

RECORD OF ORAL HEARING
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DELL INC., HEWLETT-PACKARD COMPANY and NETAPP, INC.

Petitioners

vs.

ELECTRONICS AND TELECOMMUNICATIONS RESEARCH

Patent Owner

Appeal No. IPR2013-00635

Patent No. 6,978,346 B2

Oral Hearing Held: December 18, 2014

Before: BRIAN J. McNAMARA, MIRIAM L. QUINN (via video),
GREGG I. ANDERSON (via video), Administrative Patent Judges.

The above-entitled matter came on for hearing on Thursday,
December 18, 2014 at the U.S. Patent and Trademark Office, 600 Dulany
Street, Alexandria, Virginia at 1:00 p.m., in Courtroom A.

IPR2013-00635
Patent 6,978,346 B2

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P R O C E E D I N G S

(1:00 p.m.)

JUDGE McNAMARA: Please be seated.

Good afternoon. This is the oral hearing in case IPR-2013-00635. Petitioners are Dell, Inc., Hewlett-Packard, Company, and NetApp, Inc. And the Patent Owner is Electronics and Telecommunications Research Institute.

I am Judge McNamara. Judges Quinn and Judge Anderson are participating remotely, so you can see them on the screen.

And could I have the Petitioners' counsel please introduce yourselves.

MR. McCOMBS: Yes, Your Honors. This is David McCombs for the Petitioners, Dell, Hewlett-Packard, and Net App. With me are counsels Russ Emerson and Thomas Kelton. Russ Emerson will be making the presentation today. And also with us are client representatives Ann Byun for Hewlett-Packard, and Cynthia Rosser for NetApp.

JUDGE McNAMARA: Thank you. And Patent Owner?

MR. PHILLIPS: Good afternoon, Your Honor. Matthew Philips for the Patent Owner. With me are my co-counsel, Alexander Giza and Derek Meeker.

JUDGE McNAMARA: Thank you. Welcome to the Patent Trial and Appeal Board. We have no motions pending

1 before us today, other than the case concerning the petition
2 itself.

3 Each party will have 45 minutes. We will begin
4 with the Petitioner, who bears the ultimate burden of proof and
5 may reserve some time to rebut the opposition put on by the
6 Patent Owner.

7 Following the Petitioner's initial argument, the
8 Patent Owner may use up to -- will have up to 45 minutes to
9 oppose, and then the Petitioner can use any time if reserved for
10 rebuttal.

11 Is everybody ready? Let's begin.

12 MR. EMERSON: Yes, Your Honor. Before I
13 begin, would you like a hard copy of our demonstratives?

14 JUDGE McNAMARA: Sure. Thank you very
15 much. And is there some amount of time you would like to
16 reserve for rebuttal?

17 MR. EMERSON: I would like to reserve 15
18 minutes for rebuttal, Your Honor.

19 JUDGE McNAMARA: Okay. So I will let you
20 know when 30 minutes is up.

21 MR. EMERSON: Thank you very much, Your
22 Honor.

23 And the judges who are joining us remotely, thank
24 you, and good afternoon. My name, again, is Russ Emerson for
25 the Petitioners.

1 We will just dive into this, going first to slide 2.
2 The '346 patent has one independent claim that is at issue in
3 this IPR. That is independent claim 1.

4 Independent claim 1 recites four basic or
5 fundamental elements, a RAID, two RAID controllers, each
6 RAID controller having at least two network controlling units,
7 and a plurality of connection units.

8 Now, importantly, claim 1 doesn't claim any
9 relationship between the RAID of the preamble and the
10 controlling units, nor between the controlling units and the
11 disk drives that make up the RAID. As we have shown in our
12 briefing, Your Honors, Hathorn teaches all of these elements.

13 Moving on to slide number 3, this is figure 3 from
14 Hathorn, and Hathorn discloses a RAID and RAID controlling
15 units. We see the RAIDs -- rather the DASD 326 and 336 that
16 make up the RAID, the redundant array of independent disks,
17 storage controllers 325 --

18 JUDGE McNAMARA: Excuse me, you used the
19 term DASD. That's another acronym. Could you at least just
20 for the record tell us what it is?

21 MR. EMERSON: For the record, a DASD, as
22 explained in Hathorn, stands for direct access storage device.

23 JUDGE McNAMARA: That's spelled D-A-S-D?

24 MR. EMERSON: Yes, sir. Back to figure 3,
25 storage controllers 325 and 335 are the RAID controlling units.

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