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Paper 8
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JUNIPER NETWORKS, INC.,
Petitioner,

v.

PARITY NETWORKS, LLC,
Patent Owner.

Case IPR2018-01643
Patent 6,831,891 B1

Before JEFFREY S. SMITH, MIRIAM L. QUINN, and KAMRAN JIVANI, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Petitioner filed a Petition for *inter partes* review of claims 1–6 of U.S. Patent No. 6,831,891 B1 (Ex. 1001, "the '891 patent"). Paper 1 ("Pet."). Patent Owner filed a Preliminary Response. Paper 7 ("Prelim. Resp."). Institution of an *inter partes* review may not be authorized by statute "unless . . . 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).

Upon consideration of the Petition and the Preliminary Response, we determine Petitioner has failed to demonstrated a reasonable likelihood that it would prevail in establishing the unpatentability of any of claims 1–6 of the '891 patent. Accordingly, we do not institute the requested *inter partes* review.

A. Related Matters

The '891 patent is the parent of US Patent No. 7,719,963 B2, which is the subject of IPR2018-01644.

The '891 patent is at issue in *Parity Networks, LLC v. Juniper Networks, Inc.*, Case No. 6:17-cv-00495-RWS-KNM (E.D. Tex.). Pet. 1; Paper 4.

B. The '891 Patent

The '891 patent is directed to routing packets through alternative paths between nodes in a routing fabric, and in particular, to methods by which back-ups in a fabric may be avoided. Ex. 1001, 1:5–8. Figure 2 of the '891 patent is reproduced below.

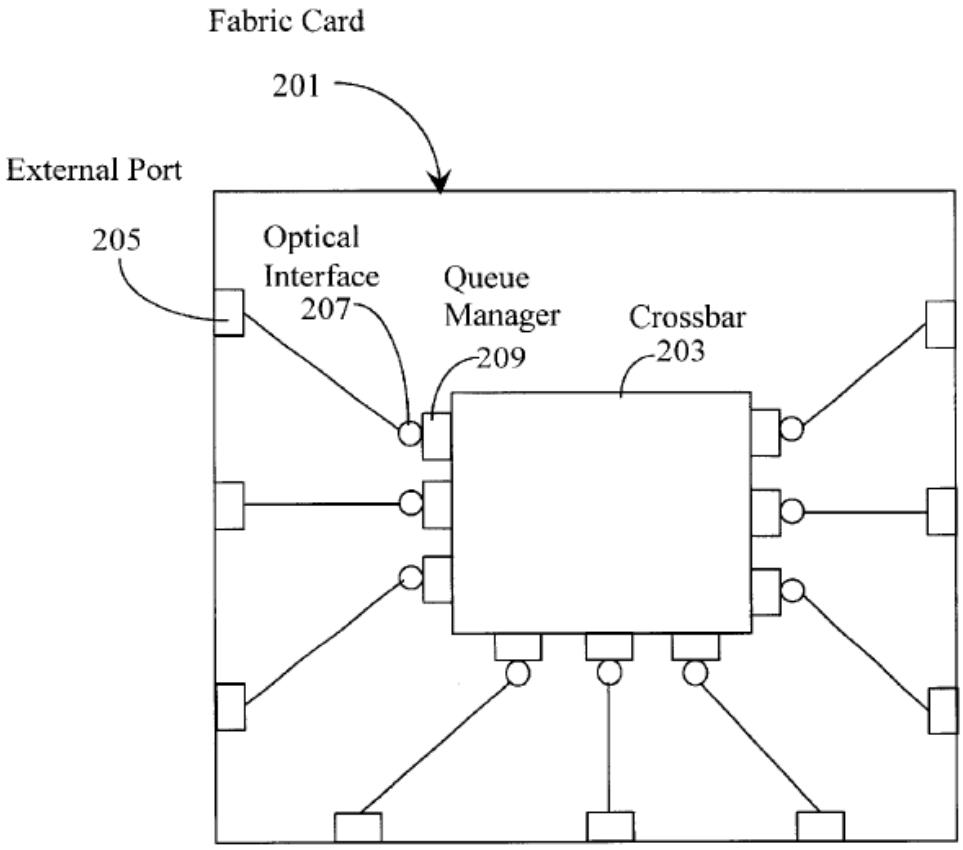

Fig. 2

Figure 2 above shows a diagram of fabric card 201 with nine external ports 205. Ex. 1001, 3:18–19. There are nine queue managers 209, one for each external port 205, with each queue manager isolated from its connected port by optical interface 207. *Id.* at 3:31–34. Queue managers interface with crossbar 203, which connects each port with the other eight ports. *Id.* at 3:37–40.

Each queue manager comprises a set of virtual output queues (VOQ), with individual VOQs associated with individual ones of the available outputs on a fabric card. *Id.* at 3:52–57. Data traffic coming in on any one port is directed to a queue associated with an output port. *Id.* at 3:59–62.

Each queue manager on a fabric card has an ability to begin to drop packets at a predetermined rate at some threshold in queue capacity short of a full queue. *Id.* at 4:8–11. The queue manager may accelerate the rate of packet dropping as a queue continues to fill above the first threshold. *Id.* at 4:11–14. The queue manager is enabled to discard all incoming packets when the queue to which the packet is directed is full. *Id.* at 3:61–62, 4:16–17.

C. Illustrative Claim

Claims 1, 3, and 5 of the challenged claims of the '891 patent are independent. Claim 1 is illustrative of the claimed subject matter:

> 1. A method for managing data traffic at switching element nodes in a fabric network, each switching element node having a plurality of input and output ports, comprising the steps of:
>
> (a) establishing at each input port, a number of virtual output queues equal to the number of output ports, each virtual output queue at each individual input port dedicated to an individual output port, storing only packets destined for the associated output port, for managing incoming data traffic; and
>
> (b) accepting or discarding data at each virtual output queue directed to a queue according to a quantity of data in the queue relative to queue capacity by providing a queue manager for monitoring quantity of queued data in relation to a preset threshold, and discarding data from each virtual output queue at a predetermined rate, when the quantity of queued data reaches or exceeds the threshold;
>
> wherein in step (b), the queue manager increases the rate of discarding as quantity of queued data increases above the preset threshold, discarding all data traffic when the queue is full.

Ex. 1001, 4:34–56.

D. Evidence

Petitioner relies on the following references. Pet. 17.

Reference	Int'l Publ./Appl. No.	Date	Ex. No.
Schwartz	WO 00/02347	Jan. 13, 2000	Ex. 1004
Muller	WO 00/52882	Sept. 8, 2000	Ex. 1005
Firoiu	CA 2,310,531 A1	July 10, 2001	Ex. 1006

Petitioner also relies on the Declaration of Dr. Nicholas Bambos, dated August 31, 2018 (Ex. 1002), in support of its arguments.

E. Asserted Grounds of Unpatentability

Petitioner contends that claims 1–6 of the '891 patent are unpatentable based on the following specific grounds:

References	Basis	Challenged Claims
Schwartz and Muller	§ 103(a)	1–6
Firoiu and Muller	§ 103(a)	1–6

II. DISCUSSION

A. Relevant Law

1. Obviousness

A claim is unpatentable under 35 U.S.C. § 103(a) if the differences between the claimed subject matter and the prior art are such that the subject matter, as a whole, would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level

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