

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 IPR2014-01209
Patent No. 7,051,147

PATENT OWNER'S PRELIMINARY RESPONSE

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	HISTORY OF THE '972 PATENT FAMILY	2
III.	TRIAL SHOULD NOT BE INSTITUTED BECAUSE OF MULTIPLE, FUNDAMENTAL DEFICIENCIES IN THE PETITION.....	10
A.	Petitioners have failed to comply with 37 C.F.R. § 42.104 by failing to set forth how the challenged claims are to be construed.	10
B.	The Petition fails to show where each claim element can be found in the references.....	14
IV.	TRIAL SHOULD NOT BE INSTITUTED BECAUSE THE OFFICE HAS CONSIDERED THE CITED ART IN REEXAMINATION	18
A.	The <i>CRD-5500 User Manual, CRD-5500 Data Sheet, Smith, Kikuchi and Bergsten</i> were submitted to the Patent Office during prosecution of the '147 Patent.....	19
B.	The Patent Office has already considered the <i>CRD-5500 User Manual, CRD-5500 Data Sheet, Smith, Kikuchi and Bergsten</i>	20
1.	First Ground - The Patent Office has already considered the <i>CRD-5500 User Manual, CRD-5500 Data Sheet and Smith</i>	20
2.	The Patent Office confirmed the '035 Patent over the same arguments as those presented under the First Ground.....	29
3.	Second through Fifth Grounds – The Patent Office has already considered <i>Bergsten and Kikuchi</i>	33
V.	TRIAL SHOULD NOT BE INSTITUTED BECAUSE PETITIONERS HAVE NOT ESTABLISHED THAT PETITIONERS ARE ENTITLED TO RELIEF.....	34
A.	First Ground – <i>CRD-5500 User Manual, CRD-5500 Data Sheet, and Smith</i>	36
1.	Petitioners have failed to establish the differences between the patent and the prior art.	36

2.	One of ordinary skill in the art would not combine the references as suggested by petitioners.....	37
3.	Petitioners have failed to provide sufficient articulated reasoning to support their proposed obviousness ground.....	39
B.	Second and Third Grounds – <i>Kikuchi, Bergsten, and Smith</i>	41
1.	Petitioners have failed to establish the differences between the patent and the prior art.	41
2.	Petitioners have failed to provide sufficient articulated reasoning to support their proposed obviousness ground.....	42
C.	Fourth and Fifth Grounds – <i>Bergsten, Hirai, and Smith</i>	51
1.	Petitioners have failed to establish the differences between the patent and the prior art.	51
2.	Petitioners have failed to provide sufficient articulated reasoning to support their proposed obviousness ground.....	52
VI.	CONCLUSION.....	53

TABLE OF AUTHORITIES

Cases

<i>Crossroads Systems (Texas), Inc. v. Chaparral Network Storage, Inc.</i> 56 Fed. Appx. 502 (Fed. Cir. 2003).....	3
<i>Crossroads Systems, (Texas), Inc. v. Chaparral Network Storage, Inc.</i> C.A. No. 00-cv-217 (W.D. Tex. – Austin Div., filed March 31, 2000)	3
<i>Graham v. John Deere Co.</i> , 383 U.S. 1 (1966).....	35
<i>KSR Int’l Co. v. Teleflex, Inc.</i> 550 U.S. 398 (2007).....	36
<i>NeoMagic Corp. v. Trident Microsystems, Inc.</i> , 287 F.3d 1062 (Fed. Cir. 2002).....	11

Administrative Cases

<i>Apple Inc. v. Rensselaer Polytechnic Institute</i> IPR2014-00077, Paper 14 (PTAB June 13, 2014)	15, 18
<i>Avaya Inc. v. Network-1 Security Solutions, Inc.</i> IPR2013-00071, Paper 32 (PTAB July. 2, 2013)	13
<i>E.I. du Pont de Nemours and Co. v. Monsanto Tech. LLC.</i> IPR2014-00332, Paper 16 (PTAB July 11, 2014)	12
<i>Fidelity Nat’l Information Services, Inc. v. DataTreasury Corp.</i> , IPR2014-00489, Paper 9 (PTAB Aug. 13, 2014).....	15, 18
<i>Liberty Mutual Insurance Co. v. Progressive Casualty Insurance Co.</i> CBM-2012-00003, Paper 7 (PTAB Oct. 25, 2012)	35, 36, 41, 51
<i>Mentor Graphics Corp. v. Synopsis Inc.</i> IPR2014-00287, Paper 17 (PTAB Aug. 1, 2014).....	12

<i>Naughty Dog, Inc. v. McRO, Inc.</i> IPR2014-00197, Paper 11 (PTAB May 28, 2014)	36, 40
<i>Norman Noble, Inc. v. NUTech Ventures</i> IPR2013-00101, Paper 14 (PTAB June 20, 2013)	11
<i>Symantec Corp. v. RPost Commn's Ltd.</i> IPR2014-00353, Paper 15 (PTAB July 15, 2014)	15, 18

Other Authorities

35 U.S.C. § 103(a)	35, 37, 41, 52
35 U.S.C. § 312(a)	13, 14
35 U.S.C. § 314(a)	2, 41
35 U.S.C. § 325(d)	18, 29, 33
37 C.F.R. § 1.104(c).....	34
37 C.F.R. § 42.6(a).....	15
37 C.F.R. § 42.20(c).....	2, 34, 37, 42, 52
37 C.F.R. § 42.22(a).....	2, 14, 18
37 C.F.R. § 42.24(a).....	2, 14, 15
37 C.F.R. § 42.104(b)	2, 10, 13, 14, 18
77 Fed. Reg. 48,756 (Aug. 14, 2012)	18

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.