

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner

v.

REALTIME DATA, LLC D/B/A/ IXO,
Patent Owner

Case IPR2016-01737
Patent 8,880,862

**PATENT OWNER REALTIME DATA, LLC D/B/A IXO'S
REQUEST FOR ORAL ARGUMENT**

Pursuant to 37 C.F.R. § 42.70 and the October 24, 2017 Order (Paper 34) setting Oral Argument for January 8, 2018, Patent Owner Realtime Data, LLC d/b/a IXO hereby requests that the Patent Trial and Appeal Board hear oral argument on the following issues:

- 1) Whether Petitioner Apple Inc. has met its burden of proving claims 1-4, 6-7, 13, 23-34, 47-58, 83-96, 99-100, 105-111, 113, and 116 of U.S. Patent No. 8,880,862 (“the ‘862 Patent”) are unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,860,083 (“Sukegawa”) and U.S. Patent No. 6,145,069 (“Dye”);
- 2) Whether Petitioner has met its burden of proving claims 1-4, 6-7, 13, 23-34, 47-58, 83-96, 99-100, 105-111, 113, and 116 the ‘862 Patent are unpatentable under 35 U.S.C. § 103(a) in view of Sukegawa, Dye, and U.S. Patent No. 6,374,353 (“Settsu”);
- 3) Whether Petitioner has met its burden of proving claims 1-4, 6-7, 13, 23-34, 47-58, 83-96, 99-100, 105-111, 113, and 116 of the ‘862 Patent are unpatentable under 35 U.S.C. § 103(a) in view of Sukegawa, Dye, and Michael Burrows et al., *On-line Data Compression in a Log-structured File System* (1992) (“Burrows”);
- 4) Whether Petitioner has met its burden of proving claims 1-4, 6-7, 13, 23-34, 47-58, 83-96, 99-100, 105-111, 113, and 116 of the ‘862 Patent are

- unpatentable under 35 U.S.C. § 103(a) in view of Sukegawa, Dye, Settsu, and Burrows;
- 5) Whether Petitioner has met its burden of proving claims 1-4, 6-7, 13, 23-34, 47-58, 83-96, 99-100, 105-111, 113, and 116 of the '862 Patent are unpatentable under 35 U.S.C. § 103(a) in view of Sukegawa, Dye, and U.S. Patent No. 6,317,818 (“Zwiegincew”)¹;

¹ The Petition identifies Sukegawa, Dye, and Zwiegincew as the references relied upon for Ground 5. *See* Petition at 3. Indeed, the Board initially identified Sukegawa, Dye, and Zwiegincew as the asserted prior art at issue in Ground 5; but later identified those three references, plus Settsu, as the fifth instituted ground. *See* Paper 7, Institution Decision at 5, 24 (Mar. 14, 2017). Also, in the related IPR2016-01738 proceeding, Apple identifies Sukegawa, Dye and Zwiegincew as Ground 5 and the Board instituted on those three references without Settsu. *See* IPR2016-01738, Paper 7 at 28 (Mar. 20, 2017). Patent Owner therefore respectfully requests that Ground 5 be limited to consideration of Sukegawa, Dye, and Zwiegincew.

- 6) Whether to grant Patent Owner's Motion to Amend under 35 U.S.C. § 316(d) with respect to contingent substitute claims 118-173 in the event that the Board finds independent claims 1, 6, and/or 13 unpatentable;
- 7) Whether Petitioner's Exhibits 1038 and 1040 should be excluded from evidence;
- 8) Any subsidiary issue relevant to issues (1) to (7), including, without limitation, claim construction, assessment of evidence, and admissibility of evidence; and
- 9) Any other issues the Board deems necessary for issuing a final written decision.

Patent Owner also respectfully requests the ability to use audio visual equipment to display demonstrative exhibits, including the use of a projector and screen that connects to a laptop computer. Patent Owner also requests that an ELMO-type projector be made available for use.

Respectfully Submitted,

Date: December 8, 2017

/Joseph F. Edell/

Joseph F. Edell (Reg. No. 67,625)
Richard Z. Zhang (Reg. No. 73,397)
Fisch Sigler LLP
5301 Wisconsin Avenue NW
Fourth Floor
Washington, DC 20015
Phone: (202) 362-3527
Fax: (202) 362-3501
Email: Joe.Edell.IPR@fischllp.com
Email: Richard.Zhang.IPR@fischllp.com

Desmond S. Jui (*pro vac vice*)
Fisch Sigler LLP
96 North Third Street
Suite 260
San Jose, CA 95112
Phone: (650) 362-8209
Email: Desmond.Jui.IPR@fischllp.com

William P. Rothwell (Reg. No. 75,522)
Noroozi PC
2245 Texas Drive, Suite 300
Sugar Land, TX 77479
Phone: (281) 566-2685
Email: William@noroozipc.com

Kayvan B. Noroozi (*pro hac vice*)
Noroozi PC
1299 Ocean Avenue, Suite 450
Santa Monica, CA 90401
Phone: (310) 975-7074
Email: Kayvan@noroozipc.com

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.