

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC

Petitioner

v.

EscapeX IP LLC,

(record) Patent Owner

IPR2025-00337

Patent No. 10,474,687

PETITIONER'S REPLY

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TABLE OF EXHIBITS

Exhibit No.	Description
1001	U.S. Patent No. 10,474,687 B2 (“ the ’687 patent ”).
1002	Declaration of Dr. Benjamin Bederson.
1003	C.V. of Dr. Benjamin Bederson.
1004	U.S. Pat. App. Pub. 2013/0030905 A1 (“ Fuloria ”).
1005	U.S. Pat. App. Pub. 2014/0025688 A1 (“ Andler ”).
1006	U.S. Pat. App. Pub. 2012/0203831 A1 (“ Schoen ”).
1007	U.S. Pat. App. Pub. 2012/0233009 A1 (“ Fougner ”).
1008	U.S. Pat. App. Pub. 2015/0058103 A1 (“ Kirk ”).
1009	U.S. Patent No. 7,835,943 B2 (“ Cheung ”).
1010	File History of U.S. Application No. 15/368,972.
1011	WO 2015/089100 A1 (“ WO ’100 ”).
1012	U.S. Pat. App. Pub. 2016/0314501 A1 (“ Bartholomew ”).
1013	Provisional application No. 62/137,701.
1014	Assignment Abstract of Title for Application No. 13/194,507.
1015	<i>EscapeX IP, LLC v. Google LLC</i> , Civil Action No. 1:23-cv-10839, Complaint and Exhibit B (S.D.N.Y., Dec.13, 2023).
1016	<i>EscapeX IP, LLC v. Google LLC</i> , Civil Action No. 1:23-cv-10839, Exhibit B to Declaration of Jeff M. Barron in support of Motion to Dismiss (S.D.N.Y., March 11, 2024).

Petitioner respectfully submits its Reply to Patent Owner EscapeX IP LLP's ("Patent Owner's") Patent Owner Response ("POR").

The POR concedes most of the case made by the Petition. The POR, for example, does not argue motivation, reasonable expectation of success, or claim construction. Instead, the POR argues that certain claim elements are not taught or rendered obvious by the prior art. But even these arguments—accounting for all cross-references—appear to boil down to a single assertion: that the Fuloria prior art does not teach “a request to obtain a **number of** engagements with respect to the networked content item” as recited in some—but not all—of the independent claims.

Patent Owner's argument fails because it does not squarely address the Petition's arguments, does not grapple with the actual claim language, and does not apply to all claims.

I. CLAIM CONSTRUCTION (POR, 3-4).

Patent Owner does not identify any terms for construction and “submits that the terms of the '687 Patent are clear on their face.” POR, 4. Patent Owner also appears to adopt Petitioner's proffered definition of the claim term “engagement,” which is drawn directly from the definition in the specification. *See* POR, 11, 13-14, 1-2; Ex-1001, 5:53-55. To the extent Patent Owner implicitly seeks to impose requirements on the claims that are not found in the claim language, Petitioner addresses these arguments below.

II. GROUND 1: FULORIA IN VIEW OF ANDLER RENDERS OBVIOUS CLAIMS 1-3, 5-6, 13-15, AND 17-18 (POR, 9-25).

A. Fuloria in view of Andler renders obvious claim element [1e]

Patent Owner's primary argument is that Fuloria in view of Andler does not teach "a display option configured to receive a request to obtain a number of engagements with respect to the networked content item," as recited in element [1e]. POR, 10-21.

The issue before the Board with respect to this limitation is exceedingly narrow, due to the admissions in the POR. Specifically, Patent Owner admits that Fuloria teaches a display option to request obtaining engagements *in general*, stating in the POR that "Patent owner admits that Fuloria discloses 'a display option configured to receive a request to obtain **engagement** with respect to the networked content item.'" POR, 16 (emphasis added). Patent Owner also does not dispute that Fuloria in view of Andler renders obvious displaying a "first number of engagements" and a "second number of engagements" as required under claim element [1d]. *See* Pet., 27-31. Thus, Patent Owner both (1) admits that Fuloria discloses a display option configured to receive a request to obtain an engagement, and (2) does not dispute under claim element [1d] that Fuloria in view of Andler renders obvious displaying a "first number of engagements" and a "second number of engagements."

These admissions leave Patent Owner with the thinnest of arguments to

distinguish its claims from the prior art, namely that the combination does not teach “a request to obtain **a number** of engagements.” Specifically, Patent Owner argues that:

“a user can only obtain unquantified ‘super-like,’ that is, there is no ‘single super-like’ and ‘a number of super-likes.’ Thus, Fuloria does not disclose ‘a number of engagements.’”

POR, 17. Patent Owner’s argument is based on the mistaken premise that Petitioner is arguing under claim element [1e] that the super like *itself* is the claimed number of engagements.¹ However, as explained below, this is not Petitioner’s argument under element [1e].

Under element [1e], the Petition argued that when a user super-likes content in a social network, the user can target a certain number of engagements (*e.g.*, regular

¹ A super-like *is* an engagement, but not the claimed “number of engagements” under element [1e]. The term “engagement” or “engagements” appears numerous times in the claims, but not all of these instances refer to the same engagement(s). Under claim element [1a], for example, the Petition contends that a super-like is an engagement with content, but the claim does not later refer back to the engagement under claim element [1a]. *See, e.g.*, Pet., 24-26; *see also* POR, 17 (Petitioner conceding that a “super-like” “can be regarded as engagement”).

likes or comments) by *other* users, and these engagements by other users are the “number of engagements” that are requested to be obtained. Pet., 32-34. The Petition explains that the super-liked content item is prominently displayed—allowing other users to like it or comment on it. *See id.* A user can pay more to increase the scope of the super-like, *e.g.*, to present it for more time, to present it to more people, to present it more often, or to present it such that the super-like produces more engagements by others. (*See, e.g.*, Ex-1004, ¶¶0057, 0038-0039). For example, under a “cost per click” payment model, a user may request to feature the content item until it receives 10 “likes” and then be charged per like. *See* Pet., 34-37; (Ex-1002, ¶¶90-93). As the Petition makes clear, the interactions by *other* users—whether they be likes or comments or other interactions—are the claimed “engagements” under claim element [1e]. *See* Pet., 32-34.

The POR’s only response to this argument is found on the paragraph bridging pages 19-20 of the POR, where the Patent Owner states:

“Petitioner’s argument that in Fuloria, ‘when a user seeks to promote a content item in this manner, the user is not only engaging with the content item herself, the user is also seeking to increase engagement by other users with respect to that content item,’ only show [sic] that ‘super-liked’ promotion may increase other users [sic] engagement with respect to that content item (through promote [sic] the content item to reach to other users so that they have chance [sic] to engage with it). The argument has no nexus with ‘a number of

engagements.””

POR, 19-20.

This argument is, respectfully, not sufficiently developed for the Board to address. The argument does not challenge that the engagements of other users are, in fact, engagements, nor that there are *a number* of such engagements, nor that these engagements are *obtained by* the user who pays for them. *See* Pet., 32-34. Nor does Patent Owner’s mere use of the term “nexus” inform as to the nature of the argument, because that term is normally only used in the context of secondary considerations of non-obviousness, in a way that does not clearly translate to the present context. Because Patent Owner’s argument is too vague to address, the Board should hold it forfeited. *See Viking Drill & Tool, Inc. v. Wang*, IPR2023-00474, Paper 89, p. 22, 2024 WL 3311903, at *9 (PTAB July 5, 2024) (“In an inter partes review, arguments not made or insufficiently developed are forfeit”); *SmithKline Beecham Corp. v. Apotex Corp.*, 439 F.3d 1312, 1319–20 (Fed. Cir. 2006) (argument not meaningfully developed is waived).

The POR’s other arguments fail to rebut the Petition’s actual theory. The POR argues that the Petition “confus[es] ‘a number of resources’ with ‘a number of engagements.’” POR, 13. This is incorrect. Under the Petition’s theory for claim element [1e], the amount of resources is what is paid for the super-like, but the engagements are the interactions (e.g., likes or comments) of other users obtained

via the super-like.

Patent Owner's argument that a "'super-like'" cannot be equated with 'a number of engagements'" because, according to Patent Owner, "they have different functions" (POR, 18-19) fails for similar reasons. The Petition is not attempting, under element [1e], to map Fuloria's "super-like" to the claimed "number of engagements." Moreover, Patent Owner's apparent attempt to limit the claims based on the alleged "functions" of the claimed engagements is based solely on exemplary and non-limiting disclosures in the '687 patent. *See* POR, 18 (*citing* Ex-1001, 2:58-4:51, 3:1-13). The claims do not require that any particular alleged "function" or all "functions" of "engagement" as identified by Patent Owner be present to satisfy the claims. Patent Owner does not support its apparent attempt to limit the challenged claims with an analysis of the claim language, nor does it identify any disclaimers or other limiting language that would support its position.

To the extent a limitation to functions of engagement is required, promotion of a content item via a super-like does in fact promote the user initiating the super-like via the user's association with the content item. *See* Pet., 13-14, 25 n.4. When a user super-likes a content item, the "super-liked" content item "may be displayed to other members by pinning the story or content to the top of each other member's news feed." (*See e.g.*, Ex-1004, ¶¶0010, 0038, Abstract, 0057, 0067, Fig. 9C). For example, a user can super-like their own content, (Ex-1004, ¶0067), and the user's

association with the content is prominently displayed on other users' news feeds, thus facilitating the user being noticed by other users. *See* Pet., 13-14.

Patent Owner's arguments also turn a blind eye to the Petition's broader invalidity theory. Patent Owner contends that "the purpose of 'super-liked' [sic] is to promote networked content item [sic], not to promote a user (facilitating the given user being noticed by other users), nor to spur competition among the users to achieve higher numbers of engagements, so there is no need to show difference [sic] in quantity of 'super-liked.'" POR, 19. However, the Petition explains how it would have been obvious to incorporate Andler's engagement scores and rankings into Fuloria, such that Fuloria would display a ranking of top users and numbers reflecting engagements obtained by each user. *See* Pet., 15-19, 21-26, 27-31; *see also* Institution Decision, 15-18. The Petition explicitly contends that "it would have been obvious to display each of the top users' engagements scores, the number of engagements obtained, the credits used to obtain them, or the real-world value of such credits." Pet., 17. The Petition explains that doing so would have incentivized users to further engagement and would distinguish them with higher visibility. *See* Pet., 18. Thus, the system of the proposed combination displays information regarding engagements obtained, and facilitates a given user being noticed by other users as well as spurs competition among the users to achieve higher numbers of engagements through expending more resources. Patent Owner offers no response

to the Petition on these points.

B. Fuloria in view of Andler renders obvious claim element [1f]

Fuloria in view of Andler renders obvious claim element [1f], which recites: “wherein a single engagement requires an amount of resources and the first number of engagements was obtained in exchange for a first amount of resource from the first user, and the second number of engagement was obtained in exchange for a second amount of resources from the second user.” Pet., 34-36.

Patent Owner’s arguments regarding claim [1f] are similar to those it presents for claim element [1e], and should be rejected for the same reasons as set forth above under the discussion regarding claim element [1e]. Patent Owner principally argues that “a user can not obtain a number of engagements in exchange for a amount of resource [sic]” citing to its arguments for claim element [1e]. POR, 21. However, as explained under claim element [1e] and in the Petition, a user can obtain multiple engagements based on actions of other users (e.g., via likes or comments) in exchange for an amount of resources using the “super-like” function.

Finally, Petitioner further notes that its argument regarding “multiple different users” is presented in view of the claim language, which recites both a first and a second user. *See* POR, 21; Pet., 34-36. To the extent it is required by the claims, as the Petition explains, it is obvious for multiple different users to super-like the same content item. (*See* Ex-1004, ¶0057; Ex-1002, ¶0087). Patent Owner does not

dispute this.

C. Fuloria in view of Andler renders obvious claim element [1h]

Fuloria in view of Andler renders obvious claim element [1h], which recites: “receive, via the user interface, an indication to obtain a third number of engagements relating to the networked content item from a third user different from the user that authored the networked content item, the first user, and the second user.” Pet., 36-37.

Patent Owner also asserts that this element is not met, citing to its arguments under claim element [1e]. POR, 22. Patent Owner contends that because “Fuloria’s system cannot receive a request to obtain a **number of engagements**” (emphasis original), “Fuloria’s [sic] thus does not teach ‘an indication to obtain a third number of engagements’” per element [1h]. POR, 22. Patent Owner’s arguments are accordingly based on its arguments under claim element [1e] and should be rejected for the reasons set forth above under the discussion regarding claim element [1e] and in the Petition.

D. Fuloria in view of Andler renders obvious claim element [1i]

Fuloria in view of Andler renders obvious claim element [1i] which recites: “determine a third amount of resources required to obtain the third number of engagements by multiplying the amount of resources required for a single engagement with the third number.” Pet., 37-38.

Patent Owner also asserts that this element is not met, citing to its arguments under claim element [1e]. POR, 23. Patent Owner's arguments should be rejected for the reasons set forth above under the discussion regarding claim element [1e] and in the Petition.

Patent Owner also argues that Petitioner "errs on confusing 'super-like' with 'like.'" POR, 23. Patent Owner's argument on this point is not clear, but Patent Owner does assert that "Fuloria does not teach the example about 'like' provided by Petitioner." POR, 24. Patent Owner seems to be suggesting that Petitioner is arguing that a user must expend resources to merely like or comment on an item. This is, of course, not Petitioner's argument. As explained in detail in the Petition, a user can obtain the 'likes' of *other users* by "super-liking" a content item, and pricing for the super-like can be based accordingly. *See, e.g.,* Pet., 36-37.

E. Patent Owner presents no additional arguments under Ground 1.

Patent Owner does not present any separate arguments for claims 2-3, 5-6, 13-15, and 17-18. Accordingly, those claims are unpatentable for the reasons set forth in the Petition and above.

III. GROUND 2: FULORIA IN VIEW OF ANDLER AND WO '100 RENDERS OBVIOUS CLAIMS 11 AND 23 (POR, 25-29).

Patent Owner argues that the combination does not teach claim elements [11d], [11f], and [11g]. POR, 27-29. Patent Owner refers to its arguments from Ground 1 and does not present any additional argument, including arguments based

on WO '100. Accordingly, claims 11 and 23 are unpatentable for the reasons set forth in the Petition and above.

Petitioner notes that claims 11 and 23 do not include the claim language “number of engagements.” Given that “Patent owner admits that Fuloria discloses “a display option configured to receive a request to obtain engagement with respect to the networked content item,” POR, 16, Patent Owner does not make clear how precisely its arguments under Ground 1 apply to the claims challenged under Ground 2 given their specific claim language.

IV. GROUND 3: FULORIA IN VIEW OF ANDLER AND BARTHOLOMEW RENDERS OBVIOUS CLAIMS 12 AND 24 (POR, 29-32).

Patent Owner argues that the combination does not teach claim elements [12d] and [12f]. POR, 29-32. Patent Owner refers to its arguments from Ground 2 and does not present any additional argument, including arguments based on Bartholomew. Accordingly, claims 12 and 24 are unpatentable for the reasons set forth in the Petition and above. Patent Owner again does not make clear how precisely its arguments under Ground 1 apply to the claims challenged under Ground 3 given their specific claim language.

V. GROUND 4: FULORIA IN VIEW OF ANDLER AND KIRK RENDERS OBVIOUS CLAIMS 4 AND 16 (POR, 33).

Claims 4 and 16 depend from claim 1 and 13, respectively, Patent Owner does not present any additional arguments directed to these dependent claims. POR, 33.

Accordingly, claims 4 and 16 are unpatentable for the reasons set forth in the Petition and above.

VI. GROUND 5: FULORIA IN VIEW OF ANDLER AND CHEUNG RENDERS OBVIOUS CLAIMS 7-10 AND 19-22 (POR, 33-34).

Claims 7-10 and 19-22 depend from claims 1 and 13, respectively, Patent Owner does not present any additional arguments directed to these dependent claims. Accordingly, claims 7-10 and 19-22 are unpatentable for the reasons set forth in the Petition and above.

VII. CONCLUSION

Petitioner respectfully requests that claims 1-24 of the '687 patent be canceled.

Date: <u>November 12, 2025</u>	<u>/Matthew A. Smith/ (RN 49,003)</u> Matthew A. Smith SMITH BALUCH LLP 700 Pennsylvania Ave SE, 2nd Floor Washington, DC 20003 (202) 669-6207 smith@smithbaluch.com <i>Counsel for Petitioner Google LLC</i>
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Petitioner Reply, together with all exhibits and other documents filed therewith, was served by electronic email, on the Patent Owner's counsel of record at the United States Patent & Trademark Office having the following addresses:

jhenry@rameyfirm.com
wramey@rameyfirm.com
uspto@rameyfirm.com

Date: November 12, 2025

/Matthew A. Smith/ (RN 49,003)

CERTIFICATE OF WORD COUNT

The undersigned hereby certifies that the foregoing petitioner reply, including all sections required to be measured, contains 2,716 words according to the word processing program used to prepare it.

Date: November 12, 2025 /Matthew A. Smith/ (RN 49,003)