

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

ELECTRONICS AND TELECOMMUNICATIONS RESEARCH
INSTITUTE,
Patent Owner.

Case IPR2014-00152
Patent 6,978,346 B2

Before BRIAN J. McNAMARA, MIRIAM L. QUINN, and
GREGG I. ANDERSON, *Administrative Patent Judges*.

ANDERSON, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

On November 15, 2013, Dell, Inc., Hewlett-Packard Company and NetApp, Inc. (collectively “Petitioners”) filed a Petition requesting an *inter partes* review of claims 1 through 9 of U.S. Patent No. 6,978,346 B2 (Ex. 1001, “the ’346 patent”). Paper 2 (“Pet.”). Electronics and Telecommunications Research Institute (“Patent Owner”), filed a Preliminary Response. Paper 11 (“Prelim. Resp.”). We have jurisdiction under 35 U.S.C. § 314.

The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides as follows:

THRESHOLD.—The Director may not authorize an *inter partes* review to be instituted unless the Director determines that the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the Petitioners would prevail with respect to at least 1 of the claims challenged in the petition.

Upon consideration of the Petition and Preliminary Response, we determine that the information presented in the Petition shows that there is not a reasonable likelihood that Petitioners would prevail in showing unpatentability of claims 1-9 of the ’346 patent. Accordingly, pursuant to 35 U.S.C. § 314, we decline to institute an *inter partes* review of claims 1-9 of the ’346 patent.

A. *Related Proceedings*

The ’346 patent is involved in the following co-pending cases: *Safe Storage LLC v. StoneFly, Inc.*, 1-13-cv-01152; *Safe Storage LLC v. Int’l Business Machines Corp.*, 1-13-cv-0 1151; *Safe Storage LLC v. Emulex Corporation*, 1-13-cv-01150; *Safe Storage LLC v 3PAR Inc.*, 1-13-cv-

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01088; *Safe Storage LLC v Oracle America Inc.*, 1-13-cv-01089; *Safe Storage LLC v ATTO Technology Inc.*, 1-13-cv-01090; *Safe Storage LLC v. VMware Inc.*, 1-13-cv-00928; *Safe Storage LLC v. Promise Technology Inc.*, 1-13-cv-00927; *Safe Storage LLC v. Nexsan Corporation*, 1-13-cv-00931 ; *Safe Storage LLC v. Overland Storage Inc.*, 1-13-cv-00932; *Safe Storage LLC v. IQSS LLC*, 1-13-cv-00930; *Safe Storage LLC v. Infortrend Corporation*, 1-13-cv-00929; *Safe Storage LLC v. Cisco Systems Inc.*, 1-13-cv-00926; *Safe Storage LLC v. Silicon Graphics Int'l Corp.*, 1-12-cv-01629; *Safe Storage LLC v. Dot Hill Systems Corp.*, 1-12-cv-01625 ; *Safe Storage LLC v. Hitachi Data Systems Corp.*, 1-12-cv-01627; *Safe Storage LLC v. Dell Inc.*, 1-12-cv-01624; *Safe Storage LLC v. NetApp Inc.*, 1-12-cv-01628; *Safe Storage LLC v. Hewlett-Packard Company*, 1-12-cv-01626, all pending in the United States District Court for the District of Delaware. Pet. 1-2.

Petitioners filed previously a Petition for *Inter Partes* review of the '346 patent, IPR2013-00635. We instituted an *inter partes* review of claims 1-3 and 5-8 of the '346 patent. We did not institute *inter partes* review of claims 4 and 9 of the '346 patent.

B. The '346 Patent

The '346 Patent describes an apparatus with “redundant interconnection between multiple hosts and a redundant array of inexpensive disks (hereinafter referred to as “RAID”).” Ex. 1001, Abstract. As a result of the redundant interconnection, the apparatus allows increased bandwidth in the event one of two RAID controllers 460 and 461 has a failure. *Id.* at 3:1-9.

Figure 4 of the '346 patent is reproduced below:

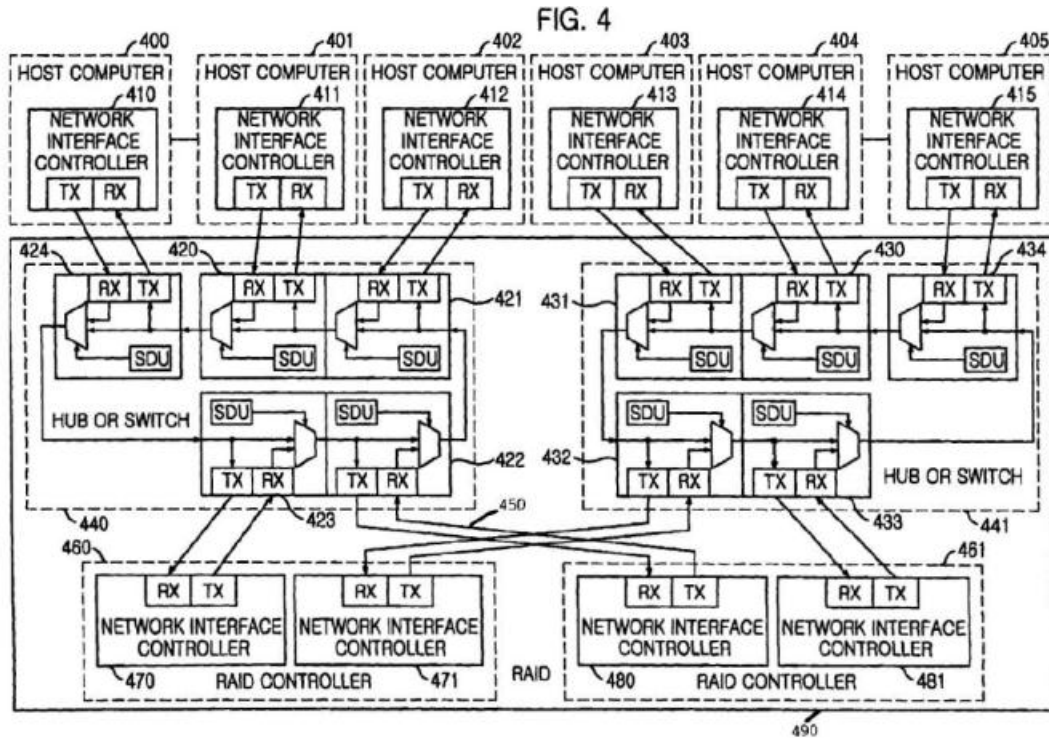


Figure 4 is a block diagram of a host matching system including RAID 490 and its interconnection to host computers 400-405. Ex. 1001, 2:64-3:6. RAID 490 includes two RAID controllers 460, 461 and hubs 440, 441. *Id.* at 3:10-18. Each RAID controller includes a pair of network interface controllers. For example, RAID controller 460 includes network interface controllers 470, 471, and RAID controller 461 includes network interface controllers 480, 481. *Id.* at 3:10-13. Each host computer has its own network interface controller (410 to 415), which connects the host computer through the hubs and to the network interface controllers (470,

471, 480, 481) of RAID controllers 460, 461. *Id.* at 3:31-34.

The '346 patent describes that the result is two independent networks with twice the bandwidth of a single network and a “communication passage” between the two RAID controllers. *Id.* at 3:62-65. The communication passage creates a “fault tolerant function” should one of RAID controllers 460 or 461 fail. *Id.* at 3:64-66. According to Figure 4, communications line 450 interconnects network interface controller 480 of RAID controller 461 and network interface controller 470 of RAID controller 460. *Id.* at 4:2-6; fig. 4. Then, RAID controller 461 may send information to RAID controller 460. *Id.* In like manner, network interface controller 471 of RAID controller 460 may be connected over communication lines to network interface controller 481 of RAID controller 461, allowing RAID controller 480 to send information to RAID controller 461. *Id.* at 3:66-4:4.

By the arrangement described, the apparatus continues to operate in the event either RAID controller 460 or 461 has an “occurrence of an error.” Ex. 1001, 4:19-25. The interconnected network interface controller of the operational RAID controller assumes the functions of the network interface controller of the failed RAID controller. *Id.*

C. Illustrative Claim

Claims 1 and 9 are the challenged independent claims. Claim 1 is reproduced below:

1. An apparatus for a redundant interconnection between multiple hosts and a RAID, comprising:

a first RAID controlling units and a second RAID controlling unit for processing a requirement of numerous host computers, the first RAID controlling unit including a first network controlling unit and a second

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