

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VMWARE, INC., INTERNATIONAL BUSINESS MACHINES
CORPORATION and ORACLE AMERICA, INC.,
Petitioners,

v.

ELECTRONICS AND TELECOMMUNICATIONS
RESEARCH INSTITUTE,
Patent Owner.

Cases IPR2014-00901 and IPR2014-00949
Patent 6,978,346 B2

Held: August 28, 2015

BEFORE: BRIAN J. McNAMARA, MIRIAM L. QUINN, and
GREGG I. ANDERSON, Administrative Patent Judges.

The above-entitled matter came on for hearing on Friday, August
28, 2015, commencing at 1:31 p.m., at the U.S. Patent and
Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Cases IPR2014-00901 and IPR2014-00949
Patent 6,978,346 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

KATHERINE KELLY LUTTON, ESQUIRE
MICHAEL RUECKHEIM, ESQUIRE
LEERON G. KALAY, ESQUIRE
Fish & Richardson, P.C.
500 Arguello Street
Suite 500
Redwood City, California 94063

ON BEHALF OF PATENT OWNER:

MATTHEW C. PHILLIPS, ESQUIRE
DEREK MEEKER, ESQUIRE
Renaissance IP Law Group LLP
9600 SW Oak Street
Suite 560
Portland, Oregon 97223

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P R O C E E D I N G S

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JUDGE McNAMARA: Good afternoon, everyone.

This is -- this case is VMware, Inc., International Business
Machines, Corporation and Oracle America, Inc., Petitioners,
versus Electronics and Telecommunications Research Institute,
Patent Owner, Case IPR2014-00901, which has been joined with
IPR2014-00949.

I'm Judge McNamara. Judge Quinn and Judge
Anderson will be participating remotely.

Beginning with the Petitioner, could I have the parties
please introduce themselves.

MS. LUTTON: Thank you, Your Honor. Kathy Lutton
from Fish & Richardson for VMware. Joining me, are Leeron
Kalay and Michael Rueckheim from Fish & Richardson and our
client from VMware, Brooks Beard.

JUDGE McNAMARA: Thank you. Patent Owner?

MS. LUTTON: We also have co-counsel here.

JUDGE McNAMARA: I'm sorry.

MR. FRIEDMAN: Todd Friedman from Kirkland &
Ellis and I'm here on behalf of Petitioners IBM and Oracle and
my client, Steven Purdy and Peter O'Rourke, in the back of the
room and Ben Lasky from Kirkland & Ellis is also here.

1 JUDGE McNAMARA: Thank you. Anyone else?

2 MS. LUTTON: No, Your Honor.

3 JUDGE McNAMARA: Okay. And from Patent
4 Owners?

5 MR. PHILLIPS: Good afternoon, Your Honor.

6 Matthew Phillips here with Derek Meeker from the Renaissance
7 IP Law Group firm on behalf of the Patent Owner.

8 JUDGE McNAMARA: Okay. Thank you. Welcome
9 to the Patent Trial and Appeal Board.

10 Each party will have 45 minutes of total argument time.
11 The Petitioner will proceed first, present its case in chief and then
12 after that the Patent Owner will respond to the Petitioners' case
13 and, finally, the Petitioner can use any time it has reserved for a
14 rebuttal.

15 There's no motions or anything else that are going to be
16 addressed at this hearing, so is everybody ready to proceed?

17 MS. LUTTON: We are, Your Honor.

18 JUDGE McNAMARA: All right. Well, let's begin
19 with the Petitioner.

20 Is there some amount of time you'd like me to alert you
21 to?

22 MS. LUTTON: Yes, Your Honor. I would like you to
23 reserve 15 minutes, please.

24 JUDGE McNAMARA: Okay.

1 MS. LUTTON: In addition to that, since we do have
2 multiple Petitioners, I would respectfully request a break before
3 our rebuttal so that we can confer and I can make sure I'm
4 communicating with views of the group, just a short five-minute
5 break.

6 JUDGE McNAMARA: Let me consider it and see
7 where we are at that time.

8 MS. LUTTON: Okay. Thank you, Your Honor.

9 Your Honor, we have a hard copy of the slides. Can we
10 hand it up?

11 JUDGE McNAMARA: Yes. I'd be happy to take it.

12 MS. LUTTON: Okay. Great.

13 JUDGE McNAMARA: One thing I should remind
14 everybody about during the presentations today -- you can just
15 pass that up -- please make sure you refer to the slide number that
16 you're talking about so that the judges who are participating
17 remotely will be able to look at your -- at the correct slide that
18 you want them to be looking at.

19 MS. LUTTON: We will, Your Honor. And just as a
20 preliminary matter, the version of this slide deck we handed up is
21 in a little bit different order than the version we filed.

22 JUDGE McNAMARA: Have there been any changes?

23 MS. LUTTON: There have been no changes
24 substantively to the slides. We have used three of Patent Owner's

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