

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

REALTIME DATA LLC,
Patent Owner.

Case IPR2016-01738
Patent 8,880,862

PETITIONER'S NOTICE OF CROSS-APPEAL

Pursuant to 35 U.S.C. § 142 and 37 C.F.R. § 90.2(a), Apple Inc.

(“Petitioner”) hereby respectfully gives notice that it appeals to the United States Court of Appeals for the Federal Circuit from the Patent Trial and Appeal Board’s (“Board”) Final Written Decision entered on March 16, 2018 (Paper 59) and its Decision Denying Petitioner’s Request for Rehearing entered on August 21, 2018 (Paper 61), as well as from all other underlying orders, decisions, rulings, and opinions that are adverse to Petitioner. Patent Owner Realtime Data LLC, filed a notice of appeal on August 22, 2018. This cross-appeal is timely under 37 C.F.R. § 90.3(a) and Rule 4(a)(3) of the Federal Rules of Appellate Procedure.

For the limited purpose of providing the Director with the information requested in 37 C.F.R. § 90.2(a)(3)(ii), the issues on Petitioner’s appeal may include, but are not limited to:

(1) the Board’s determination of patentability of substitute claims 174-218 of U.S. Patent No. 8,880,862 under 35 U.S.C. § 103, including, but not limited to, the Board’s failure to consider evidence of record fully and properly, to explain the basis for its patentability determination, and the Board’s legal errors in undertaking its obviousness analysis;

(2) the Board’s claim constructions and/or failure to construe disputed claim terms, including, but not limited to, “preloading,” its interpretation of that term, and its application of that term to the prior art; and

(3) any and all findings or determinations supporting or related to the aforementioned issues, as well as other issues decided adversely to Petitioner in any orders, decisions, rulings, or opinions.

Simultaneous with this submission, a copy of the Notice of Cross-Appeal is being filed electronically with the Patent Trial and Appeal Board. In addition, a copy of this Notice of Appeal, along with the required docketing fees, is being electronically filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit.

Respectfully submitted,

Dated: September 5, 2018

/Jeremy J. Monaldo/
W. Karl Renner, Reg. No. 41,265
Jeremy Monaldo, Reg. No. 58,680
Andrew B. Patrick, Reg. No. 63,471
Fish & Richardson P.C.
3200 RBC Plaza, 60 South Sixth Street
Minneapolis, MN 55402
T: 202-783-5070
F: 877-769-7945

Attorneys for Petitioner

CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§ 42.6(e)(4) and 42.205(b), the undersigned certifies that on September 5, 2018, a complete and entire copy of this Petitioner's Notice of Cross-Appeal was provided via email to Patent Owner by serving the correspondence address of record as follows:

Joseph F. Edell, Richard Z. Zhang, Desmond S. Jui (pro hac vice)
Fisch Sigler LLP
5301 Wisconsin Avenue NW, Fourth Floor
Washington, DC 20015

William P. Rothwell, Kayvan B. Noroozi (pro hac vice)
Noroozi PC
2245 Texas Drive, Suite 300
Sugar Land, TX 77479

Email: Joe.Edell.IPR@fischllp.com
Richard.Zhang.IPR@fischllp.com
Desmond.Jui.IPR@fischllp.com
William@noroozipc.com
Kayvan@noroozipc.com

I hereby certify that, in addition to being filed electronically through the Board's E2E System, the original version of the foregoing Notice of Cross-Appeal was filed by hand on September 5, 2018, with the Director of the United States Patent and Trademark Office, at the following address:

Director of the United States Patent and Trademark Office
c/o Office of the General Counsel
Madison Building East, 1 OB20
600 Dulany Street
Alexandria, VA 22314-5793

I hereby certify that on September 5, 2018, a true and correct copy of the foregoing Notice of Cross-Appeal, along with a copy of the Final Written Decision, was filed electronically with the Clerk's Office of the United States Court of Appeals for the Federal Circuit, at the following address:

United States Court of Appeals for the Federal Circuit
717 Madison Place, N.W., Suite 401
Washington, DC 20005

Dated: September 5, 2018

/Jeremy J. Monaldo/
W. Karl Renner, Reg. No. 41,265
Jeremy Monaldo, Reg. No. 58,680
Andrew B. Patrick, Reg. No. 63,471
Fish & Richardson P.C.
3200 RBC Plaza, 60 South Sixth Street
Minneapolis, MN 55402
T: 202-783-5070
F: 877-769-7945