., 18. Petitioner also identified, without explanation, certain corresponding structure. Pet., 18-19. But the Petition's merits arguments as to the claimed "remediation host" term were not explained in the Petition, and not clarified in the Reply. *See* POPR, 18-20 (discussing Pet., 44);

Reply, 2. Nowhere does Petitioner explain how any “corresponding structure” in Freund is allegedly equivalent to the structure in Petitioner’s proposed construction. Further, Petitioner’s attempt to pursue different claim constructions in different forums does not weigh in favor of institution. *See TikTok Inc. v. ShopSee, Inc.*, IPR2025-01485, Paper 11 (USPTO Director January 16, 2026).

IV. Petitioner’s Motivation Arguments Fail to Respond to the POPR

As noted in the POPR, Petitioner’s litany of alleged reasons to replace Freund’s TCB with a TPM “based on Ball’s teachings” reads like a list of features that Freund’s TCB already achieves. POPR, 21-22. The Reply’s decision to reiterate those features of Ball’s hardware does nothing to rebut the POPR’s argument that these are features that Petitioner conceded were already present in Freund’s TCB. Petitioner even acknowledged that “Ball and Freund disclose similar goals of enhanced trust and security and similar mechanisms of a challenge/response protocol to determine the trustworthiness of a device.” Pet., 27.

Finally, the Reply did not rebut that “substitution of Lewis’s DNS query” (Reply, 3) destroys an advantage of Freund’s process through Petitioner’s proposed modification based on Lewis. POPR, 23-24. The view of Lewis’s DNS query as a “substitution,” without recognizing the disadvantages of the combination, confirms that Petitioner is looking to the ’705 patent as a recipe, rather than providing a motivation for the “substitution.” The combination should be rejected.

IPR2025-01436 Patent Owner's Preliminary Sur-Reply

Dated: January 23, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2026, 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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