UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CRUSOE ENERGY SYSTEMS, LLC,
Petitioner,

v.

UPSTREAM DATA INC,
Patent Owner.

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Case PGR2023-00039
Patent 11,574,372

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# PETITIONER'S NOTICE OF APPEAL

Pursuant to 28 U.S.C. § 1295(a)(4)(A) and 35 U.S.C. §§ 141(c), 142, and 319; 37 C.F.R. §§ 42.75(e)(3), 90.2(a) and 90.3(a); and Federal Rule of Appellate Procedure 4(a), Petitioner submits this notice of its appeal to the United States Court of Appeals for the Federal Circuit of (1) the Final Written Decision (Paper 45) in Case No. PGR2023-00039, concerning U.S. Patent No. 11,574,372 ("the ''372 patent"), entered January 21, 2025, by the Patent Trial and Appeal Board ("Board"), and all other underlying and related findings, orders, decisions, rulings, opinions, or other determinations merged into that Decision, and (2) the Decision of the Delegated Director Review of Final Written Decision (Paper 49) in Case No. PGR2023-00039, concerning the '372 patent, entered April 11, 2025, by the Delegated Rehearing Panel ("DRP").

For the limited purpose of providing the Director with the information requested in 37 C.F.R. § 90.2(a)(3)(ii), Petitioner further indicates that the issues on appeal may include, but are not limited to, the following:

1) The Board's judgment that Petitioner has not established by a preponderance of the evidence that claims 1-4, 7-12, 15-30, 34-37, and 40 of the '372 patent are unpatentable, including any underlying questions of law (such as claim construction issues) or fact, including, for avoidance of doubt, any questions regarding the power to reach the judgment and the process of reaching it, including at least:

a. The Board's analysis and findings regarding obviousness based on Dickerson, CryptoKube, Szmigielski, and Kheterpal, including the Board's failure to consider evidence of record properly, the Board's legal errors in undertaking the obviousness analysis, and the Board's findings that conflict with the evidence of record and/or are not supported by substantial evidence;

b. The Board's analysis and findings regarding obviousness based on Dickerson, CryptoKube, Belady-989, Szmigielski, and/or Kheterpal, including the Board's failure to properly consider evidence of record, the Board's legal errors in undertaking the obviousness analysis, and the Board's findings that conflict with the evidence of record and/or are not supported by substantial evidence;

c. The Board's analysis and findings regarding obviousness based on Dickerson, CryptoKube, Belady-989, Boot, Szmigielski, and/or Kheterpal, including the Board's failure to consider evidence of record properly, the Board's legal errors in undertaking the obviousness analysis, and the Board's findings

that conflict with the evidence of record and/or are not supported by substantial evidence;

d. The Board's analysis and findings regarding obviousness based on MAGS and Polivka, including the Board's failure to consider evidence of record properly, the Board's legal errors in undertaking the obviousness analysis, and the Board's findings that conflict with the evidence of record and/or are not supported by substantial evidence;

e. The Board's analysis and findings regarding obviousness based on MAGS, Polivka, and Belady-989, including the Board's failure to consider evidence of record properly, the Board's legal errors in undertaking the obviousness analysis, and the Board's findings that conflict with the evidence of record and/or are not supported by substantial evidence;

f. The Board's interpretation or implicit construction of limitation ic_iii ("the mining processors are connected to the network interface and adapted to mine transactions associated with the blockchain database and to communicate with the blockchain database;"), including the application of that term to the prior art; and

g. The Board's analysis and findings regarding patentability of the claims under 35 U.S.C. § 101, including the Board's failure to consider evidence of record properly, the Board's legal errors in undertaking the Section 101 analysis, the Board's legal errors in finding the Petitioner's challenge to the independent claims under Section 101 was not sufficient to argue that the dependent claims were unpatentable, and the Board's findings that conflict with the evidence of record and/or are not supported by substantial evidence;

2) The DRP's judgment that Petitioner has not established by a preponderance of the evidence that claims 1 and 24 of the '372 patent are unpatentable under 35 U.S.C. § 101, including any underlying questions of law (such as claim construction issues) or fact, including, for avoidance of doubt, any questions regarding the power to reach the judgment and the process of reaching it; and

3) Any other Board and/or Director finding, determination, judgment, or order on any issue decided adversely to Petitioner.

Petitioner's further record review and legal research could reveal additional issues to be raised on appeal resulting from the adverse rulings and decisions below.

Pursuant to 37 C.F.R. § 90.3, this Notice of Appeal is timely filed within 63 days of entry of the Decision of the Delegated Director Review of Final Written Decision dated April 11, 2025.

Per 35 U.S.C. § 142 and 37 C.F.R. § 90.2(a)(1), this notice is being filed with the Director of the U.S. Patent and Trademark Office, and a copy is also being filed with the Board. Per Federal Circuit Rule 15(a)(1) and 37 C.F.R. 90.2(a)(2), Petitioner is also electronically filing this notice with the United States Court of Appeals for the Federal Circuit through its CM/ECF System, together with the requisite filing fee.

Respectfully submitted,

Dated: June 13, 2025

/John C. Phillips/

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**CERTIFICATE OF SERVICE**

Pursuant to 37 CFR §§ 42.6(e)(1), the undersigned certifies that on June 13, 2025, a complete and entire copy of this Petitioner's Notice of Appeal was provided by email to the Patent Owner by serving the email correspondence addresses of record as follows:

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Pursuant to 37 C.F.R. §§ 90.2(a)(1), I hereby certify that in addition to being filed electronically through the Board's P-TACTS System, this Petitioner's Notice of Appeal is being provided to the Director of the USPTO on June 13, 2025, by electronically filing to the email address as follows:

Director of the United States Patent and Trademark Office
c/o Office of the General Counsel
efileSO@uspto.gov

I hereby certify that on June 13, 2025, a true and correct copy of the foregoing Petitioner's Notice of Appeal, along with a copy of the Final Written Decision and Delegated Director Review of Final Written Decision, was filed electronically with the Clerk's Office of the United States Court of Appeals for the Federal Circuit, at the following address:

United States Court of Appeals for the Federal Circuit
717 Madison Place, N.W., Suite 401
Washington, DC 20005

Respectfully submitted,

Dated: June 13, 2025

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