

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CRUSOE ENERGY SYSTEMS, LLC
Petitioner

v.

UPSTREAM DATA INC.
Patent Owner

Case PGR2023-00039
Patent No. 11,574,372

PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b) and the Federal Rules of Evidence (“FRE”), Patent Owner Upstream Data Inc. submits the following objections to evidence submitted by Petitioner Crusoe Energy Systems, LLC with its Petition. These objections are timely filed and served within ten business days of the Board's decision to institute trial in this proceeding.

Exhibit 1006

Patent Owner objects to Exhibit 1006 as lacking relevance to the instituted grounds (*see* FRE 401 and 402), including due to the Petitioner not having presented sufficient evidence regarding the public availability of Exhibit 1006 or its source. This Exhibit should further be excluded because the date and source of the Exhibit are indeterminant and thus any purported relevance would be substantially outweighed by a danger of unfair prejudice and confusion (*see* FRE 403). To the extent Petitioner relies on the content of this Exhibit for the truth of the matter asserted, Patent Owner objects to the Exhibit as inadmissible hearsay (*see* FRE 801 and 802) that does not fall under any exceptions (including FRE 803, 804, 805, and 807). Patent Owner further objects to this Exhibit as lacking authentication (*see* FRE 901) because sufficient evidence has not been provided to establish the authenticity of this exhibit. Exhibit 1006 purports to be brochure from the Wayback Machine and is alleged to be dated March 5, 2016, but is not

otherwise sufficiently authenticated.

Exhibit 1007

Patent Owner objects to Exhibit 1007 as lacking relevance to the instituted grounds (*see* FRE 401 and 402), including due to the Petitioner not having presented sufficient evidence regarding the public availability of Exhibit 1007 or its source. This Exhibit should further be excluded because the date and source of the Exhibit are indeterminant and thus any purported relevance would be substantially outweighed by a danger of unfair prejudice and confusion (*see* FRE 403). To the extent Petitioner relies on the content of this Exhibit for the truth of the matter asserted, Patent Owner objects to the Exhibit as inadmissible hearsay (*see* FRE 801 and 802) that does not fall under any exceptions (including FRE 803, 804, 805, and 807). Patent Owner further objects to this Exhibit as lacking authentication (*see* FRE 901) because sufficient evidence has not been provided to establish the authenticity of this exhibit. Exhibit 1007 purports to be CryptoKube Bitcoin Mining Data Center Tour video that is apparently undated, and related statements offered regarding the date of the video are vague and/or made without personal knowledge.

Exhibit 1008

Patent Owner objects to Exhibit 1008 for the reasons provided above as to

Exhibit 1007 as Exhibit 1008 purports to be a transcript of the audio portion of Exhibit 1007. Exhibit 1008 is not otherwise appropriate evidence in this proceeding. The purported transcript (Exhibit 1008) of the offered video (Exhibit 1007) is objected to as lacking relevance to the instituted grounds (*see* FRE 401 and 402), including due to the Petitioner not having presented sufficient evidence regarding the public availability of Exhibit 1007 or its source. This Exhibit 1008 (along with Exhibit 1007) should further be excluded because the date and source of the information presented in this Exhibit 1008 are indeterminant and thus any purported relevance would be substantially outweighed by a danger of unfair prejudice and confusion (*see* FRE 403). To the extent Petitioner relies on the content of this Exhibit for the truth of the matter asserted, Patent Owner objects to the Exhibit as inadmissible hearsay (*see* FRE 801 and 802) that does not fall under any exceptions (including FRE 803, 804, 805, and 807). Patent Owner further objects to this Exhibit as lacking authentication (*see* FRE 901) because sufficient evidence has not been provided to establish the authenticity of this exhibit. Exhibit 1008 purports to be a transcript of Exhibit 1007 (that is subject to Patent Owner's objection based on authenticity) and is apparently undated, and related statements offered regarding the accuracy of the transcript and the date of the associated video are vague and/or made without personal knowledge.

Exhibit 1013

Patent Owner objects to Exhibit 1013 as lacking relevance to the instituted grounds (*see* FRE 401 and 402), including due to the Petitioner not having presented sufficient evidence regarding the public availability of Exhibit 1013 or its source. This Exhibit should further be excluded because the date and source of the Exhibit are indeterminant and thus any purported relevance would be substantially outweighed by a danger of unfair prejudice and confusion (*see* FRE 403). To the extent Petitioner relies on the content of this Exhibit for the truth of the matter asserted, Patent Owner objects to the Exhibit as inadmissible hearsay (*see* FRE 801 and 802) that does not fall under any exceptions (including FRE 803, 804, 805, and 807). Patent Owner further objects to this Exhibit as lacking authentication (*see* FRE 901) because sufficient evidence has not been provided to establish the authenticity of this exhibit. Exhibit 1013 purports to be an article allegedly published in 2015, but is incomplete and the portion provided is not otherwise sufficiently authenticated.

Exhibit 1015

Patent Owner objects to Exhibit 1015 as lacking relevance to the instituted grounds (*see* FRE 401 and 402), including due to the Petitioner not having presented sufficient evidence regarding the public availability of Exhibit 1015 or

its source. This Exhibit should further be excluded because the date and source of the Exhibit and the statements therein are indeterminant and thus any purported relevance would be substantially outweighed by a danger of unfair prejudice and confusion (*see* FRE 403). To the extent Petitioner relies on the content of this Exhibit for the truth of the matter asserted, Patent Owner objects to the Exhibit as inadmissible hearsay (*see* FRE 801 and 802) that does not fall under any exceptions (including FRE 803, 804, 805, and 807). Patent Owner further objects to this Exhibit as lacking authentication (*see* FRE 901) because sufficient evidence has not been provided to establish the authenticity of this exhibit. Exhibit 1015 purports to be a Bitcointalk forum post from the Wayback Machine, but is acknowledged to be a partial snapshot. Further, along with failures of proof regarding the alleged public availability of Exhibit 1015, Exhibit 1015 is not otherwise sufficiently authenticated.

Exhibit 1016

Patent Owner objects to Exhibit 1016 as lacking relevance to the instituted grounds (*see* FRE 401 and 402), including due to the Petitioner not having presented sufficient evidence regarding the public availability of Exhibit 1016 or its source. This Exhibit should further be excluded because the date and source of the Exhibit and the statements therein are indeterminant and thus any purported

relevance would be substantially outweighed by a danger of unfair prejudice and confusion (*see* FRE 403). To the extent Petitioner relies on the content of this Exhibit for the truth of the matter asserted, Patent Owner objects to the Exhibit as inadmissible hearsay (*see* FRE 801 and 802) that does not fall under any exceptions (including FRE 803, 804, 805, and 807). Patent Owner further objects to this Exhibit as lacking authentication (*see* FRE 901) because sufficient evidence has not been provided to establish the authenticity of this exhibit. Exhibit 1016 purports to be a Reddit post allegedly from 7 years before its retrieval, but Petitioner does not offer further support regarding the alleged public availability of Exhibit 1016 such that it is not sufficiently authenticated.

Exhibit 1019

Patent Owner objects to Exhibit 1019 as lacking relevance to the instituted grounds (*see* FRE 401 and 402), including due to the Petitioner not having presented sufficient evidence regarding the public availability of Exhibit 1019 or its source. This Exhibit should further be excluded because the date and source of the Exhibit are indeterminant and thus any purported relevance would be substantially outweighed by a danger of unfair prejudice and confusion (*see* FRE 403). To the extent Petitioner relies on the content of this Exhibit for the truth of the matter asserted, Patent Owner objects to the Exhibit as inadmissible hearsay

(*see* FRE 801 and 802) that does not fall under any exceptions (including FRE 803, 804, 805, and 807). Patent Owner further objects to this Exhibit as lacking authentication (*see* FRE 901) because sufficient evidence has not been provided to establish the authenticity of this exhibit. Exhibit 1019 purports to be a Youtube video allegedly dated February 9, 2015, but Petitioner does not offer sufficient allegations regarding its authenticity and related statements offered regarding the date and source of the video are vague and/or made without personal knowledge.

Exhibit 1022

Patent Owner objects to Exhibit 1022 as lacking relevance to the instituted grounds (*see* FRE 401 and 402), including due to the Exhibit apparently not being publicly available until 2023. As this Exhibit is irrelevant to any ground in this trial, any purported relevance would be substantially outweighed by a danger of unfair prejudice and confusion (*see* FRE 403). To the extent Petitioner relies on the content of this Exhibit for the truth of the matter asserted, Patent Owner objects to the Exhibit as inadmissible hearsay (*see* FRE 801 and 802) that does not fall under any exceptions (including FRE 803, 804, 805, and 807). Patent Owner further objects to this Exhibit as lacking authentication (*see* FRE 901) because sufficient evidence has not been provided to establish the authenticity of this exhibit. Exhibit 1022 purports to be an article regarding Crypto mining, but

information regarding this article is incomplete and Exhibit 1022 is not otherwise sufficiently authenticated.

Exhibit 1023

Patent Owner objects to Exhibit 1023 as lacking relevance to the instituted grounds (*see* FRE 401 and 402), including due to the Petitioner not having presented sufficient evidence regarding the public availability of Exhibit 1023 or its source. This Exhibit should further be excluded because the date and source of the Exhibit are indeterminant and thus any purported relevance would be substantially outweighed by a danger of unfair prejudice and confusion (*see* FRE 403). To the extent Petitioner relies on the content of this Exhibit for the truth of the matter asserted, Patent Owner objects to the Exhibit as inadmissible hearsay (*see* FRE 801 and 802) that does not fall under any exceptions (including FRE 803, 804, 805, and 807). Patent Owner further objects to this Exhibit as lacking authentication (*see* FRE 901) because sufficient evidence has not been provided to establish the authenticity of this exhibit. Exhibit 1023 purports to be a second part of a CryptoKube Bitcoin Mining Data Center Tour video that is apparently undated, and related statements offered regarding the date of the video are vague and/or made without personal knowledge.

These objections have been timely filed and are being concurrently served
on the Petitioner.

February 5, 2024

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e)(1) and 42.6(e)(4)(iii), the undersigned certifies that on February 5, 2024, a complete and entire copy of this Patent Owner's Objections to Petitioner's Evidence was served on Petitioner electronically by emailing a copy of the same to the following attorney for the Petitioner:

John Phillips
Jia Zhu
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