

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TERADATA OPERATIONS, INC.,
Petitioner,

v.

REALTIME DATA LLC,
Patent Owner.

Case IPR2017-00806
Patent No. 7,161,506

**PARTIES' JOINT NOTICE REGARDING CONSOLIDATION
AND REQUEST FOR GUIDANCE FROM THE BOARD**

The Board requested, by e-mail of August 16, 2017, that Dell Inc., EMC Corp., Hewlett-Packard Enterprise Co., HP Enterprise Services, LLC, Teradata Operations Inc., and Realtime Data LLC (collectively, the Parties) meet and confer to discuss the possibility of coordinating schedules and discovery and consolidating trial in four instituted *inter partes* reviews:

- IPR2017-00176 (the Dell '506 IPR)
- IPR2017-00179 (the Dell '728 IPR)
- IPR2017-00806 (the Teradata '506 IPR)
- IPR2017-00808 (the Teradata '728 IPR)

The Parties conferred on August 17, 2017, and discussed the issues with the Board during a call held on August 18, 2017. The Board instructed the Parties to file a Joint Notice reflecting the agreement reached during those calls.

Accordingly, the Parties hereby file this Joint Notice reflecting the extent of their agreement and seeking guidance from the Board on two areas of disagreement. The Parties agree that:

- they will proceed according to the schedule entered in the two earlier-filed *inter partes* reviews, except that in the Dell '728 and Dell '506 Patent IPRs Due Date 1 will be extended three weeks to September 20, 2017, with no other modifications to the schedule currently

JOINT NOTICE REGARDING CONSOLIDATION

contemplated (attached Exhibit A reflects the Parties proposed schedule for all four proceedings);

- beginning with the Patent Owner Response, the Parties will file joint papers in the pairs of proceedings for each respective challenged patent—*i.e.*, Patent Owner will file one common Patent Owner Response related to the '506 Patent in both the Dell '506 and Teradata '506 IPRs (and Petitioners will file one common Reply), and Patent Owner will file one common Patent Owner Response related to the '728 Patent in both the Dell '728 and Teradata '728 IPRs (and Petitioners will file one common Reply);
- the deposition of Dr. Creusere taken by Patent Owner on August 4, 2017, in the Dell '506 and '728 IPRs will be treated as having also been taken in the Teradata '506 and '728 IPRs, and that Patent Owner will not seek an additional deposition of Dr. Creusere in the later-filed proceedings as to the opinions expressed in his initial declaration in the Teradata '506 and Teradata '728 Patent IPRs;
- the Parties do not currently seek extra words of briefing, additional time at oral argument, or additional time for questioning at any future deposition as a result of this consolidation, but reserve the right to do so if such need becomes apparent.

The Parties seek guidance from the Board on the following two areas of disagreement related to discovery and oral hearings:

Discovery

Background: Given the overlap of issues, the Dell Petitioners and Patent Owner previously agreed to a single consolidated expert deposition across the Dell '728 and '506 Patent IPR proceedings. Accordingly, Patent Owner took a single, one-day deposition of Dr. Creusere as to both the Dell '728 and '506 Patent IPR proceedings (which, pursuant to the agreement in this notice, will be treated as having been taken in the Teradata '728 and '506 Patent IPR proceedings). The Dell Petitioners, in turn, intend to take a single deposition of any expert that Patent Owner relies on in the Patent Owner Response.

Patent Owner and Teradata had not discussed such an arrangement at the time the Board asked the parties to confer about coordinating discovery. The Parties now disagree whether coordination of discovery between the Proceedings should include a similar single-deposition limitation as to Teradata.

Teradata's Proposal: Teradata will endeavor to schedule and administrate the deposition of any expert Patent Owner relies on such that only a single deposition is necessary for the Dell '506 IPR, the Dell '728 IPR, the Teradata '506 IPR, and the Teradata '728 IPR. However, it is premature to require Teradata to be limited to a single deposition at this date. For example, Patent Owner has not

yet served its Patent Owner Response (which will be due on September 20). Thus, Teradata proposes that it should maintain the right to one deposition of Patent Owner's expert for each coordinated pair of proceedings (*i.e.* one deposition for opinions related to the '728 Patent and one separate deposition for opinions related to the '506 Patent), to the extent necessary.

Dell and EMC's Proposal: When Patent Owner files its Responses for the '728 and '506 Patent proceedings, the Petitioners should take a single deposition of each expert for all proceedings. Similarly, if Petitioners rely on new expert opinions in their Petitioners' Replies then Patent Owner should take a single deposition of each expert across all proceedings.

Patent Owner's Proposal: To the extent Patent Owner relies on expert opinion to support arguments made in the Patent Owner Response, Petitioners should coordinate to take a single deposition of each such expert, consistent with Patent Owner's single deposition of Dr. Creusere. Similarly, should Dell or Teradata rely on new expert opinion in their Petitioner Replies, Patent Owner should take a single deposition of each expert across the four proceedings.

Oral Hearing

Teradata's Proposal: Teradata expects that the oral arguments for the four proceedings will be conducted on the same day before the same panel. Further, Teradata agrees that the Teradata '506 IPR and the Teradata '728 IPR may be

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