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 D/B/A IXO,
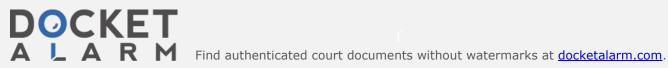
Patent Owner.

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Case IPR2016-01737
Patent No. 8,880,862

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**PATENT OWNER'S SUPPLEMENTAL RESPONSE IN SUPPORT OF
ITS MOTION TO AMEND**

Table of Contents

Exhibit List

Exhibit No.	Description
2001	Declaration of S. Desmond Jui in Support of Motion for Admission Pro Hac Vice
2002	Declaration of Kayvan B. Noroozi in Support of Motion for Admission Pro Hac Vice
2003	Office Patent Trial Practice Guide, 77 Fed. Reg. 48756-773, dated August 14, 2012
2004	Deposition Exhibit Declaration of Dr. Charles J. Neuhauser filed in IPR2016-01737 proceeding (not filed)
2005	Deposition Exhibit Declaration of Dr. Charles J. Neuhauser filed in IPR2016-01738 proceeding (not filed)
2006	Deposition Exhibit Declaration of Dr. Charles J. Neuhauser filed in IPR2016-01739 proceeding (not filed)
2007	Excerpt from Microsoft Computer Dictionary, 5th Ed., Microsoft (2002)
2008	Declaration of Dr. Godmar Back ("Dr. Back Dec.")
2009	Curriculum Vitae of Dr. Godmar Back
2010	Prosecution History of U.S. Provisional Patent Application No. 60/801,114
2011	Deposition Transcript of Charles J. Neuhauser, dated June 2, 2017
2012	Excerpt from Joint Claim Construction and Prehearing Statement in matter Realtime Data, LLC d/b/a IXO v. Apple Inc., C.A. No. 16-cv-02595-JB (N.D. Cal.)
2013	Excerpt from Operating System Concepts, Silberschatz et al. (2009)
2014	UNUSED
2015	UNUSED
2016	Application No. 11/551,211 as filed
2017	Application No. 09/776,267 as filed
2018	U.S. Patent No. 6,539,456 ("Stewart")
2019	U.S. Patent No. 6,173,381 ("Dye '381")
2020	U.S. Patent No. 6,434,695 ("Esfahani")
2021	U.S. Patent No. 6,073,232 ("Kroeker")
2022	Declaration of Dr. Godmar Back in Support of Motion to Amend

2023	Excerpts from the Prosecution History of U.S. Patent No. 7,181,608 (Application No. 09/776,267)
2024	Deposition Transcript of Charles J. Neuhauser, dated September 27, 2017
2025	Declaration of Dr. Godmar Back in Support of Patent Owner's Reply to its Motion to Amend
2026	Deposition Transcript of Charles J. Neuhauser, dated November 21, 2017
2027	Declaration of Dr. Godmar Back in Support of Patent Owner's Supplemental Response in Support of its Motion to Amend
2028	Excerpts from PC Magazine, Vol. 18 No. 21, dated December 1, 1999
2029	Excerpts from PC Magazine, Vol. 19 No. 5, dated March 7, 2000
2030	Excerpts from PC Magazine, Vol. 19 No. 6, dated March 21, 2000
2031	Rough draft of telephonic hearing transcript, held October 13, 2017

I. **Apple's supplemental response should be rejected in its entirety**

To demonstrate obviousness, a petitioner "must articulate '[1] how specific references could be combined, [2] which combination(s) of elements in specific references would yield a predictable result, or [3] how any specific combination would operate or read on the asserted claims.'" *Dell Inc. et al v. Realtime Data LLC*, IPR2016-01002, Paper 71 at 10 (citing and quoting *ActiveVideo Networks, Inc. v. Verizon Commc'ns, Inc.*, 694 F.3d 1312, 1327-28 (Fed. Cir. 2012)).

All three showings, and others, must appear in the body of petitioner's brief, and cannot be merely incorporated by reference from its expert's declaration. *See, e.g.*, *Cisco Sys., Inc. v. C-Cation Techs., LLC*, IPR2014-00454, Paper 12 at 7-10 (Aug. 29, 2014) (informative) (citing 37 C.F.R. § 42.6(a)(3)).

When Apple requested this additional briefing, the Board reminded it of that reality. *See* Ex. 2031 at 22:24-23:6 ("If the arguments cannot be made and amply supported in their brief, they can't be made and amply supported.").

Despite that warning, Apple has attempted to present three complex obviousness combinations in only 12 pages of briefing by incorporating large portions of its expert's declaration by reference. For example, Apple's briefing as to the combination of Sukegawa, Esfahani, and Dye does not discuss Dye at all, contains only conclusory assertions of a motivation to combine, does not discuss how the combination would be created, and is silent as to how the combination

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