

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ZESTY.AI, INC.

*Petitioner,*

v.

AON RE, INC.

*Patent Owner.*

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Case No. IPR2025-01357

U.S. Patent No. 10,650,285

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**PATENT OWNER'S REPLY IN SUPPORT OF ITS REQUEST FOR  
DISCRETIONARY DENIAL**

**I. Petitioner mischaracterizes the parties’ pre-suit discussions.**

In an attempt to excuse its inaction after being notified of its infringement, Petitioner argues (at 4) that the “the parties executed a renewal of their partnership in 2021, suggesting the matter was *resolved*.”<sup>1</sup> While Petitioner fails to file this alleged “renewal” with its brief, Petitioner refers to a “Marketing Agreement” that includes a clause titled “

states: “  
”  
”  
”  
”  
” Ex. 2021 at 3. The Agreement also provides that  
”  
” *Id.*

Thus, the Agreement expressly provides .  
Petitioner’s claim to the contrary is simply untrue. If anything, the Agreement highlights Petitioner’s knowledge of PO’s patents and persistent inaction over the course of five years. Indeed, Petitioner admits (at 12-13) that it waited to file its Petition until after it lost its § 101 challenge. If Petitioner were truly interested in efficiency, it would have shared its defenses five years ago.

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<sup>1</sup> Emphasis herein is added unless otherwise indicated.

Petitioner’s next excuse (at 4) is that when PO again placed Petitioner on notice in 2023, “it was under the guise of a ‘business proposal’—not a licensing discussion.” That too is untrue. In fact, PO’s April 2023 letter expressly stated: “Zesty may be interested in a *license* to the Aon Patents” and referred to the parties’ prior discussions concerning Petitioner’s infringement. Ex. 2012 at 1.

In response, when *Petitioner* attempted to focus on a business proposal, PO’s counsel reiterated that the “[REDACTED]”; that “[REDACTED]”; and that “[REDACTED]” Ex. 2007 at 6. PO’s counsel then stated “[REDACTED]” *Id.* Contrary to Petitioner’s representation (at 4), the dispute has always been about Petitioner needing a license.

Despite that, Petitioner ultimately declined to share any prior art with PO, suggesting to any reasonable observer that Petitioner was simply bluffing. Petitioner’s pattern of inaction and refusal to share any real information concerning its defenses provided PO with settled expectations and distinguishes this proceeding from others where the Director declined to find settled expectations. Indeed, Petitioner’s CEO claimed that he offered “[REDACTED]

[REDACTED],” undermining Petitioner’s claim (at 4) that it never “suggest[ed] that the patents were valid or had any value to Zesty.” Ex. 2007 at 6.

## **II. The Examiner thoroughly considered the prior art and did not err.**

Desperate to find *some* reason to avoid discretionary denial, Petitioner searches in vain for examiner error first arguing (at 10) that the “’285 patent issued without even a *single* prior art rejection,” giving the impression that the Examiner cited no art. (original emphasis). But that is belied by the file history: the Examiner expressly referred to his “35 USC 103 *rejections*,” cited three references, and explained why they did not render the claims obvious. Ex. 1002 at 272. Indeed, the Examiner considered a 13-page IDS, which included a detailed International Search Report (ISR). Ex. 1002 at 219-229, 232-234 (ISR entry at 228).

Next, Petitioner criticizes (at 1, 10) the examiner’s search strategy as allegedly “not includ[ing] *a single* search term related to machine learning classifiers *at all*.” (original emphasis). That is flat wrong: the Examiner used the search: “(property or properties or house or houses or ‘real property’ or resident\$3) near7 (classif\$3).” Ex. 1002 at 241. Petitioner’s argument also misleadingly suggests that the examiner considered no machine learning references at all. This too is wrong as evidenced by the references in the 892 appended to the Notice of Allowance. Ex. 1002 at 275-76.

For example, Collins states for roof analysis, “[a] software program with

artificial intelligence (learning algorithms) or designed with neural networks could also be used to detect damage.” Ex. 2022, ¶102. Collins also states that “[a]fter the relevant features have been determined, scanning of the images and relevant metadata can be performed using existing image processing algorithms.” *Id.*, ¶118.

As another example, the Examiner’s 892 cited Howe, which stated that “[a]s a new image comes in, a like feature representation to that used in the training stage is extracted from the image, and a category or class membership can then be established based on the output of the trained classifier or clustering algorithm. The different categories can correspond to a category of damage, including damage produced by a hurricane, a hail storm, a falling object, or a collision.” Ex. 2023 at 8:55-62. Additionally, the Examiner’s 892 cited Ciarcia which, with reference to identifying roofs, stated “other techniques may purely rely on artificial intelligence algorithms to identify regions of interest after learning.” Ex. 2024 at 6:59-61. Ultimately, Petitioner highlights its failure to address § 325(d) in its Petition.

### **III. Petitioner cannot rewrite its Petition to avoid denial.**

Petitioner claims (at 14) that it relies on “explicit disclosure” of Gross for the “second machine learning classifier.” But the Petition states (at 29) the opposite: “***Gross does not explicitly disclose*** that its condition qualifiers are classified via a different machine learning classifier than was used to identify attributes[.]” Petitioner then belatedly tries to rewrite its Petition to rely on the text it misleadingly

omitted with its ellipsis. Even if the Director were to permit this, Gross’s “combined score” simply combines output scores from algorithms trained to identify the same information, consistent with Petitioner’s admission. Generally, Petitioner’s search for ambiguity in its Petition fails the “particularity” requirement of § 312(a)(3).

Petitioner next attempts (at 16) to excuse its failure to address motivation and expectation of success, arguing that the Petition does not rely “solely on Jafri to meet this claim limitation.” But the Petition in fact relies (at 22) on Jafri—and only Jafri—as allegedly disclosing “*features represented by a set of pixel groupings.*” (original emphasis). Petitioner plainly relied on Jafri for feature extraction.

Petitioner also attempts to blunt the impact of Jafri’s teaching away, arguing (at 16) that Jafri “merely cites to an article that predates [it] by 12 years” (Jafri reference [58]). However, the Petition (at 26 (citing Ex. 1008 at 49)) and Petitioner’s discretionary brief (at 16) both rely on this very same reference [58] to argue that Petitioner’s reliance on an alleged Jafri discloses a “hybrid neural network solution.” Petitioner cannot escape Jafri’s teaching away by an attempted Petition rewrite.

#### **IV. Petitioner fails to reconcile its constructions.**

Petitioner claims (at 19) it did not offer an “*explicit* claim construction” in its § 101 briefing. But Petitioner argued that humans can perform the claimed invention. Ex. 2013 at 1. Humans cannot extract features in the “computer vision” context, which is Petitioner’s construction here. PO did not mischaracterize anything.

Dated: November 17, 2025

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing document, along with any supporting document(s), was served in its entirety by filing through the Patent Trial and Appeal Case Tracking System (P-TACTS) as well as providing a courtesy copy via e-mail to the following attorneys of record for the Petitioner listed below:

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