

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETAPP INC.,
Petitioner,

v.

CROSSROADS SYSTEMS, INC.,
Patent Owner.

Case IPR2015-00773
Patent 7,051,147 B2

Before NEIL T. POWELL, KRISTINA M. KALAN, J. JOHN LEE, and
KEVIN W. CHERRY, *Administrative Patent Judges*.

LEE, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

INTRODUCTION

On February 19, 2015, Petitioner NetApp Inc. (“NetApp”) filed a Petition (Paper 2, “Pet.”) requesting *inter partes* review of claims 1–13 of U.S. Patent No. 7,051,147 B2 (Ex. 1001, “the ’147 patent”). Patent Owner Crossroads Systems, Inc. (“Crossroads”) filed a Preliminary Response (Paper 11, “Prelim. Resp.”) on June 14, 2015. We have jurisdiction under 35 U.S.C. § 314 to determine whether to institute an *inter partes* review.

For the reasons discussed below, we do not institute an *inter partes* review of the challenged claims and deny the Petition.

A. *Related Proceedings*

The parties identify numerous related district court cases, proceedings before the Board, and patent applications currently or previously before the Office. Pet. 1; Ex. 1026, 1–2; Paper 5; Paper 9; Paper 10. In particular, the parties identify *Crossroads Systems, Inc. v. NetApp, Inc.*, Case No. 1-14-cv-00149 (W.D. Tex.), and *Oracle Corp. v. Crossroads Systems, Inc.*, Case IPR2014-01209 (PTAB) (“1209 IPR”). *Id.*

B. *The ’147 Patent*

The ’147 patent relates to a storage router and network where devices (e.g., workstations) connected via a Fibre Channel (“FC”) transport medium are provided access to storage devices on a second FC transport medium. Ex. 1001, Abstract. The storage router interfaces with both FC media, mapping workstations on the first FC medium, for example, to the storage devices on the second FC medium. *Id.*

The storage router of the '147 patent allows the workstations to communicate with the storage devices using “native low level, block protocol.” *Id.* For example, in describing a storage router connecting a workstation on an FC medium to a storage device on a SCSI medium in a manner consistent with the invention, the specification states that the storage router “enables the exchange of *SCSI command set information* between application clients on SCSI bus devices and the [FC] links.” *Id.* at 5:46–50 (emphasis added). One advantage of using such native low level block protocols is greater access speed when compared to network protocols that must first be translated to low level requests, and vice versa, which reduces access speed. *Id.* at 1:58–67.

C. Challenged Claims

Petitioner challenges the patentability of claims 1–13 of the '147 patent, of which claims 1, 6, and 10 are independent. Claim 1 is illustrative of the challenged claims, and recites:

1. A storage router for providing virtual local storage on remote storage devices to a device, comprising:
 - a buffer providing memory work space for the storage router;
 - a first Fibre Channel controller operable to connect to and interface with a first Fibre Channel transport medium;
 - a second Fibre Channel controller operable to connect to and interface with a second Fibre Channel transport medium; and
 - a supervisor unit coupled to the first and second Fibre Channel controllers and the buffer, the supervisor unit operable:
 - to maintain a configuration for remote storage devices connected to the second Fibre Channel transport medium that maps between the device and the remote storage

devices and that implements access controls for storage space on the remote storage devices; and

to process data in the buffer to interface between the first Fibre Channel controller and the second Fibre Channel controller to allow access from Fibre Channel initiator devices to the remote storage devices using native low level, block protocol in accordance with the configuration.

D. Alleged Grounds of Unpatentability

NetApp asserts the following grounds of unpatentability:

Asserted Prior Art	Basis	Claims
CRD Manual ¹ (Ex. 1003), CRD Data Sheet ² (Ex. 1004), and Smith ³ (Ex. 1005)	§ 103(a)	1–13
Kikuchi ⁴ (Ex. 1006) and Bergsten ⁵ (Ex. 1007)	§ 103(a)	3, 6–9, 12
Bergsten and Hirai ⁶ (Ex. 1008)	§ 103(a)	3, 6–9, 12

In addition to the alleged prior art references above, NetApp relies on the Declaration of Professor Jeffrey S. Chase, Ph.D. (Ex. 1010).

¹ CMD TECHNOLOGY, INC., CRD-5500 SCSI RAID CONTROLLER USER'S MANUAL (Rev. 1.3, 1996) ("CRD Manual").

² CRD-5500 RAID Disk Array Controller Data Sheet ("CRD Data Sheet").

³ Judith A. Smith & Meryem Primmer, *Tachyon: A Gigabit Fibre Channel Protocol Chip*, HEWLETT-PACKARD JOURNAL, Oct. 1996 ("Smith").

⁴ U.S. Patent No. 6,219,771 B1, issued Apr. 17, 2001 ("Kikuchi").

⁵ U.S. Patent No. 6,073,209, issued June 6, 2000 ("Bergsten").

⁶ Japanese Patent App. Pub. No. HEI 5[1993]-181609, published July 23, 1993 ("Hirai").

ANALYSIS

We have discretion to “reject the petition or request because[] the same or substantially the same prior art or arguments previously were presented to the Office.” 35 U.S.C. § 325(d). Based on the Petition and the present record, we exercise that discretion to reject all asserted grounds of unpatentability because NetApp presents merely “the same or substantially the same prior art or arguments” previously presented by NetApp in the 1209 IPR.⁷

On July 25, 2014, NetApp, along with Oracle Corporation and Huawei Technologies Co., Ltd., filed a petition seeking *inter partes* review of claims 1–13 of the ’147 patent, the same claims challenged in the present Petition. 1209 IPR, Paper 1 (“1209 Pet.”). Each of the grounds of unpatentability advanced in the present Petition also was presented in the 1209 IPR petition against the same claims, among other asserted grounds. *Compare* Pet. 3, *with* 1209 Pet. 4–5. The Decision on Institution in the 1209 IPR was entered on January 30, 2015. 1209 IPR, Paper 12 (“1209 Inst. Dec.”). An *inter partes* review was instituted on some, but not all, of the grounds asserted in the 1209 IPR petition. *Id.* at 15. Specifically, a review was instituted on claims 1, 2, 4, 10, 11, and 13 as allegedly unpatentable under § 103(a) over (1) Kikuchi and Bergsten, and (2) Bergsten and Hirai. *Id.* A review was also instituted on claim 5 as allegedly unpatentable under § 103(a) over (1) Kikuchi, Bergsten, and Smith; and (2) Bergsten, Hirai, and Smith. *Id.*

⁷ Consequently, we need not address the remaining arguments by Crossroads for denial of the Petition. *See* Prelim. Resp. 25–39.

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