

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

**EXPERT DECLARATION OF DR. GODMAR BACK IN SUPPORT OF
THE PATENT OWNER'S RESPONSE**

TABLE OF CONTENTS

I. INTRODUCTION 1

 A. Summary of Issues 1

 B. Summary of Opinions 4

II. PROFESSIONAL BACKGROUND 5

III. TECHNOLOGY OVERVIEW 9

 A. ‘862 Patent 9

 B. Sukegawa Reference 11

 C. Dye Reference 13

 D. Settsu Reference 14

 E. Burrows Reference 14

 F. Zwiegincew Reference 15

IV. LEGAL STANDARDS TO BE APPLIED 18

V. PERSON OF ORDINARY SKILL IN THE ART 21

VI. CLAIM CONSTRUCTION 23

 A. Term “Boot Data List” 23

 B. Term “Non-Accessed Boot Data” 29

 C. Apple’s Proposed Construction of “Boot Data” 32

VII. VALIDITY OF THE ‘862 PATENT 33

 A. Sukegawa Does Not Teach or Suggest the Claimed “Boot Data List.” 33

 B. Zwiegincew’s Teachings Do Not Provide a Basis to Modify Sukegawa to
 Render Obvious the Claimed “Boot Data List.” 39

| | |
|---|----|
| C. Sukegawa Does Not Teach or Suggest “Disassociating Non-Accessed Boot Data from the Boot Data List.” | 44 |
| D. Sukegawa Does Not Teach or Suggest “Loading” Boot Data “That is Associated with a Boot Data List.” | 47 |
| E. Settsu’s Teachings Do Not Provide a Basis to Modify Sukegawa to Render Obvious “Loading” Boot Data “That is Associated with a Boot Data List.” | 51 |
| F. Zwiegincew’s Teachings Do Not Provide a Basis to Modify Sukegawa to Render Obvious “Loading” Boot Data “That is Associated with a Boot Data List.” | 52 |
| G. Sukegawa in View of Dye Does Not Render Obvious the Challenged Claims. | 53 |
| H. Sukegawa Does Not Teach or Suggest “Boot Data Compris[ing] a Program Code Associated with...an Application Program.” | 59 |
| I. Dye Does Not Disclose Storing Compressed Boot Data in a Hard Disk Drive. | 60 |
| J. Dye Does Not Disclose “a Plurality of Encoders.” | 62 |

I, Godmar Back, declare as follows:

I. INTRODUCTION

1. My name is Dr. Godmar Back. I have been retained by Realtime Data LLC to offer my opinions concerning the validity of U.S. Patent No. 8,880,862 (“the ‘862 Patent”).

2. Specifically, I have been asked to analyze arguments made by Apple, Inc. and its expert, Dr. Charles J. Neuhauser, in the petition for *inter partes* review (“IPR”) proceeding of the ‘862 Patent, Case No. IPR2016-01737. I understand that on March 14, 2017, the Patent Trial and Appeal Board (“the Board”) entered a decision instituting (“the Institution Decision”) this IPR proceeding.

A. Summary of Issues

3. I understand that Apple’s Petition (and Dr. Neuhauser’s Declaration) allege the following five grounds of unpatentability:

- a. Ground 1: claims 1-4, 6-7, 13, 23-34, 47-58, 83-96, 99-100, 105-111, 113, and 116 of the ‘862 Patent are obvious over the combination of U.S. Patent No. 5,860,083 (“Sukegawa”) in view of U.S. Patent No. 6,145,069 (“Dye”);
- b. Ground 2: claims 1-4, 6-7, 13, 23-34, 47-58, 83-96, 99-100, 105-111, 113, and 116 of the ‘862 Patent are obvious over the combination of Sukegawa in view of Dye and U.S. Patent No. 6,374,353 (“Settsu”);
- c. Ground 3: claims 1-4, 6-7, 13, 23-34, 47-58, 83-96, 99-100, 105-111, 113, and 116 of the ‘862 Patent are obvious over the

combination of Sukegawa in view of Dye and Burrows et al., “On-line Data Compression in a Log-structured File System”

(“Burrows”);

d. Ground 4: claims 1-4, 6-7, 13, 23-34, 47-58, 83-96, 99-100, 105-111, 113, and 116 of the ‘862 Patent are obvious over the combination of Sukegawa in view of Dye, Settsu, and Burrows; and

e. Ground 5: claims 1-4, 6-7, 13, 23-34, 47-58, 83-96, 99-100, 105-111, 113, and 116 of the ‘862 Patent are obvious over the combination of Sukegawa in view of Dye and U.S. Patent No. 6,317,818 (“Zwiegincew”).

4. I understand that in its Institution Decision, the Board instituted IPR on Ground 5 for claims 1–4, 6–7, 13, 23–34, 47–58, 83–96, 99–100, 105–111, 113, and 116 (“Challenged Claims”). On page 5 of the Institution Decision, the Board identifies Sukegawa, Dye, and Zwiegincew as the asserted prior art for Ground 5. Similarly, Apple’s Petition identifies those three references as the basis for Ground 5.¹ However, on page of 24 of the Institution Decision, the Board identifies Settsu as another reference at issue in Ground 5. I address the combination of Sukegawa, Dye, and Zwiegincew in my declaration. I also considered the combination of Ground 5 including the teachings of Settsu, and reached the same conclusions. As

¹ Petition at 2-3.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.