

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 C2)¹
Case IPR2017-00179 (Patent 9,054,728 B2)²

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

CHUNG, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

¹ Case IPR2017-00806 has been consolidated with IPR2017-00176. Case IPR2017-01688 has been joined with IPR2017-00176. The panel for these three cases consists of Judges Chung, Moore, and McShane. For purposes of this order, we refer to paper numbers from IPR2017-00176. The parties are not permitted to use this caption.

² Case IPR2017-00808 has been consolidated with IPR2017-00179. Case IPR2017-01690 has been joined with IPR2017-00179. The panel for these three cases consists of Judges Chung, Moore, and Jivani.

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Teradata Operations, Inc. (“Petitioner”) and Realtime Data LLC (“Patent Owner”) request an Oral Hearing in the above captioned matters. Papers 35, 36. Petitioner also requests moving the hearing date from February 26, 2018 to February 20, 2018. Paper 35, 4. The requests are granted.

The Oral Hearing in the above-captioned matters will commence at approximately **2:15 PM Eastern Time**, on **Tuesday, February 20, 2018**, in Hearing Room B, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The hearing will be open to the public for in-person attendance, accommodated on a first-come, first-served basis. The Board will provide a court reporter for the hearing, and the reporter’s transcript will constitute the official record of the hearing. We will enter the hearing transcript in the record of each case.

Both parties request 45 minutes of argument for each side cumulative for all six proceedings listed in footnotes 1 and 2 *supra*. Paper 35, 2–3; Paper 36, 2–3. Accordingly, each party will have forty-five minutes of argument.

Petitioner bears the burden of persuasion to show the unpatentability of the challenged patent claims. Therefore, Petitioner will proceed first with respect to the particular instituted grounds. Patent Owner then will respond to Petitioner. Thereafter, Petitioner may use any reserved rebuttal time to address Patent Owner’s response.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least seven business days before the hearing. The parties may refer to *St. Jude Medical, Cardiology Division, Inc. v. Board of Regents of the University of Michigan*, IPR2013-00041, slip op. 2–5 (PTAB Jan. 27, 2014)

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(Paper 65), regarding the appropriate content of demonstrative exhibits. The parties shall meet and confer to discuss and resolve any objections to demonstrative exhibits. If any issues regarding demonstratives remain unresolved after the parties meet and confer, the parties shall file jointly a one-page list of objections to the demonstrative exhibits at least three business days before the hearing. For each objection, the list must identify with particularity the demonstratives subject to the objection and include a short, one-sentence statement explaining the objection. The panel will consider the objections and schedule a conference call if necessary. Otherwise, rulings on the objections will be reserved until the hearing or after the hearing. Any objection to demonstrative exhibits not presented timely will be considered waived. **The parties are not authorized to file their demonstratives unless instructed by the Board.** 37 C.F.R. § 42.5. The parties are reminded that the *demonstrative exhibits presented in this case are not evidence* and are intended only to assist the parties in presenting their oral argument to the panel.

Each party also shall email its demonstrative exhibits to Trials@uspto.gov at least two business days prior to the hearing. Each party shall provide a hard copy of its demonstratives to the court reporter at the hearing. At least one judge will be participating remotely via a videoconferencing device and will not be able to view the projection screen in the hearing room. Consequently, the parties are reminded that the presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during the hearing to ensure the clarity and accuracy of the transcript.

Because argument on the cases listed in footnotes 1 and 2 will be

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heard together, all four judges listed in footnotes 1 and 2 will participate in the oral hearing. The presence of four judges is not an indication of an expanded panel. Rather, each judge will decide only the cases noted.

The Board expects lead counsel for each party to be present at the hearing, although any backup counsel may make the actual presentation, in whole or in part. Requests for audio-visual equipment must be made by e-mail at least five days in advance of the hearing date to Trials@uspto.gov, else the equipment may be unavailable.

Accordingly, it is ORDERED that the Oral Hearing shall commence at approximately **2:15 PM Eastern Time**, on **Tuesday February 20, 2018**, in Hearing Room B, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia.

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