

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.,

Petitioner,

v.

HEWLETT PACKARD ENTERPRISE COMPANY,

Patent Owner

Case IPR2017-01933
Patent 8,478,799

**PATENT OWNER'S PRELIMINARY RESPONSE PURSUANT TO
37 C.F.R. § 42.107(a)**

TABLE OF CONTENTS

I. INTRODUCTION 1

II. THE PETITION IS TIME-BARRED AND INCOMPLETE 2

 A. Springpath is a Real Party-in-Interest 4

 B. Springpath is a Privy of Petitioner 7

III. BACKGROUND OF THE '799 PATENT 11

 A. The '799 Patent Discloses an Improved Computer File System 11

 B. The Challenged Claims of the '799 Patent 14

IV. OVERVIEW OF PRIOR ART 16

 A. Muthitacharoen..... 17

 B. Dabek I 19

 C. Other Prior Art References..... 21

V. CLAIM CONSTRUCTION 21

 A. The Governing Claim Construction Standard..... 22

 B. The Term “Object” Should Be Given Its Plain and Ordinary Meaning
 24

 C. Petitioner’s Proposed Constructions of “Namespace File System” and
 “Program Code Means Which, When Executed by a Process,
 Performs the Steps of Method Claim 19” Are Immaterial..... 25

VI. ARGUMENT 26

 A. Dabek I Does Not Disclose “Objects” as Required by All Challenged
 Claims..... 27

 B. Muthitacharoen Does Not Disclose “Objects” as Required by All
 Challenged Claims 33

C. Muthitachoen and Dabek I Do Not Teach the “Object Store” as
Required by All Challenged Claims35

VII. CONCLUSION.....37

CERTIFICATE OF WORD COUNT.....39

CERTIFICATE OF SERVICE40

TABLE OF AUTHORITIES

Cases

<i>Atlanta Gas Light Co. v. Bennett Regulator Guards, Inc.</i> , IPR2013-00453, Paper 88 (PTAB Jan. 6, 2015)	5
<i>Aventis Pharma S.A. v. Hospira, Inc.</i> , 675 F.3d 1324 (Fed. Cir. 2012)	23
<i>Azure Gaming v. MGT Gaming</i> , IPR2014-01288, Paper 13 (PTAB Feb. 20, 2015)	8
<i>Ericsson, Inc. v. Intellectual Ventures I LLC</i> , IPR2014-00921, Paper 8 (PTAB Dec. 16, 2014)	23
<i>Hewlett-Packard Co. v. Tech. Properties LTD., LLC</i> , IPR2013-00217, 2013 WL 8701599 (PTAB Oct. 10, 2013)	8
<i>Hill-Rom Services, Inc. v. Stryker Corporation</i> , 755 F.3d 1367 (Fed. Cir. 2014)	22, 23
<i>Intellectual Ventures Mgmt, LLC, v. Xilinx, Inc.</i> , IPR2012-00019, Paper 33 (PTAB February 10, 2014)	22, 23
<i>Medtronic, Inc. v. Robert Bosch Healthcare Sys., Inc.</i> , IPR2014-00488, Paper 52 (PTAB March 16, 2015)	5, 6
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005).....	23
<i>RPX Corp. v. VirnetX, Inc.</i> , IPR2014-00171, Paper 57 (PTAB July 14, 2014)	7
<i>Taylor v. Sturgell</i> , 553 U.S. 880 (2008).....	6
<i>Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.</i> , 200 F.3d 795 (Fed. Cir. 1999)	23

Wellman, Inc. v. Eastman Chem. Co.,
642 F.3d 1355 (Fed. Cir. 2011) 23, 26

Wowza Media Sys., LLC v. Adobe Systems Inc.,
IPR2013-00054, No. 12 (PTAB Apr. 8, 2013)22, 23

ZOLL Lifecor Corp. v. Philips Elecs. N. Am. Corp.,
IPR2013-00607, Paper 13 (PTAB March 20, 2014)5

Statutes

35 U.S.C. § 312(a)(2)..... 1, 2, 4, 5

35 U.S.C. § 314(a)1

35 U.S.C. § 315(b) 1, 2, 4

Regulations

37 C.F.R. §42.100(b)22

37 C.F.R. § 42.24(d)39

37 C.F.R. § 42.101(b)2, 11

37 C.F.R. § 42.1071

37 C.F.R. § 42.107(a).....1

37 C.F.R. § 42.8(b)(1)..... 1, 2, 4

Office Patent Trial Practice Guide,
77 Fed. Reg. 48,756 (Aug. 14, 2012)..... 4, 6, 8, 22

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.