

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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DELL INC., EMC CORPORATION, HEWLETT-PACKARD ENTERPRISE  
CO., and HP ENTERPRISE SERVICES, LLC  
Petitioner

v.

REALTIME DATA LLC  
Patent Owner

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Case IPR2017-00176  
Patent No. 7,161,506

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**PATENT OWNER'S PRELIMINARY RESPONSE**

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Patent Trial and Appeal Board  
U.S. Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

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**EXHIBIT LIST**

<b>Exhibit No.</b>	<b>Description</b>
<b>2001</b>	Declaration of Kayvan B. Noroozi in Support of Motion for Admission <i>Pro Hac Vice</i> .
<b>2002</b>	Transcript from the Deposition of Charles D. Creusere taken in IPR2016-00972 and IPR2016-01002 (January 19, 2017).

## **I. Introduction**

Petitioner challenges Claims 104 and 105 of the '506 patent. To attempt to carry its burden of demonstrating a reasonable likelihood of prevailing as to unpatentability, Petitioner relies on an obviousness theory that mixes and matches different references in a transparent attempt to re-create the challenged claims through hindsight. But Petitioner's attempts give rise to fatal errors, as this Patent Owner Preliminary Response demonstrates.

With respect to Claim 104, the result of Petitioner's combination is a system that does not meet the "performing data compression with a single data compression encoder, if a data type of the data block is not identified" limitation of that claim. Specifically, Petitioner relies on Franaszek as purportedly teaching or suggesting that limitation. But Petitioner's theory ignores the impact of its asserted combination between Franaszek and Hsu. If Hsu's content analysis techniques, which always identify a data type, are employed in Franaszek's data compression method, as Petitioner proposes in its Petition, then Petitioner's proposed combination will always have data type information available and thus will never fail to identify a data type or perform compression with the "single data compression encoder" of Claim 104. Petitioner cannot rely on a combination between Hsu and Franaszek for some claim elements and then entirely ignore that

combination for purposes of other elements. Nor does Petitioner’s proposed combination with Sebastian overcome the reality that its combination with Hsu obviates any possibility of unrecognized data types. Moreover, Petitioner’s combination with Sebastian lacks a motivation to combine as a matter of law because it would render Franaszek inoperable for its intended purpose. Accordingly, institution as to Claim 104 should be denied.

With respect to Claim 105, Petitioner’s combination again fails because it would not perform step 105[d2], the “otherwise compressing said data block with a default data compression encoder” limitation of that claim. Petitioner’s theory as to Claim 105 again attempts to ignore the consequence of its reliance on Hsu. If a POSA would indeed combine Hsu with Franaszek, the result would be a system that always identifies a data type, and thus step 105[d2] of the Claim would never be performed. And as with Claim 104, Petitioner’s alternative reliance on Sebastian does not change the outcome. Petitioner’s combination theory regarding Sebastian relies on a mischaracterization of Sebastian’s actual teaching, and Sebastian does not actually teach the modification that Petitioner ascribes to it. In any case, Petitioner’s proposed modification still fails to meet Claim 105[d2] because it would simply create an encoder that is “associated” with all identified data types, and the “otherwise” limitation of step 105[d2] would still never be met.

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