

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

Petitioners,

v.

CROSSROADS SYSTEMS, INC.

Patent Owner.

Case IPR2014-01207

U.S. Patent No. 7,051,147

**OPPOSITION TO PATENT OWNER'S
MOTION TO EXCLUDE**

I. INTRODUCTION

Patent Owner's motion to exclude is directed primarily at the cross-examination testimony of its own witnesses, Dr. Levy and Mr. Middleton. Patent Owner characterizes its motion as a request to exclude based on lack of relevance, though Patent Owner argues the merits of the evidence and disputes Petitioners' interpretation of the testimony. Such arguments go to the weight of the evidence, however, and not the admissibility of it. Because Patent Owner's motion is an improper attempt to challenge the merits of the evidence, it should be denied in its entirety.

The balance of Patent Owner's motion is directed to Patent Owner's own infringement contentions and related materials. It is noteworthy that as to this evidence Patent Owner does not contest the premises for which Petitioners offer this evidence, but complains that the argument is not supported by an expert declaration. Here again, the Board is well-suited to determine for itself what weight to accord the evidence advanced by Petitioner.

II. TESTIMONY OF DR. LEVY

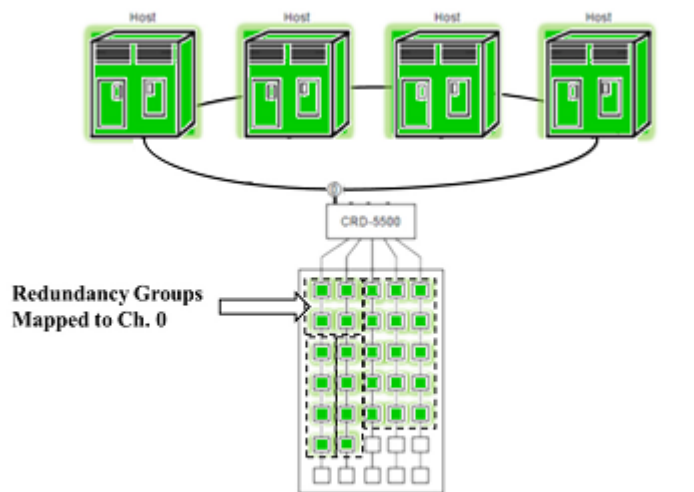
Patent Owner asserts that the term "fiber channel ID," used in a series of questions during cross examination, is ambiguous and "appears nowhere in the record but [in the deposition transcript] and in Petitioner's reply." Paper 61 at 2.

To the contrary, the ‘147 patent itself discusses fiber channel identifiers. “Fibre Channel devices within a fabric are addressed by a unique port identifier. This identifier is assigned to a port during certain well defined states of the FC protocol.” Ex. 1001 at 8:1-2.

Moreover, ample context was established for the term “fibre channel identifier” during cross examination. In particular, the testimony first established that where there is only a single SCSI bus attached to the storage router, the SCSI ID is sufficient to identify the storage device within the meaning of the claims of the patent. Ex. 1218 at 56-57. Then the attorney asked Dr. Levy to consider what was on the other side of the bridge or router, *i.e.*, the fiber channel side. *Id.* at 57:8-9. Dr. Levy acknowledged that he understood that the next questions related to the fiber channel side of the bridge or router. *Id.* at 57 (A: “So you're switching now to the host side of the map?”) Dr. Levy explained that “a fibre channel ID of some kind would be one example of something that could distinguish between such hosts.” *Id.* at 57:22-24 (The video recording of the deposition demonstrates that the quoted testimony was an answer by the witness and not a question by the interrogating attorney, but since this does not appear to be contested by Patent Owner it appears premature to burden the Board with a request to submit the video recording as an exhibit). Dr. Levy himself referred to a “fiber channel ID” in his

answer, which indicates that he had no difficulty understanding the meaning of the term.

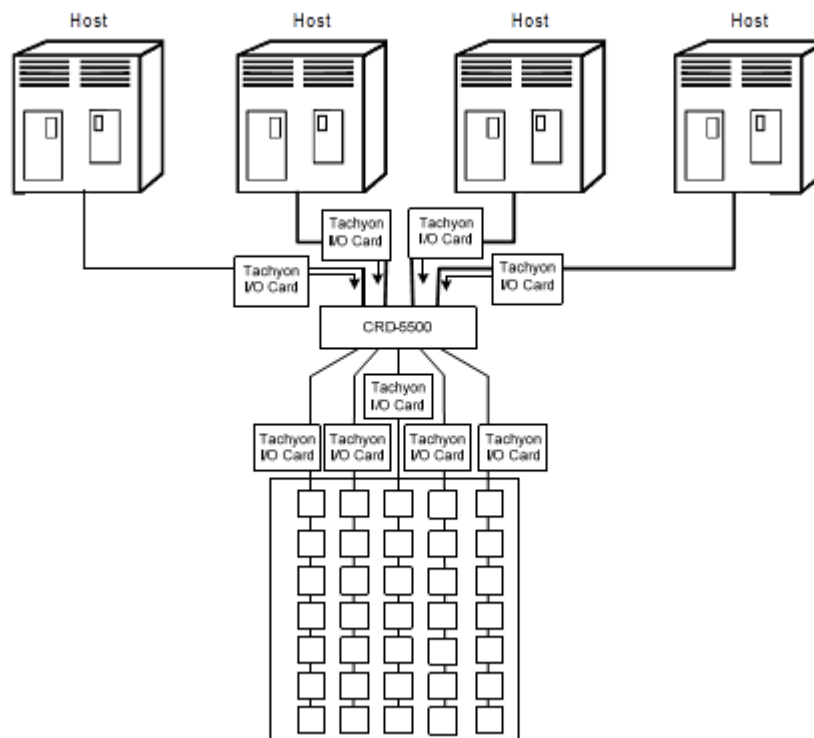
Patent Owner next asserts that in an earlier deposition Dr. Levy testified that a channel identification in a CRD-5500 is not a host identification. Paper 61 at 5. This particular testimony related, however, to a **different combined system in which there were multiple FC devices on a single channel**. In the combined system asserted by Cisco/Quantum in their IPRs, there are multiple fiber channel devices on each host channel. *See* Ex. 1237 (PO Response in Cisco/Quantum case) at 34-36. This assertion is one of the cornerstones of Patent Owner's argument in opposition to the Cisco/Quantum petitions, and it was illustrated in the following graphic, taken from page 35 of Patent Owner's response in that case:



Ex. 1004, 1-2 (Modified)

Ex. 1237 at 35. **In contrast, in the instant case the combined system has only a single FC host device on each channel.** This is shown in the graphic below, which is presented at page 18 of the petition and page 22 of the Chase declaration.

Ex. 1010.



In **this** combined system there is only one host device on each fibre channel and thus, as acknowledged by Dr. Levy in his deposition in **this** case, a channel ID is sufficient to identify the host device within the meaning of the patent claims.

Ex.1218 at 56:19-57:24.

In the event the Board denies its request to exclude, Patent Owner requests in the alternative that additional testimony be considered pursuant to the rule of completeness. Paper 61 at 5. The rule of completeness is not a proper basis,

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