

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner,

v.

K.MIZRA LLC,
Patent Owner.

Case IPR2025-01437
Patent 9,516,048

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’s merits evaluation, Petitioner’s Preliminary Reply (“Reply”) only deepens the confusion surrounding Petitioner’s merits theories against the now-expired ’048 patent.

I. 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 any motivation to combine Pujare with Freund, Ball, and/or Lewis. *See* POPR, 8 (“The Petition also does not address any motivation to combine Pujare with Freund, Ball, and/or Lewis.”). This argument remains un rebutted, and is not answered by the Reply’s wrong distraction about whether PO understood that citations to EX1009 “are to Pujare” (Reply, 1-2). Citations to Pujare appear only twice in the Ground, on pp. 33 and 59, as “*See also*” citations followed by isolated quotations from Pujare. Adding to the confusion, these citations appear after Petitioner’s assertions regarding Freund, and include no explanation of the relevance of Pujare’s quoted passage to those assertions.

The Reply states that Pujare is part of the asserted Ground and “is relied upon as evidence that Freund’s disclosure of security software ‘versions’ would have been understood as disclosing a ‘patch or patch level’ associated with a software component.” Reply, 1. But then addressing Lewis, the Reply states that “Lewis is not named in the Ground because it is merely cited as being relevant to the ’048 Patent disclosure and the state-of-the-art.” Reply, 2. Despite Pujare and

Lewis being relied upon for similar purposes, Petitioner asks the Board to treat them differently. This request for disparate treatment of references submitted for similar purposes confirms that the Petition is irredeemably vague.

Here, the Board need not attempt to untangle Pujare's inclusion and Lewis's exclusion from the challenge. The Reply confirms that Pujare was intended to be part of the Ground, and the Petition and Reply both plainly fail to advance any proposed motivation to combine Pujare with Freund and Ball. The merits of the challenge are unsupported and do not warrant institution.

II. Petitioner's Alternative Claim Constructions Do Not Favor Institution

The Reply also fails to remedy Petitioner's lack of any position on the correct constructions to be applied in this case. Petitioner alleges that "the Petition unequivocally states that the claims are unpatentable under *both* Petitioner's and PO's construction," but this brushes past Petitioner's failure to comply with its obligation to identify "[h]ow the challenged claim is to be construed." 37 C.F.R. § 42.104(b)(3). As noted in the POPR, Petitioner identifies potential constructions without taking a position or otherwise helping the Board determine how to construe the seven identified terms. This is improper and indicates a deficient Petition. *MIM Software Inc. v. Progenics Pharms., Inc*, IPR2025-00725, Paper 13, 7-8 (PTAB Oct. 8, 2025) (rejecting multiple constructions without explanation of "under what circumstances one construction should be applied over the other []

construction.”).

Further, the Reply fails to address Petitioner’s handling of the “remediation host” term, which it improperly asserts is a means-plus-function term and indefinite. *See* POPR, 14-15. Addressing a proposed construction solely for the purposes of this IPR, Petitioner offers no explanation for its “purported corresponding structure,” and no explanation how Freund’s sandbox server meets this alleged structure. *Pet.*, 19, 44; POPR, 14-15. As the POPR explained—and the Reply fails to rebut—the Petition violates 35 U.S.C. § 312(a)(3) (requiring Petitioner to explain its grounds “with particularity”). POPR, 15.

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

Finally, 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, 16-18. 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.*, 26. As such, there is no reason to combine Ball with Freund in order to provide features that Freund already possesses. The combination should be rejected.

IPR2025-01437 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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