

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
PATENT OWNER'S SUPPLEMENTAL RESPONSE TO
ITS MOTION TO AMEND**

TABLE OF CONTENTS

I. INTRODUCTION	1
II. PROFESSIONAL BACKGROUND.....	3
III. PERSON OF ORDINARY SKILL IN THE ART	3
IV. COMBINATION OF SUKEGAWA, KROEKER, AND DYE	3
A. A POSA Would Not Expect Any Clear Benefit From Dr. Neuhauser’s Proposal to Modify Sukegawa by Adding Volatile RAM	4
1. The alleged cost motivation for adding RAM to Sukegawa	6
2. The alleged speed motivation for adding RAM to Sukegawa.....	16
B. Dr. Neuhauser’s Proposal to Modify Sukegawa by Adding Dye’s Compression System Would Entail Significant Implementation Costs...	24
V. COMBINATION OF SUKEGAWA, ESFAHANI, AND DYE	30
A. The alleged motivations for combining Sukegawa with Esfahani and Dye are not supported, and are incorrect	30
B. The combination of Sukegawa with Esfahani and Dye would not meet the “preloading” limitation, properly construed.....	36
VI. COMBINATION OF SETTSU AND ZWIEGINCEW	39

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 that declaration, 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 (Ex. 1030), respectively. I also understand that Dr. Neuhauser was cross-examined with respect to the opinions set forth in that declaration (Ex. 2024).

3. On October 11, 2017, I submitted a second declaration in support of Realtime's reply to Apple's response. In that second declaration, I explained that the opinion expressed in my first declaration remained unchanged, and that the arguments and evidence submitted by Apple, as elucidated by Dr. Neuhauser's cross-examination testimony, further supported my conclusion that the proposed substitute claims are patentable.

4. I understand that Apple and Dr. Neuhauser subsequently submitted a supplemental response and accompanying declaration (Ex. 1043). I also understand

that Dr. Neuhauser was cross-examined with respect to the opinions set forth in that declaration (Ex. 2026). I have been asked to consider Apple's arguments, Dr. Neuhauser's declaration, and Dr. Neuhauser's cross-examination testimony to determine whether those materials affect the analysis and conclusions stated in my declarations of June 14, 2017, and October 11, 2017. For the reasons explained in this declaration, my opinion as to the patentability of the proposed substitute claims remains 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.

5. In forming my opinions, I have reviewed and considered the materials identified in the paragraphs above, those identified in my prior declarations of June 14, 2017, and October 11, 2017, and the materials cited and discussed in this declaration, including the references discussed below.

6. 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.

7. In this declaration, I address Apple's references and unpatentability theories. My decision to discuss below only certain shortcomings of those references or theories should not be understood as a concession as to any aspects of Apple's theories that I do not specifically discuss.

II. PROFESSIONAL BACKGROUND

8. 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

9. 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. COMBINATION OF SUKEGAWA, KROEKER, AND DYE

10. I understand that Dr. Neuhauser has alleged that the proposed substitute claims are invalid as obvious over a combination of Sukegawa in view of Kroeker and Dye. Ex. 1043 ¶¶ 13-43. For the reasons explained below, I disagree with Dr. Neuhauser.

11. As an initial matter, I shall note that in my first declaration supporting the proposed amended claims, I observed that Kroeker had been materially at issue during the prosecution of the '862 patent, and I explained that it did not disclose all of the limitations of the proposed amended claims. Ex. 2022 ¶¶ 66, 69.

12. Dr. Neuhauser’s declaration presents a figure (reproduced here) that “show[s] how a system of Sukegawa as extended by Dye and Kroeker would be constructed.” Ex. 1043 ¶ 33:

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