UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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EXABLAZE PTY. LTD.,
Petitioner,

v.

SOLARFLARE COMMUNICATIONS, INC.,
Patent Owner.

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Case IPR2016-01832
Patent 8,645,558 B2

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Before SALLY C. MEDLEY, DAVID C. MⷜKONE, and
CHRISTA P. ZADO, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

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

I. INTRODUCTION

Exablaze Pty. Ltd. ("Petitioner") filed a Petition for *inter partes* review of claims 1–12 of U.S. Patent No. 8,645,558 B2 (Ex. 1002, "the '558 patent"). Paper 1 ("Pet."). Solarflare Communications, Inc. ("Patent Owner") filed a Preliminary Response. Paper 8 ("Prelim. Resp."). Institution of an *inter partes* review is authorized by statute when "the information presented in the petition . . . and any response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." 35 U.S.C. § 314(a); *see* 37 C.F.R. § 42.108. Upon consideration of the Petition and Preliminary Response, we conclude the information presented does not show there is a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of claims 1–12 of the '558 patent.

A. Related Matters

The parties indicate that the '558 patent has been asserted in *Solarflare Communications v. Exablaze Pty. Ltd.*, Case No. 16-cv-01891 (D. N.J.). Pet. 1; Paper 3, 1.

B. The '558 Patent

The challenged claims of the '558 patent relate to processing network traffic in a data processing system. Ex. 1002, 42:51–52. Figure 21 of the '558 patent is reproduced below.
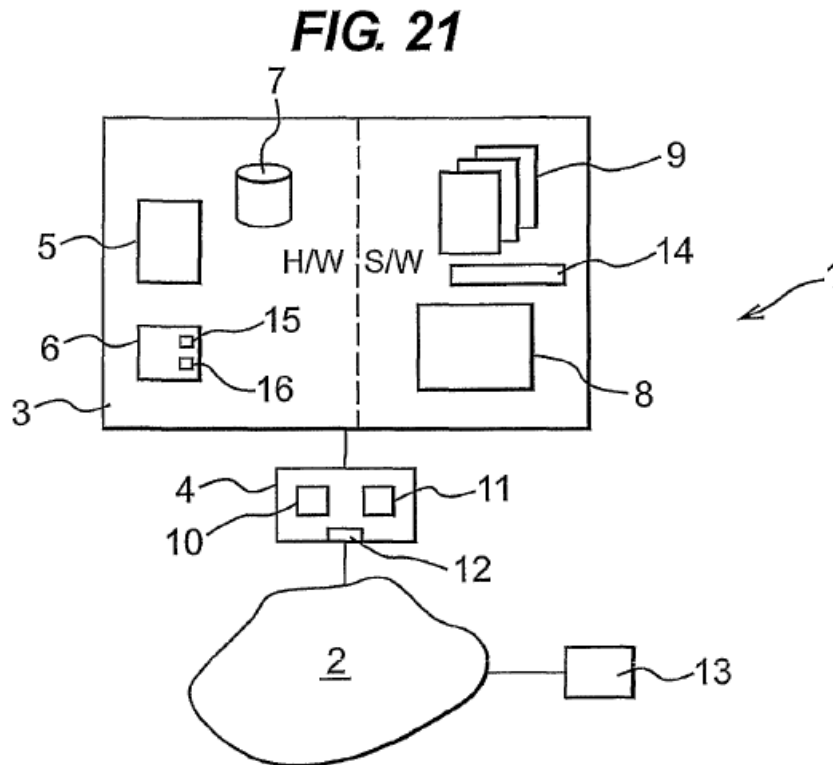
FIG. 21

Figure 21 depicts a data processing system

Figure 21 shows a data processing system 1 for sending and receiving data over network 2. *Id.* at 42:53–54. The data processing system includes base processing section 3, and network interface device 4, also referred to as network interface card, or NIC. *Id.* at 42:54–56, 43:13–14. Network interface device 4 comprises processor 10 and memory 11 arranged for processing network traffic being transmitted or received over network 2. *Id.* at 43:3–5. Base processing section 3 comprises a central processing unit (CPU) 5, working memory 6, and non-volatile program store 7. *Id.* at 42:57–59. Base processing section 3 supports operating system 8, one or more application programs 9, and library 14, which implements an application programming interface (API). *Id.* at 42:64–66, 44:36–37, 45:7. Library 14 provides a set of functions such as transmitting and receiving

data that can be called by the applications. *Id.* at 45:7–10. The library is not part of the operating system but rather runs at user level, i.e., it has user-level privileges allocated to it by the operating system. *Id.* at 45:10–12. In operation, protocol processing (typically TCP/IP and UDP/IP) of raw received data and of traffic data that is transmitted is performed in response to requests from applications rather than in response to receipt of data. *Id.* at 46:50–54.

C. Illustrative Claim

Petitioner challenges claims 1–12 of the '558 patent. Claim 1, the sole independent claim, reproduced below, is illustrative of the claimed subject matter:

> 1. A data processing system for receiving data from a network, and processing that data in accordance with a network protocol to extract traffic data therefrom, the data processing system having:

> a memory;

> a network interface for receiving the data from the network and storing the data in the memory;

> an operating system for supporting one or more applications;

> an application supported by the operating system; and

> a protocol processing entity providing an application programming interface (API) configured to process the received data in accordance with a network protocol to extract traffic data therefore, the protocol processing entity being arranged to perform protocol processing of the received data in the memory in response to signaling from a thread of the application to request whether data is available for one or more endpoints of the data processing system.

Id. at 65:15–33.

D. Asserted Grounds of Unpatentability

Petitioner asserts that claims 1–12 are unpatentable based on the following grounds (Pet. 3):

Reference(s)	Basis	Challenged Claim(s)
Mansley[1]	§ 102(b)	1–5, 7, and 10–12
Mansley and Riddoch[2]	§ 103(a)	6
Mansley	§ 103(a)	8 and 9

II. DISCUSSION

A. Claim Construction

In an *inter partes* review, we construe claim terms in an unexpired patent according to their broadest reasonable construction in light of the specification of the patent in which they appear. *See* 37 C.F.R. § 42.100(b). Consistent with the broadest reasonable construction, claim terms are presumed to have their ordinary and customary meaning as understood by a person of ordinary skill in the art in the context of the entire patent disclosure. *See In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). Although Petitioner provides a construction for the claim 1 "in response to signaling from a thread of the application" phrase, and Patent Owner weighs in on that construction, we determine that no claim term requires interpretation.

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[1] Kieran Mansley, *Engineering a User-Level TCP for the CLAN Network*, PROCEEDINGS OF THE ACM SIGCOMM 2003 WORKSHOPS (Sept. 9, 2003) (Ex. 1003) ("Mansley").

[2] David Riddoch, *Distributed Computing with the CLAN Network,* 27TH ANNUAL IEEE CONFERENCE ON LOCAL COMPUTER NETWORKS (Nov. 6–8, 2002) (Ex. 1005) ("Riddoch").

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