UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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THE DATA COMPANY TECHNOLOGIES INC.,

Petitioner

v.

BRIGHT DATA LTD.,

Patent Owner

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Case IPR2022-00135

Patent No. 10,257,319

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PATENT OWNER'S NOTICE OF APPEAL

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Pursuant to 35 U.S.C. §§ 141, 142, and 319, and 37 C.F.R. §§ 90.2 and 90.3, notice is hereby given that Patent Owner Bright Data Ltd. appeals to the U.S. Court of Appeals for the Federal Circuit from the Final Written Decision (Paper 49) entered on May 25, 2023 in IPR2022-00135, and from all underlying orders, decisions, ruling, and opinions that are adverse to Patent Owner.[1] The public version of the Final Written Decision (Paper 51) entered on May 31, 2023 is attached to this Notice as Exhibit A.

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[1] Patent Owner is simultaneously filing a Notice of Appeal in each of IPR2022-00135, IPR2022-00138, IPR2022-00103, and IPR2022-00353, all which involve related patents having the same specification and the same disputed claim terms. There are also similar claim construction issues in pending administrative matters: IPR2021-01492, IPR2021-01493, IPR2022-00915, IPR2022-00916, and IPR2022-00687; as well as Reexamination Control Nos. 90/014,652, 90/014,816, 90/014,624, and 90/014,827; all which involve related patents having the same specification. There are also similar claim construction issues in stayed Reexamination Control Nos. 90/014,875 and 90/014,876, as well as stayed district court matters: Case Nos. 2:19-cv-395, 2:19-cv-396, and 2:19-cv-414 in the Eastern District Court of Texas.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner intends to appeal at least the following issues:

i. Whether the Board's construction of the claim term "client device" was incorrect and/or not reasonable in light of the evidence of record;

ii. Whether the Board's construction of the claim term "second server" was incorrect and/or not reasonable in light of the evidence of record;

iii. Whether the Board erred in determining that Petitioner established by a preponderance of the evidence that claims 1, 12-14, and 21-27 of U.S. Patent No. 10,257,319 ("the '319 Patent") are unpatentable as anticipated by Plamondon[2];

iv. Whether the Board erred in determining that Petitioner established by a preponderance of the evidence that claims 28 and 29 of the '319 Patent are unpatentable as obvious over Plamondon;

v. Whether the Board erred in determining that Petitioner established by a preponderance of the evidence that claims 15-17 of the '319 Patent are unpatentable as obvious over the combination of Plamondon and

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[2] Plamondon, U.S. Patent Application Publication US 2008/0228938 A1, published September 18, 2008 (Ex. 1010).

RFC 2616[3];

vi.   Whether the Board erred in determining that Petitioner established by a preponderance of the evidence that claims 17-18 of the '319 Patent are unpatentable as obvious over the combination of Plamondon and RFC 1122[4];

vii.   Whether the Board erred in determining that Petitioner established by a preponderance of the evidence that claim 2 of the '319 Patent is unpatentable as obvious over the combination of Plamondon and IEEE 802.11-2007[5];

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[3] RFC 2616, *Hypertext Transfer Protocol—HTTP/1.1*, Network Working Group, The Internet Society, 1999 (Ex. 1018).

[4] RFC 1122, *Requirements for Internet Hosts - Communication Layers*, Network Working Group, Internet Engineering Task Force, 1989 (Ex. 1014).

[5] IEEE 802.11-2007, *IEEE Standard for Information Technology – Telecommunications and Information Exchange Between Systems - Local and Metropolitan Area Networks-Specific Requirements – Part 11: Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) Specifications*, IEEE Standards, June 12, 2007 (Ex. 1022).

viii.   Whether the Board erred in determining that Petitioner established by a preponderance of the evidence that claims 2-5 and 19-20 of the '319 Patent are unpatentable as obvious over the combination of Plamondon and Price[6];

ix.   Whether the Board erred in determining that a person of ordinary skill in the art would combine Plamondon with Price;

x.   Whether the Board erred in determining that Petitioner established by a preponderance of the evidence that claims 6-11 of the '319 Patent are unpatentable as obvious over the combination of Plamondon and Kozat[7];

xi.   Whether the Board erred in determining that a person of ordinary skill in the art would combine Plamondon with Kozat; and

xii.   Whether the Board erred in any further findings or determinations supporting or relating to the issues above, including the Board's

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[6] Price, U. S. Patent Application Publication US 2006/0026304 A1, published February 2, 2006 (Ex. 1023).

[7] Kozat, U. S. Patent Application Publication US 2009/0055471 A1, published February 26, 2009 (Ex. 1024).

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