Page 1

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DELL INC., EMC CORPORATION, HEWLETT-PACKARD

ENTERPRISE CO., and HP ENTERPRISE SERVICES, LLC,

Petitioners,

v.

REALTIME DATA LLC,

Patent Owner.

Case: IPR2017-00179

Patent No. 9,054,728

Case: IPR2017-00176

Patent No. 7,161,506

CROSS-EXAMINATION OF: DR. CHARLES D. CREUSERE Friday, August 4, 2017

Reported by: SUSAN L. CIMINELLI Job no: 19344

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	Page 2			Page 4
1	DR. CHARLES D. CREUSERE, called for	1	C O N T E N T S	
2	cross-examination by counsel for Patent Owner,	2	DR. CHARLES D. CREUSERE	
3	pursuant to notice, at the offices of Winston &	3	EXAMINATION BY:	PAGE
4	Strawn, LLP, 1700 K Street, N.W., Washington, D.C.,	4	Counsel for Patent Owner	5
5	before SUSAN L. CIMINELLI, CRR, RPR, a Notary Public	5	Counsel for Petitioners	146
б	in and for the District of Columbia, beginning at	6		
7	9:38 a.m., when were present on behalf of the	7	INDEX TO EXHIBITS	
8	respective parties:	8	*There were no exhibits marked at	this deposition.
9		9		
10		10		
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	Page 3			Page 5
1	A P P E A R A N C E S	1	P R O C E E D I N G S	
2	On behalf of Patent Owner: KAYVAN B. NOROOZI, ESOUIRE	2	Whereupon,	
	Noroozi, P.C.	3	DR. CHARLES D. CREUSERE	2,
4	1299 Ocean Avenue	4	was called as a witness by counsel for Pat	tent Owner,
5	Santa Monica, California 90401	5	and having been duly sworn, was examine	1 1
	370.975.7074			ed and
6	1 0 1	6	testified as follows:	ed and
7	kayvan@noroozipc.com	7	testified as follows: CROSS-EXAMINATION	ed and
7 8	kayvan@noroozipc.com On behalf of Petitioners:	6 7 8	testified as follows: CROSS-EXAMINATION MR. SOMMER: On behalf of Pet	itioner, you
7 8 9	kayvan@noroozipc.com On behalf of Petitioners: ANDREW R. SOMMER, ESQUIRE	6 7 8 9	testified as follows: CROSS-EXAMINATION MR. SOMMER: On behalf of Pet have Andrew Sommer from Winston & S	ed and itioner, you trawn. With me on
7 8 9 10	kayvan@noroozipc.com On behalf of Petitioners: ANDREW R. SOMMER, ESQUIRE Winston & Strawn, LLP 1700 K Street, N.W.	6 7 8 9 10	testified as follows: CROSS-EXAMINATION MR. SOMMER: On behalf of Pet have Andrew Sommer from Winston & S the phone today is Tom Brown from Dell	itioner, you trawn. With me on EMC.
7 8 9 10	kayvan@noroozipc.com On behalf of Petitioners: ANDREW R. SOMMER, ESQUIRE Winston & Strawn, LLP 1700 K Street, N.W. Washington, D.C. 20006-3817	6 7 8 9 10 11	testified as follows: CROSS-EXAMINATION MR. SOMMER: On behalf of Pet have Andrew Sommer from Winston & S the phone today is Tom Brown from Dell MR. NOROOZI: And for Patent O	itioner, you trawn. With me on EMC. Dwner, Kayvan
7 8 9 10 11	kayvan@noroozipc.com On behalf of Petitioners: ANDREW R. SOMMER, ESQUIRE Winston & Strawn, LLP 1700 K Street, N.W. Washington, D.C. 20006-3817 202.282-5000 asommer@winston.com	6 7 8 9 10 11 12	testified as follows: CROSS-EXAMINATION MR. SOMMER: On behalf of Pet have Andrew Sommer from Winston & S the phone today is Tom Brown from Dell MR. NOROOZI: And for Patent O Noroozi.	itioner, you trawn. With me on EMC. Dwner, Kayvan
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7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	kayvan@noroozipc.com On behalf of Petitioners: ANDREW R. SOMMER, ESQUIRE Winston & Strawn, LLP 1700 K Street, N.W. Washington, D.C. 20006-3817 202.282-5000 asommer@winston.com ALSO PRESENT: Tom Brown, Esquire, In-house Counsel EMC (Via telephone) * * * * *	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 testified as follows: CROSS-EXAMINATION MR. SOMMER: On behalf of Pet have Andrew Sommer from Winston & S the phone today is Tom Brown from Dell MR. NOROOZI: And for Patent O Noroozi. BY MR. NOROOZI: Q. Dr. Creusere, good morning. I se have some documents in front of you, is t A. Correct. Q. And could you just go through an what you have there? A. Sure. I have the Franaszek patent Exhibit 1004. Sebastian patent, I can't rea exhibit number on this one. The Aakre patent 	ed and itioner, you trawn. With me on EMC. Dwner, Kayvan e you hat right? d tell me t, ad the atent. The

2 (Pages 2 to 5)

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	Page 6		Page 8
1	Fallon patent '506. The Fallon patent '728. A copy	1	not consider or discuss the Schindler reference cited
2	of my declaration for the '506 patent. And a copy of	2	in the Sebastian reference, true?
3	my declaration for the '728 patent.	3	A. No, that's true.
4	Q. Okay, thank you. How did you prepare for	4	Q. And did your evaluation of the Schindler
5	today?	5	reference in any way modify or influence your
6	A. I reviewed all of the materials that I had	6	opinions compared to the opinions set forth in your
7	used in preparing my declaration. I reviewed my	7	declaration?
8	declaration. I reviewed the decision to institute by	8	A. No, it has no impact on my opinions.
9	the Patent Board. I reviewed the Patent Owner	9	Q. About how long did you prepare for this
10	response. And I had discussions with Drew and	10	deposition?
11	Michael Woods about this material.	11	A. I believe well, we spent yesterday in
12	Q. Did you speak to anybody else?	12	discussions for most of the day. And I put in
13	A. No.	13	probably about six or seven additional hours prior to
14	Q. Did you consider or review any other	14	the discussion.
15	materials besides the one that you just mentioned?	15	Q. Let me ask you about Franaszek. In
16	A. I did review my transcripts from the	16	Franaszek, regardless of whether the system
17	one of the depositions I did back in January. And I	17	recognizes the data type, has data type information,
18	do not I do not recall reviewing other	18	representative samples of each block are tested to
19	documentation. But I could have missed something.	19	select an optimal encoder for the block, right?
20	Q. Other than what you just told me, do you	20	A. So Franaszek first does a comparison to
21	recall reviewing any prior art documents,	21	see if type information is available. If it is, it
22	dictionaries or other documents that you had not	22	uses that type information to select a list of
	Page 7		Page 9
1	previously cited in your declaration?	1	possible encoders that is optimized for that type.
2	A. I believe that in studying the Sebastian	2	If not, it will select from the default encoder list.
3	prior art, I did take a look at very brief look at	3	And in both cases, once it's finished with that
4	patent patents cited by Sebastian. Well, it's	4	process, it will test all of the decoder, all of the
5	given on column 4, line it's cited on column 4,	5	encoders on that list. It will test a all the
б	line 18 in the Sebastian patent and it's cited as an	6	encoders on that list on a sample of the block of
7	application by Mr. Schindler, 08/970,220. I did take	7	data and it will choose one of those encoders based
8	a very brief look at that.	8	on that test.
9	Q. What caused you to want to look at that	9	Q. And as a part of the testing that happens
10	reference?	10	in Franaszek, regardless of whether there is a data
11	A. Based on discussion, I was curious exactly		type provided to Franaszek's system or not, the
12	what that reference entailed.	12	testing will always identify the compressibility of
13	Q. And why?	13	the data block using the different encoders that are
14	A. Because Sebastian refers to it when		tested on the sample, right?
15	discussing possible compression that might, possible		A. I wouldn't phrase it exactly that way. I
10	specific compression algorithms that might be		would say that Franszek will determine the encoder
1 /	applied, and so I felt I had not previously looked at	$ _{10}^{\perp /}$	that achieves the highest, that let me rephrase
10	It. I feit that it might be worth looking at.		that. Franceszek will attempt to determine the
19	Q. Ukay. So what were the column and line		encoder that achieves, that will achieve the highest
∠U 21	numbers again: A It is column 4 line 19		compression on that block. It will not necessarily
∠⊥ 20	A. It is column 4, line 18.		Succeed, but it will allempt to do that.
22	Q. And on your original declaration, you did	122	Q. The purpose of Franaszek's withdrawn.

3 (Pages 6 to 9)

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	Page 10		Page 12
1	One purpose of Franaszek's testing on a	1	be selected based on how well that compression
2	data block sample is to determine the compressibility	2	technique is expected to compress the data block in
3	of the data block using the different possible	3	terms of compression ratio. True?
4	encoders that are in the list, right?	4	A. Again, in the preferred embodiment of
5	A. Again, I don't believe I would phrase it	5	Franaszek, as spelled out in the description of the
6	that way. I would phrase it as Franaszek is trying	6	invention, Franaszek will always choose solely based
7	to determine which encoder will hopefully compress	7	on which of the encoders in its list achieves highest
8	the data block best.	8	compression ratio, again, assuming that encoder
9	Q. In order to do that, doesn't Franaszek	9	achieves above the 30 percent threshold.
10	identify for each encoder in the list that is being	10	Q. When Franaszek doesn't have a data type,
11	considered, how well that encoder is expected to	11	it will use a default list of compression techniques,
12	compress the data block?	12	true?
13	A. I would again prefer to phrase it in the	13	A. Yes. Franaszek will use a default list if
14	way that I phrased it, which is that that the real	14	it does not have a data type.
15	goal is to determine which decoder, which encoder	15	Q. But Franaszek will not ever select a
16	will compress the data block or to try to determine,	16	particular compression technique to apply to a data
17	try to estimate which encoder will compress the data	17	block simply because the data, a block does not come
18	block the best. I believe that is the goal.	18	with a data type, true?
19	Q. How does Franaszek's testing and sampling	19	MR. SOMMER: Object to form.
20	approach make that determination?	20	THE WITNESS: So you're asking could
21	A. Franaszek's testing and sampling approach	21	you rephrase that question, please?
22	makes that determination by testing a portion of the	22	BY MR. NOROOZI:
	Page 11		Page 13
1	block with each of the compression algorithms in that	1	Q. Happily.
2	list, and assuming that at least one of those	2	A. Okay.
3	algorithms achieves sufficiently high compression,	3	Q. In all instances, when a data block that's
4	high enough compression to clear a threshold. Then	4	provided to Franaszek's system does not come with
5	the best then the one of those encoders from	5	data type information, Franaszek will select the
6	that list which achieves the best compression on that	6	ultimate compression technique if one is selected at
7	sample will be selected and used to encode the entire	7	all from a list of possible default compression
8	block.	8	techniques. True?
9	Q. And when you say best, you mean highest	9	A. Yes. Franaszek will do its testing
10	compression ratio, right?	10	procedure on the sample. And based on testing
11	A. In the preferred embodiment of Franaszek,	11	procedure, it will and assuming that it clears the
12	it will choose the encoder that achieves the highest	12	threshold requirement, it will select one of those
13	compression ratio.	13	encoders from that list.
14	Q. And is there any other embodiment in		Q. And so when a data block comes into
15	Franaszek that provides an alternative to what you	15	Franaszek's system with that data type information,
16	just described?		it is not possible to predict without any other facts
17	A. There is no other embodiment that I have		which specific compression technique will be used to
10	in Engaged, that would do compatible different if		tooknigue will be celested. True?
20	in Franaszek mai would do something different than	20	MD SOMMED: Object to form
∠∪ 21	Ω So in Francezak the ultimate compression	20	THE WITNESS. I wouldn't pagagarily gav
⊿⊥ 22	Q. So in Franciszek, the unimate compression	$\begin{vmatrix} 2 \\ 2 \\ 2 \end{pmatrix}$	that it is not possible to predict because there are
44	iconnique mai s'applieu to a data block will always	144	that it is not possible to predict, because there are

4 (Pages 10 to 13)

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	Page 14		Page 16
1	means that people develop for trying to predict	1	Franaszek contemplates that scenario.
2	compressibility of different blocks without doing a	2	Q. When Franaszek has a data type information
3	full compression. But within the framework of the	3	and has generated a preselected list of encoders for
4	Franaszek patent and his preferred embodiment, his	4	that data type or has identified that list, let's say
5	embodiment does not does not detail, to my	5	let me withdraw and start over because I know you
6	recollection, a means for doing that, for predicting	6	don't like the phrasing "generate." Withdrawn.
7	the compressibility prior to doing the sampling.	7	When Franaszek has a data type and has
8	BY MR. NOROOZI:	8	identified a preselected list of encoders for that
9	Q. Now, when Franaszek has data type	9	data type, it will sample and test all those
10	information, it will generate a preselected list of	10	algorithms against the data block like we said
11	compression techniques to choose from for that data	11	earlier. True?
12	block, right?	12	A. Yes, it will do the it will take a
13	MR. SOMMER: Object to form.	13	sample that will compress that sample each of the
14	THE WITNESS: I would rephrase that and I	14	encoder types. It will do the threshold test and it
15	would say that if Franaszek has type information, it	15	will select the encoder type that chooses the highest
16	will use, it will use the appropriate list of	16	compression that exceeds the threshold.
17	compression algorithms for that type. It will not	17	Q. So in the '728 patent specification, it's
18	necessarily generate it, and there is nothing in	18	taught that a data block will be compressed with
19	Franaszek that says it generates the list on the fly.	19	multiple different encoders and the ultimate
20	BY MR. NOROOZI:	20	compressed block that's output will be the one that
21	Q. Okay. So your point is simply that	21	has the highest compression ratio. True?
22	Franaszek will have in some fashion a list of	22	A. In the '728 patent, I certainly would
	Page 15		Page 17
		1	
1	algorithms that have been predetermined to be the	1	agree that there is at least one embodiment within
1 2	algorithms that have been predetermined to be the appropriate set for a particular data block given the	1 2	agree that there is at least one embodiment within the '728 patent that operates in such a manner where
1 2 3	algorithms that have been predetermined to be the appropriate set for a particular data block given the data type information that has been provided for that	1 2 3	agree that there is at least one embodiment within the '728 patent that operates in such a manner where it, where it, where it attempts to choose, select an
1 2 3 4	algorithms that have been predetermined to be the appropriate set for a particular data block given the data type information that has been provided for that data block?	1 2 3 4	agree that there is at least one embodiment within the '728 patent that operates in such a manner where it, where it, where it attempts to choose, select an encoder that achieves the highest compression rate.
1 2 3 4 5	algorithms that have been predetermined to be the appropriate set for a particular data block given the data type information that has been provided for that data block? A. Yes. Franaszek will have a list of	1 2 3 4 5	agree that there is at least one embodiment within the '728 patent that operates in such a manner where it, where it, where it attempts to choose, select an encoder that achieves the highest compression rate. I'm not certain that that is the only I'm not
1 2 3 4 5 6	algorithms that have been predetermined to be the appropriate set for a particular data block given the data type information that has been provided for that data block? A. Yes. Franaszek will have a list of algorithms associated with a given type of data,	1 2 3 4 5 6	agree that there is at least one embodiment within the '728 patent that operates in such a manner where it, where it, where it attempts to choose, select an encoder that achieves the highest compression rate. I'm not certain that that is the only I'm not certain that the '728 patent doesn't have additional
1 2 3 4 5 6 7	algorithms that have been predetermined to be the appropriate set for a particular data block given the data type information that has been provided for that data block?A. Yes. Franaszek will have a list of algorithms associated with a given type of data, assuming that, assuming that it knows that type of	1 2 3 4 5 6 7	agree that there is at least one embodiment within the '728 patent that operates in such a manner where it, where it, where it attempts to choose, select an encoder that achieves the highest compression rate. I'm not certain that that is the only I'm not certain that the '728 patent doesn't have additional embodiments or options that might not do things a
1 2 3 4 5 6 7 8	algorithms that have been predetermined to be the appropriate set for a particular data block given the data type information that has been provided for that data block? A. Yes. Franaszek will have a list of algorithms associated with a given type of data, assuming that, assuming that it knows that type of data. Franaszek doesn't address the situation	1 2 3 4 5 6 7 8	agree that there is at least one embodiment within the '728 patent that operates in such a manner where it, where it, where it attempts to choose, select an encoder that achieves the highest compression rate. I'm not certain that that is the only I'm not certain that the '728 patent doesn't have additional embodiments or options that might not do things a little bit differently.
1 2 3 4 5 6 7 8 9	algorithms that have been predetermined to be the appropriate set for a particular data block given the data type information that has been provided for that data block? A. Yes. Franaszek will have a list of algorithms associated with a given type of data, assuming that, assuming that it knows that type of data. Franaszek doesn't address the situation directly, where, where it doesn't know where there	1 2 3 4 5 6 7 8 9	agree that there is at least one embodiment within the '728 patent that operates in such a manner where it, where it, where it attempts to choose, select an encoder that achieves the highest compression rate. I'm not certain that that is the only I'm not certain that the '728 patent doesn't have additional embodiments or options that might not do things a little bit differently. Q. The '728 patent does not teach a testing
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