

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,  
Petitioner

v.

REALTIME DATA, LLC D/B/A/ IXO,  
Patent Owner

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Case IPR2016-01737  
Patent 8,880,862

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**PATENT OWNER REALTIME DATA, LLC D/B/A IXO'S  
REQUEST FOR ORAL ARGUMENT**

Pursuant to 37 C.F.R. § 42.70 and the October 24, 2017 Order (Paper 34) setting Oral Argument for January 8, 2018, Patent Owner Realtime Data, LLC d/b/a IXO hereby requests that the Patent Trial and Appeal Board hear oral argument on the following issues:

- 1) Whether Petitioner Apple Inc. has met its burden of proving claims 1-4, 6-7, 13, 23-34, 47-58, 83-96, 99-100, 105-111, 113, and 116 of U.S. Patent No. 8,880,862 (“the ‘862 Patent”) are unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,860,083 (“Sukegawa”) and U.S. Patent No. 6,145,069 (“Dye”);
- 2) Whether Petitioner has met its burden of proving claims 1-4, 6-7, 13, 23-34, 47-58, 83-96, 99-100, 105-111, 113, and 116 the ‘862 Patent are unpatentable under 35 U.S.C. § 103(a) in view of Sukegawa, Dye, and U.S. Patent No. 6,374,353 (“Settsu”);
- 3) Whether Petitioner has met its burden of proving claims 1-4, 6-7, 13, 23-34, 47-58, 83-96, 99-100, 105-111, 113, and 116 of the ‘862 Patent are unpatentable under 35 U.S.C. § 103(a) in view of Sukegawa, Dye, and Michael Burrows et al., *On-line Data Compression in a Log-structured File System* (1992) (“Burrows”);
- 4) Whether Petitioner has met its burden of proving claims 1-4, 6-7, 13, 23-34, 47-58, 83-96, 99-100, 105-111, 113, and 116 of the ‘862 Patent are

- unpatentable under 35 U.S.C. § 103(a) in view of Sukegawa, Dye, Settsu, and Burrows;
- 5) Whether Petitioner has met its burden of proving claims 1-4, 6-7, 13, 23-34, 47-58, 83-96, 99-100, 105-111, 113, and 116 of the '862 Patent are unpatentable under 35 U.S.C. § 103(a) in view of Sukegawa, Dye, and U.S. Patent No. 6,317,818 (“Zwiegincew”)<sup>1</sup>;

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<sup>1</sup> The Petition identifies Sukegawa, Dye, and Zwiegincew as the references relied upon for Ground 5. *See* Petition at 3. Indeed, the Board initially identified Sukegawa, Dye, and Zwiegincew as the asserted prior art at issue in Ground 5; but later identified those three references, plus Settsu, as the fifth instituted ground. *See* Paper 7, Institution Decision at 5, 24 (Mar. 14, 2017). Also, in the related IPR2016-01738 proceeding, Apple identifies Sukegawa, Dye and Zwiegincew as Ground 5 and the Board instituted on those three references without Settsu. *See* IPR2016-01738, Paper 7 at 28 (Mar. 20, 2017). Patent Owner therefore respectfully requests that Ground 5 be limited to consideration of Sukegawa, Dye, and Zwiegincew.

- 6) Whether to grant Patent Owner's Motion to Amend under 35 U.S.C. § 316(d) with respect to contingent substitute claims 118-173 in the event that the Board finds independent claims 1, 6, and/or 13 unpatentable;
- 7) Whether Petitioner's Exhibits 1038 and 1040 should be excluded from evidence;
- 8) Any subsidiary issue relevant to issues (1) to (7), including, without limitation, claim construction, assessment of evidence, and admissibility of evidence; and
- 9) Any other issues the Board deems necessary for issuing a final written decision.

Patent Owner also respectfully requests the ability to use audio visual equipment to display demonstrative exhibits, including the use of a projector and screen that connects to a laptop computer. Patent Owner also requests that an ELMO-type projector be made available for use.

Respectfully Submitted,

Date: December 8, 2017

/Joseph F. Edell/

Joseph F. Edell (Reg. No. 67,625)  
Richard Z. Zhang (Reg. No. 73,397)  
Fisch Sigler LLP  
5301 Wisconsin Avenue NW  
Fourth Floor  
Washington, DC 20015  
Phone: (202) 362-3527  
Fax: (202) 362-3501  
Email: Joe.Edell.IPR@fischllp.com  
Email: Richard.Zhang.IPR@fischllp.com

Desmond S. Jui (*pro vac vice*)  
Fisch Sigler LLP  
96 North Third Street  
Suite 260  
San Jose, CA 95112  
Phone: (650) 362-8209  
Email: Desmond.Jui.IPR@fischllp.com

William P. Rothwell (Reg. No. 75,522)  
Noroozi PC  
2245 Texas Drive, Suite 300  
Sugar Land, TX 77479  
Phone: (281) 566-2685  
Email: William@noroozipc.com

Kayvan B. Noroozi (*pro hac vice*)  
Noroozi PC  
1299 Ocean Avenue, Suite 450  
Santa Monica, CA 90401  
Phone: (310) 975-7074  
Email: Kayvan@noroozipc.com

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