

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DELL INC.; EMC CORPORATION; HEWLETT-PACKARD
ENTERPRISE CO.; HP ENTERPRISE SERVICES, LLC; TERADATA
OPERATIONS, INC.; and VERITAS TECHNOLOGIES, LLC,
Petitioner,

v.

REALTIME DATA LLC,
Patent Owner.

Case IPR2017-00176
Patent 7,161,506 C2¹

Before JASON J. CHUNG, SCOTT C. MOORE,
and SHEILA F. McSHANE *Administrative Patent Judges*.

CHUNG, *Administrative Patent Judge*.

ORDER
Conduct of the Proceedings
37 C.F.R. § 42.5

The Board authorizes Teradata Operations, Inc. (“Petitioner”) and
Realtime Data LLC (“Patent Owner”) to submit additional briefing

¹ Case IPR2017-00806 has been consolidated with IPR2017-00176. Case IPR2017-01688 has been joined with IPR2017-00176. For purposes of this order, we refer to paper numbers from IPR2017-00176. The parties are not permitted to use this caption.

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pertaining to whether *Ex Parte Schulhauser*, 2016 WL 6277792, No. 2013-007847 (PTAB 2016) (precedential) (hereinafter, “*Schulhauser*”) applies to conditional limitations recited in independent method claims 104 and 105 of U.S. Patent No. 7,161,506 C2 (“the 506 patent”). The authorized briefing should include, *inter alia*, discussion of any cases the parties allege contradict or support application of *Schulhauser*, as well as discussion of whether Petitioner’s arguments and supporting evidence, if any, pertaining to conditional limitations recited in claims 104 and 105 exceed the proper scope of Petitioner’s Reply (Paper 34, “Reply”). For example, Petitioner’s Reply cites *Schulhauser* to support its argument that:

even under Patent Owner’s view of the facts, it matters not whether the second ‘performing step’ of the claim would have been performed when the POSA combined teachings of Franaszek, Hsu, and Sebastian. The limitation is conditional; it is performed only ‘if a data type of the data block is not identified.’ If a data type is identified (as Patent Owner says it always would be), the claimed method is still met.

Reply 20–22 (Section III) (internal citations omitted).

ORDER

It is, therefore,

ORDERED that the parties may submit additional briefing of 5 pages on or before 5:00 PM EST March 5, 2018, addressing only the specific issues raised in this Order.

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