

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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**PETITIONER'S REPLY TO PATENT OWNER'S LIST OF PETITIONER'S  
ALLEGED IMPROPER REPLY ARGUMENTS**

Pursuant to the Board's authorization on October 10, 2017, Petitioner Apple Inc. (Apple) submits the following reply to Patent Owner's list of the locations and concise descriptions of the portions of Petitioner's Reply (Paper 23) that Patent Owner alleges exceed the proper reply scope. Contrary to Patent Owner's allegations, Petitioner respectfully submits that each argument included in Patent Owner's list is properly responsive to an argument made by Patent Owner, and finds support in the Petition.

1. Realtime alleges that Petitioner's argument at pages 7-8 of the Reply exceeds the proper reply scope. In the pages identified by Realtime, Petitioner argues that Sukegawa renders obvious the limitation "boot data list." For example:

- "As Dr. Neuhauser explained and the Institution Decision credited, a POSITA would have found it obvious that Sukegawa's files of OS and AP control information are lists of boot data." (Reply at 7.)
- "As Dr. Neuhauser explained, a list is an obvious representation for a collection of information and, thus, Sukegawa's files represent lists of control information." (Id. at 8.)

**Response:** Petitioner's argument is responsive to Patent Owner's argument at pages 29-36 of Patent Owner's Response (Paper 20). For example:

- “Sukegawa does not disclose this limitation. Instead, Sukegawa describes that ‘the control information necessary for starting the OS [operating system]’—the alleged ‘boot data’—is stored as a single file in flash storage area 10A.” (Patent Owner’s Response at 29.)

Support for Petitioner’s argument can be found at, for example, pages 7-17 of the Petition (Paper 2).

2. Realtime alleges that Petitioner’s argument at pages 5-7 and 13-16 of the Reply exceeds the proper reply scope. At the pages identified by Realtime, Petitioner argues that a POSITA would have viewed the term “non-accessed boot data” per its ordinary meaning as simply boot data that was not accessed, and that Sukegawa renders obvious the “disassociating non-accessed boot data” limitations. For example:

- “[U]nder BRI, a POSITA would have viewed the term ‘non-accessed boot data’ per its ordinary meaning as simply boot data that was not accessed.” (Reply at 5.)
- “[A] POSITA would have found Sukegawa’s user deletion of control information obviously (and most likely) to include control information that was not accessed (or not requested during system boot-up).” (Id. at 14.)

- “[B]ecause a POSITA would have found user deletion of ‘non-accessed’ boot data to be an obvious part of Sukegawa’s user deletion, Sukegawa renders obvious disassociating non-accessed boot data from the boot data list.” (Id. at 14.)
- “Thus, Sukegawa’s automated deletion of AP control information from cache area 10C involves disassociation of non-accessed boot data from the boot data list. And, Realtime’s argument ignores the presence of OS control information in Sukegawa and the obviousness of managing the OS control information similarly to the AP control information.” (Id. at 15.)
- “...Realtime does not properly assess obviousness and ignores the other possibility – that the LRU algorithm could discard items not requested during system boot-up. Indeed, as Dr. Neuhauser explained, the entire point of an LRU algorithm is to remove data that has not been accessed and, thus, a POSITA would have found Sukegawa’s automatic deletion of control information obviously (and most likely) to include control information that was not accessed (or not requested during system boot-up).” (Id. at 15-16.)

**Response:** Petitioner’s arguments are responsive to Patent Owner’s arguments at pages 25-28 and 41-45 of Patent Owner’s Response. For example:

- “The term ‘non-accessed boot data,’ as used in claims 96, 100, 102, and 106, should means [sic] ‘boot data identified in the boot data list that was not requested during system boot-up.’” (Patent Owner’s Response at 25.)
- “But Sukegawa’s removal of control information from table 3A does not meet the ‘disassociating’ limitation.” (Id. at 41.)

Support for Petitioner’s argument can be found at, for example, page 56 of the Petition.

3. Realtime alleges that Petitioner’s argument at page 16 of the Reply exceeds the proper reply scope. At the page identified by Realtime, Petitioner argues Zwiegincew renders obvious the “disassociating non-accessed boot data” limitations. For example:

- “...Realtime cannot overcome the reasonable likelihood of success established for Zwiegincew’s rendering obvious disassociating non-accessed boot data from the boot data list in Ground 5.” (Reply at 16.)

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