

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,  
Patent Owner

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Case IPR2016-01737  
Patent 8,880,862

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**EXPERT DECLARATION OF DR. GODMAR BACK IN SUPPORT OF  
PATENT OWNER'S REPLY TO ITS MOTION TO AMEND**

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I, Godmar Back, declare as follows:

## **I. INTRODUCTION**

1. On June 14, 2017, I submitted a declaration in support of the motion to amend, and the proposed substitute claims, submitted by Realtime Data LLC in this proceeding, in which I explained and concluded that the proposed substitute claims are supported by the original non-provisional application and are patentable over the prior art at issue in this proceeding, as well as the material art discussed during prosecution.

2. I understand that Apple, Inc. and its expert, Dr. Charles J. Neuhauser, subsequently submitted a response and accompanying declaration, respectively. I also understand that Dr. Neuhauser was cross-examined with respect to the opinions set forth in that declaration. I have been asked to consider Apple's arguments, Dr. Neuhauser's declaration (Ex. 1030), and Dr. Neuhauser's cross-examination testimony (Ex. 2024) to determine whether those materials affect the analysis and conclusions stated in my declaration of June 14, 2017. I have additionally been asked to review the Reply in support of Patent Owner's Motion to Amend submitted concurrently with this declaration. For the reasons explained in this declaration, my opinions remain unchanged, and the arguments and evidence submitted by Apple, as elucidated by Dr. Neuhauser's cross-examination

testimony, further support my conclusion that the proposed substitute claims are patentable.

3. In forming my opinions, I have reviewed and considered the materials identified in the paragraph above, those identified in my prior declaration of June 14, 2017, and relevant portions of Apple's invalidity contentions from the district court litigation (Ex. 1039).

4. My opinions are based on my experience and knowledge of the relevant art, the documents identified above, as well as the documents discussed in this declaration.

5. In this declaration, I address Apple's prior art references and unpatentability theories. My decision to discuss below only certain shortcomings of those references or theories should not be understood as a concession that those references or theories teach other limitations of the proposed amended claims that are not specifically discussed.

## **II. PROFESSIONAL BACKGROUND**

6. My professional background and Curriculum Vitae were provided as part of my declaration of June 14, 2017, and I do not repeat my qualifications here.

## **III. PERSON OF ORDINARY SKILL IN THE ART**

7. My understanding and views as to the "person of ordinary skill in the art" were set forth in my prior declaration of June 14, 2017, and have not changed.

#### IV. THE '862 PATENT'S TEACHINGS AS TO "PRELOADING"

8. Section V of the '862 specification, titled "Instant Boot Device for Operating System, Application Program and Loading," is instructive as to the meaning of "preloading" within the context of the patent. That section contrasts the "preloading" approach taught in the specification from prior art approaches. Ex. 1001 at 20:36-22:11. The specification explains that "with conventional boot device controllers, after reset, the boot device controller will wait for a command over the computer bus (such as PCI)." *Id.* at 20:38-40. It then explains that since the boot device controller is typically ready to operate before the computer bus, "this wait period is unproductive time." *Id.* at 20:40-43. And it further explains that once a boot device controller receives a command for boot data over the computer bus, "a long delay is seen by the computer user." *Id.* at 20:45-48.

9. The specification then proposes a solution: "a technique of data *preloading* to decrease the computer system boot time." *Id.* at 20:50-53 (emphasis added). Specifically, the specification teaches that "*prior* to host system reset [e.g., PCI bus reset], the data storage controller can proceed to *pre-load* the portions of the computer operating system from the boot device (e.g., hard disk) into the on-board cache memory." *Id.* at 20:58-61 (emphasis added). "Preloading" thus occurs before the computer bus has been reset, i.e., before commands can be sent or received across the computer bus. The specification further clarifies that fact,

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