

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DELL INC.; RIVERBED TECHNOLOGY, INC.; HEWLETT-PACKARD
ENTERPRISE CO.; HP ENTERPRISE SERVICES, LLC; TERADATA
OPERATIONS, INC.; ECHOSTAR CORPORATION; HUGHES
NETWORK SYSTEMS, LLC; AND VERITAS TECHNOLOGIES LLC

Petitioners,

v.

REALTIME DATA LLC,

Patent Owner.

Case: IPR2016-01002¹

Patent No. 9,116,908

PETITIONERS' NOTICE OF APPEAL

Office of the Solicitor

U.S. Patent & Trademark Office Mail Stop 8

P.O. Box 1450

Alexandria, VA 22313-1450

Submitted Electronically via the PTAB E2E System

¹ Case IPR2017-00364 has been joined with this proceeding.

Pursuant to 35 U.S.C. §§ 141, 142, and 319, and in accordance with 37 C.F.R. §§ 90.2-90.3, Petitioners Dell Inc.; Riverbed Technology, Inc.; Hewlett-Packard Enterprise Co.; HP Enterprise Services, LLC; Teradata Operations, Inc.; EchoStar Corporation; Hughes Network Systems, LLC; and Veritas Technologies LLC² (collectively, “Petitioners”) appeal to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board (“Board”) entered on October 31, 2017, in IPR2016-01002 (Paper No. 71) (“Final Written Decision”) (attached as Exhibit A), and from all underlying findings, determinations, rulings, opinions, orders, and decisions regarding the inter partes reviews (IPR2016-01002 and the IPRs consolidated and/or joined with it) of U.S. Patent No. 9,116,908 B2 (the “’908 patent”).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Petitioners state that the issues on appeal may include, but are not limited to:

- (1) the decision of the Patent Trial and Appeal Board denying Petitioners’ petition to cancel claims 1, 2, 4–6, 9, 11, 21, 22, 24, and 25 of the ’908 patent including the legal conclusions regarding nonobviousness, the factual bases

² On June 1, 2017, the Board ordered the institution and joinder of IPR2017-00364, filed by Petitioner Veritas Technologies LLC on claims 1, 2, 4–6, 9, 11, 21, 22, 24, and 25 of U.S. Patent No. 9,116,908, to IPR2016-01002.

underlying the Board's legal conclusions, and the sufficiency of the Board's analysis and fact-findings regarding the same; and

- (2) the Board's refusal to consider Petitioners' Reply brief (Paper No. 48) and its failure to properly apply its regulations and follow the Administrative Procedures Act in connection with Petitioners' Reply; and
- (3) any other factual findings, conclusions of law, or other determinations supporting or related to the aforementioned issues, as well as all other issues decided adversely to Petitioners in any orders, decisions, rulings, and opinions.

This Notice of Appeal is being e-filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit, along with payment of the required docketing fees. In addition, a copy of this Notice of Appeal is being filed simultaneously with the Patent Trial and Appeal Board.

Dated: December 29, 2017

Respectfully submitted:

/Andrew R. Sommer/

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*Lead Counsel for Petitioners Dell Inc.;
Riverbed Technology, Inc.; Hewlett-
Packard Enterprise Co.; HP Enterprise
Services, LLC; Teradata Operations,
Inc.; EchoStar Corporation; and
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Technologies LLC*

CERTIFICATION OF FILING

The undersigned hereby certifies that the foregoing **PETITIONERS'** **NOTICE OF APPEAL** was filed electronically through the Patent Trial and Appeal Board's End to End System (PTAB E2E) on December 29, 2017. A copy of this Notice of Appeal was also sent on December 29, 2017 by Priority mail to the United States Patent and Trademark Office at the following address:

Office of the Solicitor
U.S. Patent & Trademark Office Mail Stop 8
P.O. Box 1450
Alexandria, VA 22313-1450

Respectfully submitted,

Dated: December 29, 2017

/Andrew R. Sommer/

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Attorneys for Petitioners

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CERTIFICATION OF FILING

The undersigned hereby certifies that the foregoing **PETITIONERS'**
NOTICE OF APPEAL was filed electronically through the United States Court of
Appeals for the Federal Circuit's CM/ECF system on December 29, 2017.

Respectfully submitted,

Dated: December 29, 2017

/Andrew R. Sommer/

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§ 42.6(e)—CERTIFICATION OF SERVICE

In accordance with § 42.6(e)(1), the undersigned certifies that on the 29th day of December 2017, the above **PETITIONERS' NOTICE OF APPEAL** was served, via electronic mail upon the following counsel for Patent Owner,

William P. Rothwell - william@noroozipc.com
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NOROOZI PC

Respectfully submitted,

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