

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

REALTIME DATA LLC,
Patent Owner.

Case IPR2016-01737 (Patent 8,880,862)

Case IPR2016-01738 (Patent 8,880,862)

Case IPR2016-01739 (Patent 8,880,862)

Record of Oral Hearing
Held: January 8, 2018

Before GEORGIANNA W. BRADEN, JASON J. CHUNG, and JEFFREY
A. STEPHENS, *Administrative Patent Judges*.

Case IPR2016-01737 (Patent 8,880,862)
Case IPR2016-01738 (Patent 8,880,862)
Case IPR2016-01739 (Patent 8,880,862)

APPEARANCES:

ON BEHALF OF THE PETITIONER:

W. KARL RENNER, ESQUIRE
JEREMY J. MONALDO, ESQUIRE
ANDREW PATRICK, ESQUIRE
Fish & Richardson, P.C.
1425 K Street, N.W., Eleventh Floor
Washington, D.C. 20005

ON BEHALF OF THE PATENT OWNER:

JOSEPH EDELL, ESQUIRE
Fisch Sigler, LLP
5301 Wisconsin Avenue, N.W., Fourth Floor
Washington, D.C. 20015

and

KAYVAN B. NOROOZI, ESQUIRE
Noroozi, P.C.
1299 Ocean Avenue, Suite 450
Santa Monica, California 90401

The above-entitled matter came on for hearing on Monday, January 8, 2018, commencing at 1:00 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

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P R O C E E D I N G S

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2 JUDGE BRADEN: Good afternoon. We are convened for oral
3 arguments in IPR2016-01737, IPR2016-01738 and IPR2016-01739, all of
4 which challenge U.S. patent number 8,880,862. I am Judge Braden. Also
5 appearing remotely is Judge Stephens, and our colleague in the room with
6 you in Alexandria is Judge Chung. As Judge Stephens and I are appearing
7 via video, we require counselors to speak directly into the microphone when
8 talking and to identify specific slide numbers when referring to
9 demonstratives.

10 Now, each party has 90 minutes total time to argue all three cases.
11 Petitioner, Apple, Inc., has the ultimate burden of establishing
12 unpatentability. Therefore, petitioner will open the hearing by presenting its
13 cases as presented in its petitions regarding the alleged unpatentability of the
14 challenged claims. Petitioner may reserve rebuttal time. Thereafter, patent
15 owner, Realtime Data, LLC, will respond petitioner's arguments and may
16 present its cases regarding the motions to amend and motions to exclude.
17 Patent owner may reserve rebuttal time only with regards to its motions.
18 Petitioner may then proceed to use any reserved rebuttal time to address
19 arguments in either the grounds in the petitions, its replies and/or those in
20 the motions to amend and motions to exclude. Finally, patent owner may go
21 last and may use any reserved rebuttal time to address only petitioner's
22 arguments regarding the motions to amend and the motions to exclude.
23 Otherwise, the parties may use its allotted time to discuss the three cases in
24 any order they choose. We ask, however, that you make it clear which case

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1 and which claims you are addressing. To ensure clarity of the record
2 following the hearing, please provide the court reporter with a list of names
3 and word spellings.

4 Now, we have received objections from the petitioner regarding
5 patent owner's demonstratives. As the demonstratives are not evidence and
6 not part of the official record, we will take the objections under advisement
7 and will not rule on them at this time. I will note, however, that if patent
8 owner cannot show where its slide graphics were discussed or presented in
9 its briefing, then such graphics will not be relied upon during our decision
10 making.

11 Lastly, we ask that the parties hold any objections regarding a
12 party's arguments until it is their time at the podium. To be clear, I will not
13 take objections during a party's arguments. You must wait until it is your
14 time at the podium to note any objections.

15 I will maintain a clock and inform the parties when they have five
16 minutes left. So let's go ahead and get started with appearances for both
17 sides. We will start with petitioner.

18 MR. RENNER: Good afternoon, Your Honors. Karl Renner from
19 Fish & Richardson here on behalf of Apple. And I'm joined by co-counsel,
20 Jeremy Monaldo and Andrew Patrick.

21 JUDGE BRADEN: Thank you, counselor. Counsel for patent
22 owner.

23 MR. EDELL: Thank you, Your Honors. Joe Edell on behalf of
24 the patent owner from Fisch Sigler. I am joined by co-counsel, Kayvan
25 Noroozi of Noroozi PC.

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1 JUDGE BRADEN: Very good. Thank you. Petitioner, you are
2 up. Do you wish to reserve any rebuttal time?

3 MR. MONALDO: Thank you, Your Honor. Yes, we do. We are
4 hoping to receive approximately 60 minutes in rebuttal time.

5 JUDGE BRADEN: Very good. You may begin your arguments
6 when ready.

7 MR. MONALDO: May it please the Board, my name is Jeremy
8 Monaldo from Fish & Richardson, representing Apple as petitioner. I'm
9 joined today by my colleagues Karl Renner and Andrew Patrick. First of all,
10 I want to thank Your Honors for taking the time to hear our case in this
11 matter, particularly Judge Chung, the court reporter and the staff here, given
12 the weather conditions in Alexandria.

13 So today we are scheduled to discuss just one patent, Realtime's
14 '862 patent. But this is not a typical patent. It is a patent with 117 claims
15 that required three IPR petitions and a variety of grounds to address. As a
16 consequence, we are facing a substantial record.

17 The good news is that the '862 patent is a continuation of
18 Realtime's '608 and '936 patents that we previously discussed last fall. With
19 that similarity, I think we are all very aware of the subject matter of
20 Realtime's patent. As a consequence, I'll not plan to use my direct time to
21 provide an overview of that patent unless Your Honors would like.

22 Now, despite the similarity of the '862 patent and the '608 and '936
23 patents, there are significant differences between those proceedings and the
24 present ones. You'll see that Realtime has moved away and abandoned
25 many of the arguments made in the earlier proceedings. Instead, what

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