

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TERADATA OPERATIONS, INC.,  
Petitioner,

v.

REALTIME DATA LLC,  
Patent Owner.

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Case IPR2017-00557  
Patent 7,358,867 B2

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Before GREGG I. ANDERSON, CHARLES J. BOUDREAU, and  
JASON J. CHUNG, *Administrative Patent Judges*.

ANDERSON, *Administrative Patent Judge*.

ORDER

Conduct of the Proceeding  
37 C.F.R. § 42.5

On April 24, 2018, the Supreme Court held that a decision to institute under 35 U.S.C. § 314 may not institute on less than all claims challenged in the petition. *SAS Inst., Inc. v. Iancu*, 2018 WL 1914661, at \*10 (U.S. Apr. 24, 2018). In our Decision on Institution, we determined that Petitioner demonstrated a reasonable likelihood that it would establish that all of the challenged claims of the '867 patent are unpatentable.

Specifically we instituted on the following claims and grounds:

1. Claims 16, 32, 34, and 35 as anticipated under 35 U.S.C. § 102 by Hsu;
2. Claims 17 and 18 as unpatentable under 35 U.S.C. § 103 over Hsu;
3. Claims 17, 18, and 32 as unpatentable under 35 U.S.C. § 103 over Hsu and Franaszek;
4. Claim 19 as unpatentable under 35 U.S.C. § 103 over Hsu and Langdon, Jr.; and
5. Claims 16–19, 32, 34, and 35 as unpatentable under 35 U.S.C. § 103 as obvious over Franaszek and Hsu. Decision on Institution, Paper 14, 38–39.

We modify our institution decision to institute on all of the grounds presented in the Petition, including:

1. Claims 16–19, 32, 34, and 35 as anticipated under 35 U.S.C. § 102 by Franaszek;
2. Claims 16–19, 32, 34, and 35 as unpatentable under 35 U.S.C. § 103 over Franaszek;
3. Claim 19 as unpatentable under 35 U.S.C. § 103 over Franaszek and Langdon, Jr.;

4. Claims 16–19, 32, 34, and 35 as unpatentable under 35 U.S.C. § 103 over Franaszek and Langdon, Jr.; and

5. Claim 19 as unpatentable under 35 U.S.C. § 103 over Franaszek, Hsu, and Langdon, Jr. *See id.* at 6.

An oral hearing was held on February 20, 2018, and a final decision is due to be entered by July 6, 2018. The parties shall confer to discuss the impact, if any, of this Order on the proceeding. If, after conferring, the parties wish to submit briefing on the grounds upon which trial was not instituted in the Decision on Institution, the parties must, within one week of the date of this Order, request a conference call with the panel to seek authorization for such briefing.

In consideration of the foregoing, it is hereby:

ORDERED that our institution decision is modified to include review of all grounds presented in the Petition; and

FURTHER ORDERED that Petitioner and Patent Owner shall confer to determine whether they desire any additional briefing, and, if so, request a conference call with the panel to seek authorization for such briefing within one week of the date of this Order.

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Patent 7,358,867 B2

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