

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

CROSSROADS SYSTEMS, INC.,	§	
	§	
Plaintiff,	§	
	§	CIVIL ACTION NO. 1:14-cv-00149
v.	§	
	§	JURY DEMANDED
NETAPP, INC.,	§	
	§	
Defendant.	§	

**PLAINTIFF CROSSROADS SYSTEMS, INC.’S  
FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

**THE PARTIES**

1. Pursuant to Federal Rule of Civil Procedure 15(a)(1)(B), Plaintiff Crossroads Systems, Inc. (“Crossroads”) hereby submits its First Amended Complaint for Patent Infringement as a matter of course within 21 days after service of NetApp, Inc.’s Answer and Affirmative Defenses (Dkt. No. 21).

2. Crossroads is a corporation incorporated under the laws of the State of Delaware and has its principal place of business at 11000 North MoPac Expressway, Austin, Texas 78759.

3. Upon information and belief, Defendant NetApp, Inc. (“Defendant” or “NetApp”) is a California corporation with a principal place of business of 495 East Java Drive, Sunnyvale, California 94089.

**JURISDICTION AND VENUE**

3. This action arises under the laws of the United States, more specifically under 35 U.S.C. § 100, *et seq.* Subject matter jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 and 1338.

CROSSROADS EXHIBIT 2133  
NetApp Inc. v. Crossroads Systems, Inc.

4. Personal jurisdiction and venue are proper in this district under 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, Defendant NetApp has established minimum contacts with this forum such that the exercise of jurisdiction over Defendant would not offend traditional notions of fair play and substantial justice.

5. This Court has personal jurisdiction over NetApp. Upon information and belief, NetApp regularly conducts business in the State of Texas and in this judicial district and is subject to the jurisdiction of this Court. Upon information and belief, NetApp has been doing business in Texas and this judicial district by distributing, marketing, selling and/or offering for sale its products, including, but not limited to, products that practice the subject matter claimed in United States Patent Nos. 6,425,035 (“the ’035 Patent”), 7,934,041 (“the ’041 Patent”), 7,051,147 (“the ’147 Patent”), and 7,987,311 (“the ’311 Patent”) (collectively “the Patents-In-Suit”), and/or regularly doing or soliciting business and/or engaging in other persistent courses of conduct in and/or directed to Texas and this judicial district.

**COUNT 1: INFRINGEMENT OF U.S. PATENT NO. 6,425,035**

6. Crossroads incorporates by reference the allegations set forth in the preceding paragraphs.

7. On July 23, 2002, the ’035 Patent was duly and legally issued. A true and correct copy of the ’035 Patent is attached hereto as Exhibit A. Crossroads is the assignee and the owner of all right, title, and interest in and to the ’035 Patent. The ’035 Patent is entitled to a presumption of validity.

8. On information and belief, Defendant has directly infringed the ’035 Patent. On information and belief, Defendant continues to directly infringe the ’035 Patent.

9. Specifically, on information and belief, Defendant has directly infringed the '035 Patent by making, using, offering for sale, selling and/or importing into the United States certain of its products including at least the following: NetApp E5400 Series Storage Arrays (including but not limited to the E5460, E5424, and E5412), E5500 Series Storage Arrays with FC, iSCSI and InfiniBand interfaces (including but not limited to the E5560, E5524, and E5512), E2700 Storage Systems with FC and iSCSI interfaces (including but not limited to the E2760, E2724, E2712), E2600 Storage Systems with FC and iSCSI interfaces (including but not limited to the E2600-60, E2600-24, E2600-12), EF550 Flash Arrays with FC, iSCSI and InfiniBand Host interfaces, EF540 Flash Arrays, FAS2200 Series (including but not limited to FAS2220 and FAS2240), FAS3200 Series (including but not limited to FAS3270, FAS3250, FAS3240, FAS3220, FAS3210), FAS6200 Series (including but not limited to FAS6210, FAS6220, FAS6240, FAS6250, FAS6280, FAS6290), FAS8000 Series (including but not limited to FAS8060, FAS8040, FAS8020), V3200 Series Storage Controllers (including but not limited to V3220, V3240, V3250, V3270), V6200 Series Storage Controllers (including but not limited to V6210, V6220, V6240, V6250, V6280, V6290) and the Data ONTAP Operating System (including but not limited to Data ONTAP 8.2), hereinafter "the Accused Products".

10. Further, on information and belief, Defendant has been and now is indirectly infringing by way of inducing infringement of the '035 Patent with knowledge of the '035 Patent by making, offering for sale, selling, importing into the United States, marketing, supporting, providing product instruction and/or advertising certain of its products, including the Accused Products, and Defendant knew that its actions were inducing end users to infringe the '035 Patent.

11. Further, on information and belief, Defendant has been and now is indirectly infringing by way of contributing to the infringement by end users of the '035 Patent by selling, offering to sell and/or importing into the United States components, including the Accused Products, knowing the components to be especially made or especially adapted for use in the infringement of the '035 Patent. Such components are not a staple article or commodity of commerce suitable for substantial non-infringing uses.

12. Defendant has been on constructive and/or actual notice of the '035 Patent since at least as early as October 2002, and Defendant has not ceased its infringing activities. The infringement of the '035 Patent by Defendant has been and continues to be willful and deliberate.

13. Crossroads has been irreparably harmed by Defendant's acts of infringement of the '035 Patent, and will continue to be harmed unless and until Defendant's acts of infringement are enjoined and restrained by order of this Court.

14. As a result of the acts of infringement of the '035 Patent by Defendant, Crossroads has suffered and will continue to suffer damages in an amount to be proven at trial.

**COUNT 2: INFRINGEMENT OF U.S. PATENT NO. 7,934,041**

15. Crossroads incorporates by reference the allegations set forth in the preceding paragraphs.

16. On April 26, 2011, the '041 Patent was duly and legally issued. A true and correct copy of the '041 Patent is attached hereto as Exhibit B. Crossroads is the assignee and the owner of all right, title, and interest in and to the '041 Patent. The '041 Patent is entitled to a presumption of validity.

17. On information and belief, Defendant has directly infringed the '041 Patent. On information and belief, Defendant continues to directly infringe the '041 Patent.

18. Specifically, on information and belief, Defendant has directly infringed the '041 Patent by making, using, offering for sale, selling and/or importing into the United States certain of its products including at least the Accused Products.

19. Further, upon information and belief, Defendant has been and now is indirectly infringing by way of inducing infringement of the '041 Patent with knowledge of the '041 Patent by making, offering for sale, selling, importing into the United States, marketing, supporting, providing product instruction and/or advertising certain of its products, including the Accused Products, and Defendant knew that its actions were inducing end users to infringe the '041 Patent.

20. Further, upon information and belief, Defendant has been and now is indirectly infringing by way of contributing to the infringement by end users of the '041 Patent by selling, offering to sell and/or importing into the United States components, including the Accused Products, knowing the components to be especially made or especially adapted for use in the infringement of the '041 Patent. Such components are not a staple article or commodity of commerce suitable for substantial non-infringing uses.

21. Defendant has been on constructive and/or actual notice of the '041 Patent since at least as early as May 2011, and Defendant has not ceased its infringing activities. The infringement of the '041 Patent by Defendant has been and continues to be willful and deliberate.

22. Crossroads has been irreparably harmed by Defendant's acts of infringement of the '041 Patent, and will continue to be harmed unless and until Defendant's acts of infringement are enjoined and restrained by order of this Court.

23. As a result of the acts of infringement of the '041 Patent by Defendant, Crossroads has suffered and will continue to suffer damages in an amount to be proven at trial.

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