

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ORACLE CORPORATION, NETAPP INC. and  
HUAWEI TECHNOLOGIES CO., LTD.,  
Petitioners,

v.

CROSSROADS SYSTEMS, INC.  
Patent Owner.

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Case IPR2014-01207  
Patent No. 7,051,147

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**PATENT OWNER'S MOTION TO EXCLUDE EVIDENCE  
CITED BY PETITIONERS**

Patent Owner respectfully requests that certain evidence relied on by Petitioners be excluded pursuant to 37 C.F.R. § 42.64(c). Patent Owner objected to various exhibits on either February 17, 2015 (Attachment A), February 18, 2015 (Attachment B) or August 28, 2015 (Paper 47). Patent Owner's objections to deposition testimony were made in the record during deposition. In addition or in the alternative, because Petitioners repeatedly mischaracterize the deposition testimony of Patent Owner's expert Dr. Levy and declarant John Middleton, Patent Owner further requests that the Board consider additional portions of these deponents' testimony pursuant to the Rule of Completeness (FRE 106).

**I. PETITIONERS MISCHARACTERIZE THE TESTIMONY OF DR. LEVY**

Petitioners rely on certain testimony by Dr. John Levy, Ph.D., Patent Owner's expert, which should be excluded because it was obtained pursuant to objectionable questioning and/or mischaracterizes his testimony.

**A. Objection #1**

Petitioners cite Ex.1218 at 56:19-57:24 for the proposition that "a host channel ID (a Fibre Channel ID in the CRD combined system) is sufficient to identify the host device within the meaning of the claims of the '147 patent where there is only a single host on each host or fibre channel." Paper 45 ("Reply") at 3. The subject testimony is as follows:

Q. So my question was directed to the device, not the storage address or partition within the storage device. . . . So my question is,

where there is only a single SCSI bus attached to the storage router, is the SCSI ID sufficient to identify the storage device within the meaning of the claims of the '147 patent?

MR. HALL: Objection; form.

A. And so you mean to identify the device in the map, the claim map?

Q. Correct.

A. Well, given that an entire storage device is what needs to be represented in the map and that there is only one SCSI bus and that SCSI IDs are unique on that SCSI bus, which they must be, then in that case a SCSI ID could be sufficient to identify the mapped storage.

Q. Okay. So let's discuss the parallel concept on the fibre channel side. **In the circumstance where there is only a single host device on a fibre channel, is the fibre channel ID sufficient to identify the host device?**

MR. HALL: **Objection; form.**

\* \* \*

A. Well, on the host side of the map, all that's required in the map is an identifier sufficient to distinguish between multiple hosts on the first transport medium. So **a fibre channel ID of some kind** would be one example of something that could distinguish between such hosts.

Ex. 1218, 56:14-57:24 (emphasis added). Patent Owner's counsel's form objection is included above; as Petitioners' changing interpretations of the phrase demonstrate, the use of "fibre channel ID" is vague. The term appears nowhere in the record but here and Petitioners' reply; it does not appear to have been used in the Petition or supporting declaration.

Petitioners first indicated that “fibre channel ID” was an analog to “SCSI ID.” Earlier in the deposition, SCSI ID was used to refer to the ID of a device on a SCSI bus (*e.g.*, the SCSI ID of a storage device) used to distinguish the device from other devices on the SCSI bus, as opposed to identifying the bus itself.

A. . . . Well, let's see. We -- I need to clarify what is meant by "the SCSI IDs of the storage devices." Are we talking about the -- the SCSI ID on the SCSI bus of the storage -- storage devices? Is that correct?

Q. Correct. It's the same SCSI ID, I believe, that you testified about in your previous deposition.

A. Well, we had a lot of testimony about SCSI IDs on a SCSI bus, yes. Right.

Q. And I'm using the term "SCSI ID" in that same sense.

Ex 1218, 54:5-16. *See also*, Ex. 1232 at 127:14-20 (A. . . . “there can’t be more than one host with the same SCSI ID on a SCSI bus. Therefore, the SCSI ID is, in fact, adequate to distinguish a host on the SCSI bus.”)<sup>1</sup>

After discussing SCSI IDs, Petitioners’ counsel stated “let’s discuss the parallel concept on the fibre channel side” indicating that “fibre channel ID” was somehow analogous to SCSI ID. *See* Ex. 1218 at 57:8-12. Clearly this is what Dr. Levy understood, testifying that “fibre channel ID” refers to an identifier that can be used to

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<sup>1</sup> The parties agreed that this testimony could be cited in the present proceeding.

Ex. 1218, 7:9-21.

distinguish between multiple hosts on the first transport medium. *Id.*, 57:19-24.

Petitioners' reply appears to reinterpret "fibre channel ID" to refer to, or be analogous to, a "host channel ID". Reply at 3 (referring to "a host channel ID (a Fibre Channel ID in the CRD combined system)"). To the extent Petitioners are attempting to conflate "fibre channel ID" as used in the cited question with the internal identity of a CRD-5500 host channel (*i.e.*, the slot number), such an interpretation demonstrates the vagueness of the question and is, further, contrary to both Dr. Levy's testimony in the cited passage (Ex. 2018, 57:19-22) and Petitioners' explicit acknowledgement that a fibre channel ID refers to the ID of a host device, not a channel ID:

Q. In the example where the control unit bridges between a fibre channel device interface and a SCSI disk, **the fibre channel would output its own ID, in particular an FC ID.** Is that right?

A. **I think you probably meant to say the fibre channel host. Is that correct?**

Q. (BY MR. GARDELLA) **Yes.**

A. In the interactions between a host and a target on fibre channel, the host identifies both itself and the target in the frame.

Ex 1218, 67:22-68:8 (emphasis added) (objection omitted). This cited passage shows that fibre channels *per se* do not have identifiers, and counsel agreed. Petitioners' shifting interpretations of "fibre channel ID" show the ambiguity of the term. Because Ex. 1218, 56:19-57:24 is vague and ambiguous and is being mischaracterized in a prejudicial manner contrary to the record, it should be excluded under FRE 403.

Petitioners' attempt to use Dr. Levy's testimony on "fibre channel ID" to

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