UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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WHATFIX INC.,
Petitioner,

v.

WALKME LTD.,
Patent Owner.

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Case IPR2023 - 01379
Patent No. 11,258,732

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SUPPLEMENTAL DECLARATION OF IVAN ZATKOVICH PURSUANT TO 37 CFR § 42.64 (B)(2) IN RESPONSE TO PETITIONER'S OBJECTION TO EVIDENCE AND PROVIDING SUPPLEMENTAL EVIDENCE FOR *INTER PARTES* REVIEW OF CLAIMS 1-6, 9-16, and 18-21 OF U.S. PATENT NO. 11,258,732

EXHIBIT NO.	**DESCRIPTION**
Ex2001	Expert Declaration of Ivan Zatkovich in Support of Patent Owner's Response with respect to Claims 1-6, 9-16, and 18-21 of U.S. Patent No. 11,258,732 ("**Original Declaration**")
Ex2002	*Curriculum Vitae* of Ivan Zatkovich
Ex2003	Deposition Transcript of Homayoon Beigi, taken on June 26, 2024
Ex2004	Deposition Transcript of Homayoon Beigi, taken on June 27, 2024
Ex2005	Public Comments to S. Symons, "When Chatbots meet RPA bots," https://medium.com/roborana/when-chatbots-meet-rpa-bots-c8b22579f49a, Medium (Oct. 19, 2017) (omitted by Petitioner in Ex1004)
Ex2006	Zatkovich's Overview of Ex2009, "Simple chatbot" .html Code, and Ex2010, Video of "Simple chatbot" .html Code
Ex2007	Khoros Staff, "Different types of chatbots: Rule-based vs. NLP", Expert insights, Aug. 29, 2019 (marked as Beigi Ex. 19)
Ex2008	IBM, "What is a chatbot?", https://web.archive.org/web/20221227051852/https://www.ibm.com/topics/chatbots (archived copy of Dec. 27, 2022).
Ex2009	"Simple chatbot" .html Code, Prepared by Mr. Zatkovich for use in IPRs 2023-01368, 2023-01379, 2024-00065.
Ex2010	Video demonstration of the "Simple chatbot" .html Code (Ex2009)
Ex2011	U.S. Patent No. 10.819,664 [Ex1001 in IPR2023-01368]
Ex2012	U.S. Patent No. 11,258,732 [Ex1001 in IPR2023-01379]
Ex2013	U.S. Patent No. 11,558,317 [Ex1001 in IPR2024-00065]
Ex2014	**Supplemental Declaration of Ivan Zatkovich Pursuant to 37 CFR § 42.64 (b)(2) In Response To Petitioner's Objection to Evidence and Providing Supplemental Evidence for *Inter Partes* Review of Claims 1-6, 9-16, and 18-21 of U.S. Patent No. 11,258,732**
Ex2015	**Comment of Neha Negi to S. Symons, "When Chatbots Meet RPA Bots", Medium (Posted Sep. 10, 2018) (available at: https://medium.com/@nehanegi0230/hi-saw-the-video-but-wanted-to-know-how-does-the-chatbot-trigger-the-rpa-bot-2804de1ace4c)**
Ex2016	**Comment of Sachin Prakish to S. Symons, "When Chatbots Meet RPA Bots", Medium (Posted June 9, 2018) (available at: https://medium.com/@sachinprakash.37/which-rpa-tool-and-chatbot-tool-are-you-used-and-give-description-to-do-this-automation-a4d4cc0e2193)**
Ex2017	**Comment of Esteban to S. Symons, "When Chatbots Meet RPA Bots", Medium (Posted April 24, 2018) (available at: https://medium.com/@egalicia_coconutt/interesting-but-i-seems-that-rpa-is-a-simply-program-d3bbb7c333df))**

Ex2018	**June 19, 2021 archive of Khoros Staff, "Different types of chatbots: Rule-based vs. NLP", Expert insights (Aug. 29, 2019) (accessible at: https://web.archive.org/web/20210619072226/ https://khoros.com/blog/different-kinds-of-chatbots)**

*** New Exhibits identified in Bold.**

I, Ivan Zatkovich, declare as follows:

506. I previously submitted a declaration in this proceeding, dated July 8, 2024, as Exhibit 2001 ("Original Declaration").

IX. Introduction

507. I have been requested to prepare and hereby submit this supplemental declaration to address certain objections made by Petitioner in Paper 18, with respect to Exhibits Ex2005 and Ex2007 that were discussed in my Original Declaration.

508. My experience, prior testimony, and compensation are set forth in my Original Declaration (Ex2001), and are adopted as if set forth herein.

509. As noted, in my Original Declaration, I discussed each of these exhibits as indicated:

a. Ex2005, Public Comments to S. Symons, "When Chatbots meet RPA bots," https://medium.com/roborana/when-chatbots-meet-rpa-bots-c8b22579f49a, Medium (Oct. 19, 2017) (discussed in Ex2001, ¶¶ 40, 147, 152, 212); and

b. Ex2007, Khoros Staff, "Different types of chatbots: Rule-based vs. NLP", Expert insights (Aug. 29, 2019) (marked as Beigi Ex. 19 during the deposition of Dr. Beigi on June 26, 2024) (discussed in Ex2001, ¶¶ 175, 178, 341).

510. I understand that in Paper 18, Petitioner objected to Ex2005 and Ex2007 on several grounds, including the following grounds with which I have been asked to provide my opinion:

- Ex2005: As lacking foundation and authentication, as hearsay, as after the priority date, as not publicly accessible as of the alleged publication date, as not what it is claimed to be, as not relied upon by a POSITA as of the priority date, and as having an unexplained source (Paper 18, at 2-3); and
- Ex2007: As being irrelevant and prejudicial, as after the priority date, as lacking foundation and authentication, as hearsay, as not publicly accessible in its presented form as of the alleged publication, as not what it is claimed to be, and as not relied upon by a POSITA as of the priority date (Paper 18, at 4-5).

511. I have been requested by counsel for the Patent Owner to provide further evidence and information to address the above stated objections raised by Petitioner. In doing so, in addition to the materials previously identified, I have considered Petitioner's objections, as well as webpages containing the comments to the Symons article (Ex2015-2017) and an archive copy of "Different types of chatbots: Rule-based vs. NLP" by Khoros Staff, dated June 19, 2021 and available

on the Internet Archive at https://web.archive.org/web/20210619072226/ https://khoros.com/blog/different-kinds-of-chatbots (Ex2018).

X. Ex2005 – Public Comments to S. Symons, "When Chatbots meet RPA bots", Medium (Oct. 19, 2017)

512. In the context of the Petition, Petitioner submitted Ex1004, the "Symons Blog", posted on *Medium*, in support of Grounds 1-2. The Petition provided the declaration of Senne Symons (Ex1008), Dr. Homayoon Beigi (Ex1003), and Wouter Baetens (Ex1010), which all reference the Symons Blog. The Symons Blog also references Symons Video as discussed in my Original Declaration. (Ex2001, ¶141).

513. As noted by Senne Symons in his declaration, "Medium is an online social publishing platform that is free and available to anyone in the public," and that "[t]o the best of [his] knowledge, [the] blog post has been available on Medium's website since [he] posted it on October 19, 2017." (Ex1008, 2).

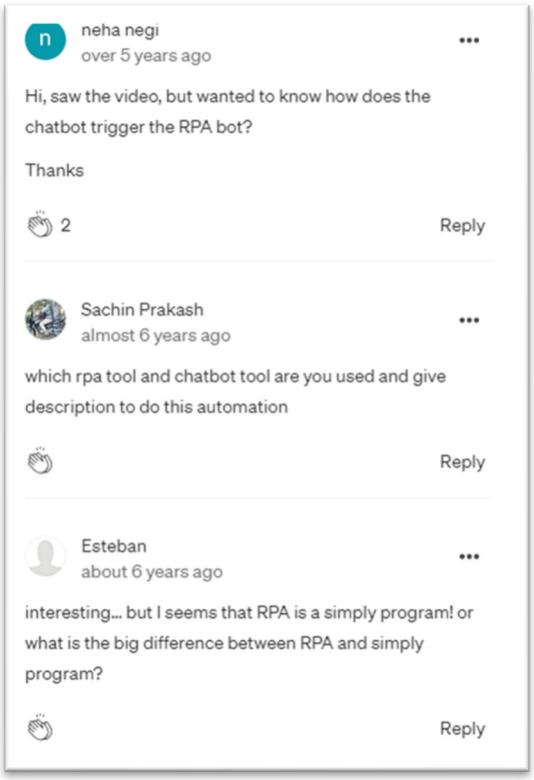
514. Wouter Baetens confirmed these details regarding *Medium*, as well as that the Symons Blog was posted on *Medium* (and crosslinked in his own Blog) (Ex1010, ¶¶ 6, 8).

515. Additionally, Dr. Beigi explains, not only is *Medium* "a well-known Internet-based social journalism and weblogging (blogging) platform that is used by journalists and scientists to disseminate information about ideas, products, and

technologies to interested members of the public, including POSITAs", but "[a] POSITA interested in the technology would have known about Medium and Vimeo and would have readily located the information posted on these platforms with reasonable diligence." (Ex1003, ¶ 58).

516. As part of my review of Dr. Beigi's declaration (Ex1003) and the opinions offered by him, I reviewed Ex1004 (Senne Symon's "When Chatbots meet RPA bots" article). To verify the information and opinions offered by Dr. Beigi, I reviewed the actual website itself, available on *Medium* at https://medium.com/roborana/when-chatbots-meet-rpa-bots-c8b22579f49a. In my experience, reviewing and analyzing original materials is the type of investigation and analysis an expert normally performs, where possible. Dr. Beigi in his deposition said he too viewed the *Medium* website as part of his investigation. (Ex2003, 220:11-13). Like Dr. Beigi (Ex2003, 56:4-5; Ex2001, ¶ 137), I ordinarily rely upon material like Ex2005, and this is the type of material a POSITA would look at in interpreting an ambiguous video presentation. As Dr. Beigi confirms, "[a] POSITA interested in the technology would have known about Medium and Vimeo and would have readily located the information posted on these platforms with reasonable diligence." (Ex1003, ¶58). In my opinion, this type of investigation would include the comments to blogs posted on *Medium*.

517. As a result of this investigation, I realized that the Ex1004 as presented with the Petition was incomplete in a materially significant manner. In particular, when I viewed the actual posting on the *Medium* website, Ex1004 omitted the comments that were posted 5-6 years ago. Ex2005 is a true and correct copy of the omitted comments which I verified provide as follows:

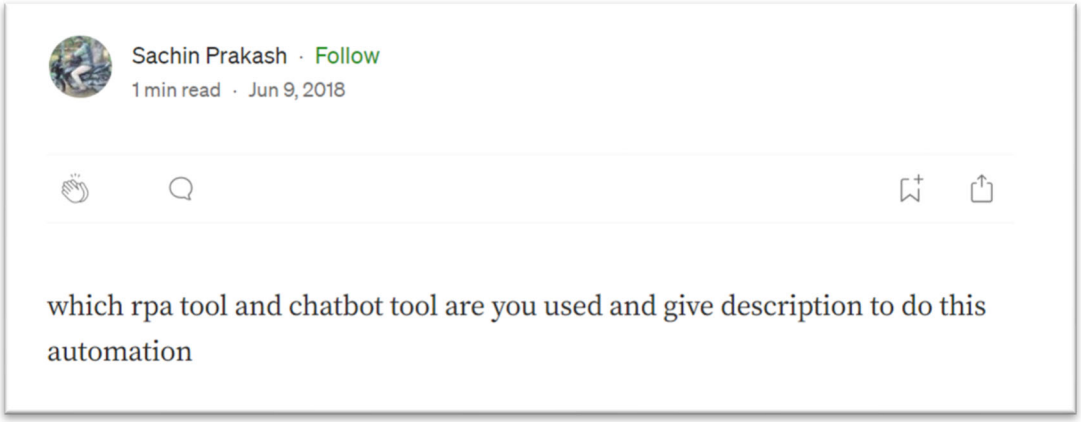


(Ex2005).

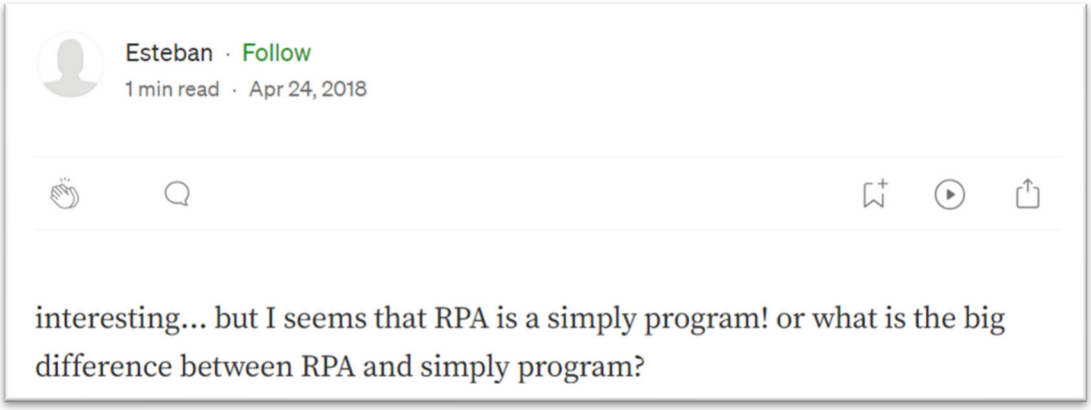
518. Ex2005 accurately depicts these comments which were, and, as of the date of this declaration, still are, publicly viewable on Medium.

519. Each of these comments is also separately available at an individual URL, which provides the exact date the comment was posted:

(Ex2015, Comment of Neha Negi to S. Symons, "When Chatbots Meet RPA Bots", Medium (Posted Sep. 10, 2018) (available at: https://medium.com/@nehanegi0230/hi-saw-the-video-but-wanted-to-know-how-does-the-chatbot-trigger-the-rpa-bot-2804de1ace4c)).



(Ex2016, Comment of Sachin Prakish to S. Symons, "When Chatbots Meet RPA Bots", Medium (Posted June 9, 2018) (available at: https://medium.com/@sachinprakash.37/which-rpa-tool-and-chatbot-tool-are-you-used-and-give-description-to-do-this-automation-a4d4cc0e2193)).



(Ex2017, Comment of Esteban to S. Symons, "When Chatbots Meet RPA Bots", Medium (Posted April 24, 2018) (available at: https://medium.com/@egalicia_coconutt/interesting-but-i-seems-that-rpa-is-a-simply-program-d3bbb7c333df)).

520. Ex2015 is a true and correct copy of the comment of Neha Negi to S. Symons, "When Chatbots Meet RPA Bots", Medium (Posted Sep. 10, 2018) (available at: https://medium.com/@nehanegi0230/hi-saw-the-video-but-wanted-to-know-how-does-the-chatbot-trigger-the-rpa-bot-2804de1ace4c).

521. Ex2016 is a true and correct copy of the comment of Sachin Prakish to S. Symons, "When Chatbots Meet RPA Bots", Medium (Posted June 9, 2018) (available at: https://medium.com/@sachinprakash.37/which-rpa-tool-and-chatbot-tool-are-you-used-and-give-description-to-do-this-automation-a4d4cc0e2193).

522. Ex2017 is a true and correct copy of the comment of Esteban to S. Symons, "When Chatbots Meet RPA Bots", Medium (Posted April 24, 2018) (available at: https://medium.com/@egalicia_coconutt/interesting-but-i-seems-that-rpa-is-a-simply-program-d3bbb7c333df).

523. As I previously explained in paragraph 152 of my original declaration (Ex2001), these comments were not being offered as prior art, but to show how uninterested third parties interpreted the Blog soon after it was posted:

> As illustrated in comments to the Symons Blog (Ex2005), various independent third parties at the time confirmed that neither they (and in my opinion, a POSITA as of November 5, 2017) would not have known "how . . . the chatbot trigger[s] the RPA bot", how the automation process was defined or described, or whether an RPA module was used (as opposed to another type of program).

(Ex2001, ¶ 152).

524. As I also previously explained, Dr. Beigi's own testimony illustrates that the information that these comments identify as missing from the Symons Blog and Simons Video was in fact reliable:

> As Dr. Beigi admitted during his deposition, "we only see the video, the actual interaction", not "the internals of it." (Ex2003, 213:18-214:9).

(Ex2001, ¶ 135).

525. In my opinion, the comments as referenced are authentic, and reflect factual statements which both Dr. Beigi and I agree regarding the information that could be reliably drawn from reviewing the Symons Blog and watching the Symons Video: there is no disclosure of what Dr. Beigi calls "the internals of it", including what "rpa tool" and what "chatbot tool" was used as noted by Sachin Pravin on June 9, 2018, nor "how … the chatbot triggers the RPA bot" as noted by Neha Nega on Sept. 10, 2018.

526. I understand that Petitioner objects that these comments are not relevant because they occurred after the time of the invention in November 2017, and thus would not inform how a POSITA would understand the Symons Blog and Symons Video as of that date. While I agree these comments were made after the time of the invention, like Dr. Beigi's Declaration dated September 20, 2023 (Ex1003), in my opinion they are still relevant to illustrate what a POSITA would understand based on the disclosure in the Symons Blog and Symons Video. The questions raised by these independent third parties are the same questions that Dr. Beigi recognized he could not answer based on the Symons Blog and Symons Video. (Ex2003, 213:18-214:9).

527. Thus, the comments that are being objected to were not only provided by uninterested third parties but are consistent with what Dr. Beigi and myself

consider a POSITA would understand based on the Symons Blog and Symons Video.

XI. Ex2007 – Khoros Staff, "Different types of chatbots: Rule-based vs. NLP", Expert Insights (Aug. 29, 2019)

528. During his deposition, when asked about his conclusion that the chatbot depicted in the Symons Video would have used natural language processing, Dr. Beigi asserted that his conclusion was based on the use of the term "chatbot" referenced in the Symons Blog (Ex1004) and the Baetens Blog (Ex1009). (Ex2003, 139:3-140:10). At the time, and today, I believe that Dr. Beigi's understanding is inconsistent with how a POSITA would understand how Mr. Symons and Mr. Baetens used the term in the context of their Blogs and the Symons Video.

529. To confirm my understanding, I performed Google searches looking for how others in the field around the time of the Symons Blog and Symons Video used the term "chatbot". This is my normal practice, like Dr. Beigi confirmed in his deposition it is his normal practice. (*See* Ex2003, 56:4-5).

530. The results of my search included the article, "Different types of chatbots: Rule-based vs. NLP" article by Khoros Staff available at https://khoros.com/blog/different-kinds-of-chatbot, and marked during Dr. Beigi's deposition as Exhibit 19, and submitted as Ex2007.

531. Ex2007 is a true and correct copy of this article as located at https://khoros.com/blog/different-kinds-of-chatbot. Ex2007 accurately depicts this article, and is still publicly viewable at the identified URL. There is nothing to indicate the article was not publicly available in its present form as of the August 29, 2019 publication date, and, consistent with common practice, I regularly rely on such dates of publication as indicating the date of an article's public availability.

532. Additionally, the Internet Archive, a 501(c)(3) non-profit, contains a copy of the Khoros staff article from June 19, 2021 available at https://web.archive.org/web/20210619072226/https://khoros.com/blog/different-kinds-of-chatbots, that is marked as Ex2018. Ex2018 is a true and correct copy of Internet Archive's record of the Khoros Staff article. As is commonly known, and as Petitioner's declarant, Nathaniel E. Frank-White of Internet Archive, confirms, in his declaration (Ex1027), the WayBack Machine collects copies of files of webpages at specific points in time, which are then made available to users through searchable hyperlinks. (Ex1027, ¶¶ 3-4). "The archived data made viewable and browsable by the Wayback Machine is obtained by use of web archiving software that automatically stores copies of files available via the Internet, each file preserved as it existed at a particular point in time." (*Id*., ¶4). The article appears the same as it did on its earliest capture in the Wayback Machine, June 19, 2021, further confirming its authenticity.

533. I understand that Petitioner objects to Ex2007 because it is dated after the priority date and thus was not publicly accessible in its present form as of the alleged publication. While I agree this publication was made after the time of the invention, like Dr. Beigi's Declaration dated September 20, 2023 (Ex1003), in my opinion they are still relevant to illustrate what a POSITA would understand Mr. Symons might purport a "chatbot" to mean in the context of the Symons Blog and Symons Video. In particular, a POSITA would understand that a chatbot that uses Natural Language Processing is a newer development and more advanced than the older and simpler rules-based chatbot. To that point, even in 2019, others recognized that "rule-based" chatbots were still very much in use as well as understanding their distinction with "NLP" chatbots. This distinction becomes all the more obvious in the Symons Video (Ex1005) where the exchange between the user and the chatbot does not demonstrate any need or capability for Natural Language Processing, and could have been performed by a rules-based chatbot or even a simple (hard-coded) chatbot that I demonstrated myself (Ex2009). This is the kind of information an expert would use to interpret what Mr. Symons meant by the term "chatbot" in the October 2017 Symons Blog and Symons Video.

534. As I previously explained, I rely on this article, which is consistent with my knowledge and experience with chatbots, that explains that not all chatbots are NLP Chatbots. I offer this not as evidence of prior art, but to rebut Dr. Beigi's

incorrect assertion that simply because Symons used the term "chatbots" in the Symons Blog and Symons Video, it does not mean a POSITA would understand that is using the term to suggest that the chatbot in his "demo" used natural language processing:

> For example, an article (Ex2007) from Expert Insights on August 29, 2019, "Different Types of Chatbots: Rule-based vs. NLP", marked as Exhibit 19 during Dr. Beigi's deposition (Ex2003, 191:19-19[2]~~0~~:4), reflects an understanding that Chatbots can be either Rule-based Chatbots or NLP Chatbots, as late as 2019. *(Cf.* Ex2003, 202:18-203:4) (acknowledge that that it "is saying there is a rule-based chatbot and the NLP chatbot"). While Dr. Beigi noted during his deposition that this is later than the priority date, that misses the point. (Ex2004, 338:18-24). In my experience, Rule-based Chatbots existed long prior to NLP Chatbots, and even as late as 2019 were still actively being used.

(Ex2001, ¶ 175).

535. As I further explained:

> In my opinion, and consistent with my experience in the field, a POSITA in 2017 would have understood that the term "chatbot" in referenced in the Symons Blog (Ex1004) and the Baetens Blog (Ex1009) did not necessarily mean that it was what Expert Insights (Ex2007) called an NLP Chatbot. In other words, it did not necessarily have a "natural language interface" that utilized "natural language processing".

(Ex2001, ¶ 178).

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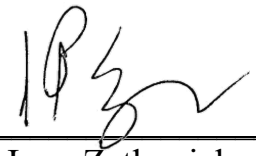
I hereby declare that all statements made herein are of my own knowledge and true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code.

Dated: July 29, 2024

By: 
Ivan Zatkovich