

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EXABLAZE PTY. LTD. and ZOMOJO PTY. LTD.,
Petitioners,

v.

SOLARFLARE COMMUNICATIONS, INC.,
Patent Owner.

Case No. IPR2016-01832
Patent No. 8,645,558

PATENT OWNER'S PRELIMINARY RESPONSE

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	OVERVIEW OF THE '558 PATENT AND CHALLENGED CLAIMS	6
III.	CLAIM CONSTRUCTION.....	9
	A. “in response to signaling from a thread of the application”	10
IV.	THE PETITION SHOULD BE DENIED BECAUSE IT FAILS TO DEMONSTRATE A REASONABLE LIKELIHOOD OF PREVAILING AS TO ANY CHALLENGED CLAIM	13
	A. Level of Ordinary Skill in the Art	13
	B. Mansley Does Not Disclose a System as Claimed.....	13
	1. Mansley’s CLAN	13
	2. Mansley’s TCP/IP over CLAN Implementation.....	16
	3. Petitioners Mischaracterize Mansley as Teaching that the TCP/IP Stack Extracts Traffic Data	21
	4. Petitioners Mischaracterize Mansley as Teaching that the TCP/IP Stack Provides the Sockets API	25
	C. Ground 1: None of claims 1–5, 7 and 10–12 are anticipated by Mansley	26
	1. The Petition Fails to Demonstrate That Mansley Anticipates Claim 1	26
	a. Mansley’s TCP/IP Stack Does Not Extract Traffic Data	28
	b. Mansley’s TCP/IP Stack Does Not Provide the Sockets API	34
	c. None of Dependent Claims 2–5, 7 and 10–12 Are Anticipated by Mansley	41
	d. Conclusion Regarding Ground 1	42
	D. Ground 2: Claim 6 would not have been obvious over Mansley and Riddoch.....	42
	E. Ground 3: Claims 8-9 would have been obvious over Mansley in view of the Knowledge of a PHOSITA.....	42
V.	CONCLUSION.....	43

TABLE OF AUTHORITIES

CASES

<i>Abbott Labs. v. Baxter Pharma. Prods., Inc.</i> , 471 F.3d 1363 (Fed. Cir. 2006)	11
<i>Amazon.com, Inc. v. Personalized Media Comm’s, LLC</i> , IPR2014-01527, Paper No. 42 (PTAB March 23, 2016)	13
<i>Ariosa Diagnostic v. Verinata Health, Inc.</i> , 805 F.3d 1359 (Fed. Cir. 2014)	28
<i>EMI Grp. N. Am., Inc. v. Intel Corp.</i> , 157 F.3d 887 (Fed. Cir. 1998)	11
<i>Enfish, LLC v. Microsoft Corp.</i> , 822 F.3d 1327 (Fed. Cir. 2016)	26
<i>In re Am. Acad. of Sci. Tech Ctr. ,</i> 367 F.3d 1359 (Fed. Cir. 2004)	30
<i>In re Bass</i> , 314 F.3d 575 (Fed. Cir. 2002)	10
<i>In re: Magnum Oil Tools International, Ltd.</i> , 829 F.3d 1364 (Fed. Cir. 2016)	41
<i>Microsoft Corp. v. Proxyconn, Inc.</i> , 789 F.3d 1292 (Fed. Cir. 2015)	10
<i>MindGeek, S.A.R.L. v. Skky Inc.</i> , IPR2014-01236, Paper No. 45 (PTAB Jan. 29, 2016)	10
<i>Net MoneyIN, Inc. v. VeriSign, Inc.</i> , 545 F.3d 1359 (Fed. Cir. 2008)	26
<i>Seabery N.A. v. Lincoln Global, Inc.</i> , IPR2016–00749, Paper No. 13 (PTAB Sept. 21, 2016).....	30
<i>Tempo Lighting, Inc. v. Tivoli, LLC</i> , 742 F.3d 973 (Fed. Cir. 2014)	10, 12, 13

Trivascular, Inc. v. Samuels,
812 F.3d 1056 (Fed. Cir. 2016)10

Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.,
200 F.3d 795 (Fed. Cir. 1999)12

Volkswagen Grp. of Am., Inc. v. Signal IP, Inc.,
IPR2015-01088, Paper No. 7 (PTAB Oct. 29, 2015).....11

STATUTES

35 U.S.C. §316(e)28

REGULATIONS

37 C.F.R. § 42.65(a)..... 30, 33

37 C.F.R. § 42.100(b)9

I. INTRODUCTION

Petitioners seek *inter partes* review of claims 1-12 of U.S. Patent No. 8,645,558 (“the ’558 patent”) based on a single primary reference, Mansley (Ex. 1003). Petitioners allege that Mansley anticipates independent claim 1 and the majority of the dependent claims, and renders the other dependent claims obvious. The Petition fails to demonstrate that Mansley discloses all the limitations of independent claim 1, and indeed Mansley manifestly does not. The Petition does not meet its burden and should be denied.

The ’558 Patent describes and claims a specific data processing system that achieves performance improvements in networked computer systems. These techniques can be used in commercial environments where maximizing speed is hyper-critical, such as computerized systems for high speed trading (e.g., of stocks or commodities) where speed in receiving incoming information, processing that information and executing a transaction based on the received information can be the difference between a transaction being consummated or not, which can mean millions of dollars gained or lost for high speed traders.

Patent Owner Solarflare Communications, Inc. (“Solarflare”) and Petitioners (collectively “Exablaze”) both sell specialized networking products to institutions that engage in high speed trading. Solarflare filed suit against Exablaze in United States Federal Court for the District of New Jersey alleging infringement of the

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.