

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WHATFIX INC.,
Petitioner,

v.

WALKME LTD.,
Patent Owner.

Patent No. 11,558,317

Inter Partes Review No. IPR2024-00065

**PETITIONER'S OBJECTIONS TO PATENT OWNER'S ORAL HEARING
DEMONSTRATIVES**

Petitioner Whatfix Inc. (“Petitioner” or “Whatfix”) hereby objects to Patent Owner’s Demonstratives (Paper 31) submitted by Patent Owner in the above-captioned proceeding. In accordance with the Board’s Order Setting Oral Argument (Paper 27), this objection is being timely filed and served no later than the time of the Board’s Hearing on December 18, 2024. Petitioner has met and conferred with Patent Owner, but the parties were unable to resolve the objections below.

Pursuant to Paper No. 27, the objections “must identify with particularity which portions of the demonstratives are subject to objection (and should include a copy of the objected-to portions) and include a one (1) sentence statement of the reason for each objection. No argument or further explanation is permitted.” The following is an inclusion of the objected-to demonstratives, as well as an identification of the portions being objected to and a statement of the reason for each objection:

- Patent Owner’s Demonstratives **Slides 13 and 35-38** contain new arguments: Patent Owner first offered “third party web-based target system” as a term for claim construction on surreply. (*Compare* Patent Owner Response (Paper 15), 23-24 *with* Patent Owner Sur-reply (Paper 28), 1-3.)

Claim Construction and related disputes

“Computer Program” (‘664/’732)

“a displayed user interface of a computer program”/“the displayed user interface of the computer program” (‘664/’732)

“defining an automation process”/“defining a conversation” (‘732)

Order of steps [a], [b], [d] (‘732)

“At least one of” A “and” B (‘732, claim 3)

“Natural language interface” (‘664, ‘732, ‘317)

“Third-party web-based target system” (‘317)

DEMONSTRATIVE EXHIBIT - NOT EVIDENCE

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“Third-party web-based target system” (‘317)

PO/Zatkovich

- **Third-party:**
 - “Consistent with what a POSITA as of November 5, 2017 would understand, a “third-party” system is a **different and unaffiliated program/system**, which seems to be undisputed.” IPR2024-00065, Ex2002, Zatkovich Decl., ¶ 71.
 - The ‘317 Patent is specifically tackling the problem where “the target system may be **owned by a third-party**...”. ‘317 Patent, Ex1001, 11:19-20
- **Web-based:**
 - In line with the “plain and ordinary meaning,” a “web-based target system” **requires usage of the internet**. Indeed, the specification differentiates between “a website, a web-based system” and “a desktop application”. ‘317 Patent, Ex1001, 8:13-18

Dr. Beigi

- **Third-party:**
 - For “third party”: “ownership is immaterial. It’s the management of that library and how you do – you know, whether it’s a separate library or not, just that the separation makes it third-party. It’s in the way they communicate”. IPR2024-00065, Second Beigi Depo., Ex2020, 155:1-155:6
- **Web-based:**
 - Williams’ “work through system’s graphical interfaces, including web browsers” and thus teaches “a third-party web-based target system.” IPR2024-00065, Ex1042, Beigi Reply Decl., ¶ 32-34.
 - In Symons’ video (Ex. 1006, 11), where “the RPA bot automatically opens the browser and enters the details ... would be an example of a web-based target system” IPR2024-00065, Ex2020, Second Beigi Depo., 166:23-167:1

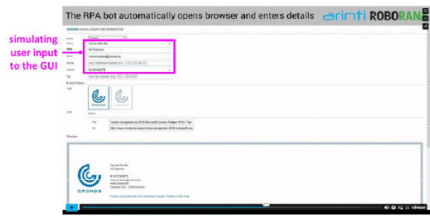
See also IPR 2024-00065 , Paper 28, Sur-Reply, 1-2

DEMONSTRATIVE EXHIBIT - NOT EVIDENCE

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IPR2024-00065, Ex2003, ¶188

88. "The RPA bot automatically opens browser and enters details."
(EX1006, 11.) As shown in the screen (annotated below), the RPA bot enters the user's name "Vincent De Bie" in the name input field of the GUI and "Engineer" in the job role input field (annotated below). (*Id.*, 10). The RPA bot also enters the user's email address "vincent.debie@cronos.be" in the email address input field and mobile number "0412345678" in the mobile number input field. (*Id.*, 12.)



DEMONSTRATIVE EXHIBIT - NOT EVIDENCE

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IPR2024-00065, Ex2020, Second Beigi Depo., 166:23-167:1

A. Well, I can -- paragraph 88 of my declaration (as read), The RPA bot automatically opens the browser and enters the details. Which is basically the title of the figure that's thereto and enters the details -- opens the browser and enters the details, basically, that would be an example of a web-based target system. That's an example.

Dr. Beigi's testimony regarding "third-party" ('317)

Q. So when you talk about a third-party service -- messenger service -- a third-party messenger service, does ownership matter?

A. No.

Q. Okay. Is there a unique definition of "third-party" to the people that work with NLPs than with respect to the rest of the world?

MS. NGUYEN: Objection, form.

A. Who is the rest of the world? What do you mean by that?

Q. People that speak the English language.

A. The English language? My understanding is that "third-party" means not you, not the individual --

Q. Or someone affiliated with you?

A. No, no. Because especially in computer science, a third party doesn't -- definitely does not mean that.

In computer science, which is the scope of what we are looking at, a third-party module, a third-party library, a third-party

H. Beigi - 11.11.24

ownership is immaterial. It's the management of that library and how do you -- you know, whether it's a separate library or not, just that that separation makes it third-party. It's in the way they communicate.

IPR2024-00065, Ex2020, Dr. Beigi Deposition taken Nov. 11, 2024 at 154:4-155:6

DEMONSTRATIVE EXHIBIT - NOT EVIDENCE

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“third party” means “unrelated” not merely “separation”

IPR2024-00065, Paper 28, Sur-Reply, 2

Dr. Beigi also took the leap that a “third party” does not refer to ownership or affiliation, but is about “management of that library... just that that separation makes it third-party”. (Ex2020, 154:4-155:6). This is not the ordinary meaning, nor one based on the disclosure. See, e.g., *Reshare Commerce, LLC v. State Farm Mutual Auto. Ins.*, Civil No. 11-2617-ADM-JJG, D.I. 137, at 15-17 (D. Minn. Nov. 21, 2012) (recognizing “unrelated” best captures the meaning of the term “third-party” as used in the claims and the specification; construing “third party” as “unrelated to the supplier”); *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316 (Fed. Cir. 2005) (internal citations omitted) (“The construction that stays true to the claims language and most naturally aligns with the patent’s description of the invention will be, in the end, the most correct construction.”). The ‘317 Patent is specifically tackling the problem where “the target system **may be owned by a third-party...**”. (Ex1001, 11:19-20). The technical solution offered to this problem, is “enabl[ing] the automation process to perform any functionality that the user can perform without relying on dedicated APIs and without requiring any line of code.” (Ex2021, 342:22-343:14).

DEMONSTRATIVE EXHIBIT - NOT EVIDENCE

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- Patent Owner’s Demonstratives **Slides 13, 32, and 33** contain new arguments: Patent Owner first offered “natural language interface “as a term for claim construction in its Demonstratives. (*See* Patent Owner Response (Paper 15), 23-24; Patent Owner Sur-reply (Paper 28), 1-3.)

Claim Construction and related disputes

“Computer Program” (‘664/’732)

“a displayed user interface of a computer program”/“the displayed user interface of the computer program” (‘664/’732)

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DEMONSTRATIVE EXHIBIT - NOT EVIDENCE

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“Natural language interface” (‘664, ‘732, ‘317)

PO/Zatkovich

- “[T]he claimed “natural language interface” must rely on natural language processing to understand, process, and generate a response to human natural language input.”

Ex2001, ‘732 Zatkovich Decl. ¶ 169
Ex2003, Beigi 6/25/2024 Depo. 63:15-64:17
Both cited in IPR2023-01379, Paper 17, POR at 46

Petitioner

Natural Language Processing (NLP).”) In contrast, a “*natural language interface* is an interface that *allows you to do natural language communication* with the software.” (EX2003, 63:15-64:17; EX1001, 5:6-8 (“The chat bot may implement a *natural language interface* such as a text-based *conversation*, an oral *conversation*, or the like.”), 16:10-12.) Mr. Zatkovich does not dispute. (EX2001, ¶158 (citing EX2003, 63:15-64:17); EX1042, ¶¶51-55.)

IPR2023-01379, Paper 25, Pet. Reply, pg. 8-9 (citing Ex2003, 63:15-64:17)

DEMONSTRATIVE EXHIBIT - NOT EVIDENCE

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Dr. Beigi's on Natural Language Interface requiring NLP

Ex2003, Dr. Beigi Deposition taken June 25, 2024, 63:15-64:17

Q. Okay. So when you talk to other people about natural language processing, what is it that you understand it to mean, in your own words, not the expert reports? I just want to know how would you understand that as someone that is a technical person at Recognition Technology talking to other people who you're working on with on natural language processing?

A [Dr. Beigi]: Exactly what you just did. You spoke with me and I processed that language, which is a natural language, and I responded to it using again natural language. What natural language processing in the computer science sense is to mimic that kind of processing using machinery or a software.

Q: And what would be a natural language interface to the same group of people?

A [Dr. Beigi]: I'm not defining this. I'm just explaining what a natural language interface to -- to us means. A natural language interface is an interface that will allow you to do natural language communication with the software.

Ex2020, Dr. Beigi Deposition taken November 11, 2024, 82:21-84:12

Q. And if the PTAB were to adopt your claim construction, do you think that what Mr. Zatkovich programmed in that exhibit meets claim 1 of the '664 patent?

MS. NGUYEN:- Objection, form.

A [Dr. Beigi]: I don't believe it will.

Q: And why not?

A [Dr. Beigi]: Because Mr. Zatkovich, as we required, did not use natural language processing, and in this context, we are talking about the context of this patent, we are talking about a chatbot. And we are requiring natural language processing, which you just stated, and since Mr. Zatkovich does not use natural language processing, it does not qualify.

Q. Okay. But my question wasn't that it required that. I said if we adopt your claim construction. So my question was, and if the PTAB were to adopt your claim construction, do you think what Mr. Zatkovich programmed in that exhibit meets claim 1 of the '664 patent? So I want to know under your claim construction.

MS. NGUYEN:- Objection, form.

A [Dr. Beigi]: In light of the specifications, no. Because the claims come in light of the specifications. The specifications multiple times speak about a chatbot, and in -- in a chatbot, and they do talk about natural language processing. So even reading that portion of it, the way I was just constructing it, that's just one portion of the claim. You have to look at the claims as a whole. You have to look at the claims in light of the specifications. And, again, under that construct, with the -- in light of the specifications and the rest of the claims, it does not qualify.

DEMONSTRATIVE EXHIBIT - NOT EVIDENCE

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Dated: December 16, 2024

Respectfully submitted,

By /s/ Jean Nguyen

Jean Nguyen

Registration No.: 71,051

MORRISON & FOERSTER LLP

707 Wilshire Boulevard, Suite 6000

Los Angeles, CA 90017-3543

Tel: (213) 892-5295

Fax: (213) 892-5454

Email: JNguyen@mofo.com

Certificate of Service (37 C.F.R. § 42.6(e)(4))

I hereby certify that the attached PETITIONER'S OBJECTIONS TO
PATENT OWNER'S ORAL HEARING DEMONSTRATIVES was served as of
the below date via email (by agreement) to the following counsel of record for the
Patent Owner:

Charles R. Macedo (Reg. No. 32,781)
Gary Gershik (Reg. No. 39,992)
Thomas Hart (Reg. No. 81,259)
Amster, Rothstein & Ebenstein LLP
405 Lexington Avenue
New York, NY 10174
Telephone: (212) 336-8074
Facsimile: (212) 336-8001
E-mail: cmacedo@arelaw.com
E-mail: ggershik@arelaw.com
E-mail: thart@arelaw.com
E-mail: WalkMe@arelaw.com

Kim Kennedy (Reg. No. 82,055)
George Stamatopoulos (*pro hac vice*)
KOBRE & Kim LLP
150 California Street
San Francisco, CA 94111
Tel: 415-582.4800
E-mail: kim.kennedy@kobrekim.com
E-mail: george.stamatopoulos@kobrekim.com

Dated: December 16, 2024

/s/ Jean Nguyen
Jean Nguyen