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 IPR2016-01739
Patent 8,880,862

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**PATENT OWNER REALTIME DATA, LLC D/B/A IXO'S LIST OF
PETITIONER'S IMPROPER REPLY ARGUMENTS**

Pursuant to the Board's authorization on October 10, 2017, Patent Owner Realtime Data, LLC d/b/a IXO ("Realtime") submits the following list of the locations and concise descriptions of the portions of Petitioner's Reply (Paper 17) that exceed the proper reply scope. If the Board were to rely on these arguments and evidence in finding the challenged claims unpatentable, Realtime would not have had sufficient opportunity to respond.

1)   At pages 5-7 of the Reply, Petitioner argues that "non-accessed boot data" should be construed to mean "boot data that was not accessed." 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.)

2)   At pages 7-13 of the Reply, Petitioner argues that Settsu's OS functional module files inherently disclose or render obvious the limitation "boot data list." For example:

- "However, Apple argued that Settsu's files are themselves lists of boot data …." (*Id.* at 9.)
- "As Dr. Neuhauser explained, a list is an obvious representation for a collection of information and, thus, Settsu's OS files represent lists of boot data." (*Id.* at 9.)
- "Further, Settsu's FIG. 36 (below) illustrates that each of Settsu's OS program files are divided into mini OS and OS main body modules, and that these modules each include header, code, and data portions. APPLE-1006,

23:48-24:62, FIGS. 34-35.
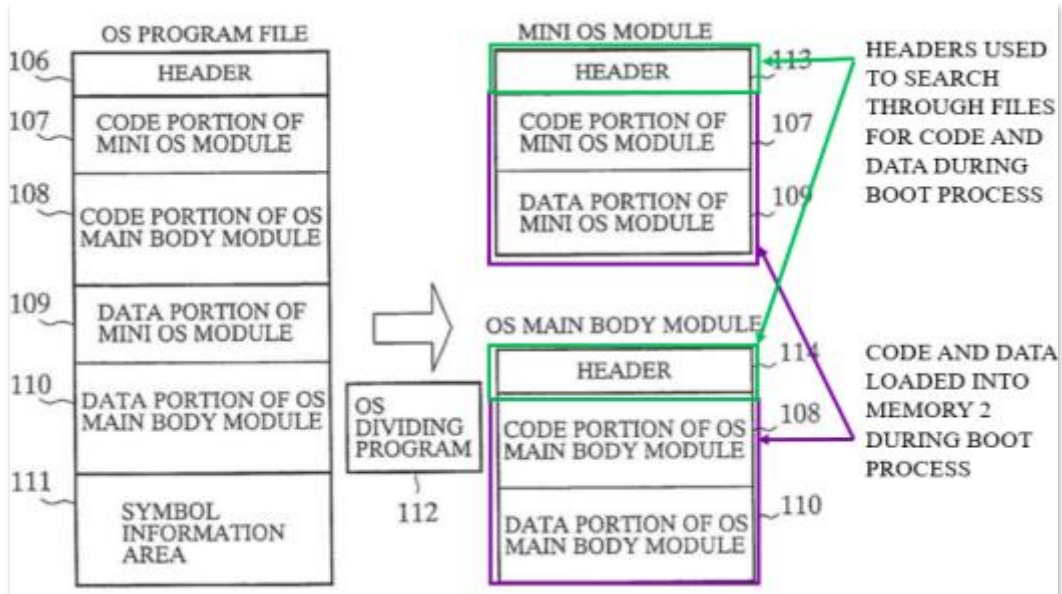
APPLE-1006, FIG. 12 (excerpt, annotated)." (*Id.* at 9-10.)

- "Settsu describes that the contents of the headers included in the files are used to search for code and data portions of these modules when loading those portions into memory 2 during the boot process." (*Id.* at 10.)

- "Thus, a POSITA would have understood that Settsu's OS functional module file stored on boot device 3 and preloaded into memory 2 includes a list of data necessary for starting the OS – a boot data list as described by the '862 Patent." (*Id.* at 10-11.)

- "Thus, headers in Settsu's modules are lists of boot data." (*Id.* at 11 n. 1.)

3) At pages 15-16 of the Reply, Petitioner argues that the combination of Settsu and Zwiegincew renders obvious the limitation "updating the boot data list" because there is a benefit to Zwiegincew's teachings upon loading Settsu's virtual memory processing module. For example:

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- "And, even assuming Realtime is correct, Realtime does not consider the benefit of using Zwiegincew's techniques for the remainder of the boot process after Settsu's 'virtual memory processing module' has loaded or a POSITA's ability to modify Settsu to implement Zwiegincew's page preloading during boot." (*Id.* at 16.)

4) At pages 21-22 of the Reply, Petitioner argues that Zwiegincew renders obvious the "plurality of encoders" limitations. For example:

- "Regarding Ground 2, Realtime argues that Petitioner 'cites to the teachings of Dye[]—not to Zwiegincew—and Dr. Neuhauser does not cite to any evidence.' POR, 44-45. However, the cited portion of the Petition discusses that Zwiegincew provides motivation to a POSITA for compressing boot data, and that it was 'well-known to utilize a plurality of encoders to encode compressed data.' Petition, 55; APPLE-1003, ¶¶190-192." (*Id.* at 22.)

5) At pages 23-25 of the Reply, Petitioner argues that Dye's compression engines and components that perform encoding operations meet the "plurality of encoders" limitations. For example:

- "Indeed, a component that performs encoding operations is commonly understood to be an encoder. Because Realtime admits that Dye has a plurality of components that each perform encoding operations, Realtime itself acknowledges that Dye includes a plurality of encoders." (*Id.* at 24 (internal citations omitted).)

- "Specifically, Dye contemplates multiple compression engines. Because Dye's compression engine is an encoder (as Realtime admits),

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Dye's multiple compression engines represent multiple encoders." (*Id.* at 25 (internal citations omitted).)

Respectfully Submitted,

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