

Paper No. _____

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EXABLAZE PTY. LTD.,
Petitioner,

v.

SOLARFLARE COMMUNICATIONS, INC.,
Patent Owner.

Case IPR2016-01908
Patent 8,612,536

PATENT OWNER'S PRELIMINARY RESPONSE

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	DISCUSSION OF THE '536 PATENT AND CHALLENGED CLAIMS	11
	A. Technology Overview	11
	1. OS Kernel networking functionality.	11
	2. User-level networking functionality.	13
	3. Network Protocols Impose Timing Requirements.....	13
	4. Inventors' Recognition of Time-Related Problems with Prior Attempts at User-Level Networking.	14
	5. The '536 Patent's Solution.....	15
	B. Independent Claim 1.....	19
	C. Independent Claim 10.....	20
III.	THE PETITION SHOULD BE DENIED BECAUSE IT FAILS TO DEMONSTRATE A REASONABLE LIKELIHOOD OF PREVAILING AS TO ANY CHALLENGED CLAIM	22
	A. Overview of Cited References.....	23
	1. Druschel.....	23
	2. Andjelic	26
	3. Edwards	34
	B. Overview of Grounds 1-3 and their Deficiencies.....	35
	C. There is No Reason Why A POSA Would Have Modified Druschel Based On Andjelic.....	37
	1. Druschel and Andjelic Describe Alternative Solutions, and Andjelic's "Watchdog Mechanism" is Linked to its Particular Solution.	37
	2. The Petition Provides No Supportable Reason For Combining Druschel and Andjelic in the Manner Proposed by Petitioner.....	45
	a. References Being In The Same Field and Capable of Being Combined Is Legally Insufficient.....	45

b.	The Sole Technical Rationale Advanced In The Petition Is Unsupported By the References.....	46
i.	Druschel does not have “the problem” fixed by Andjelic.....	47
ii.	Druschel already “ensure[s] that protocol processing can survive an application becoming unresponsive.”	48
iii.	Druschel does not cease to rely on user-level networking in exceptional cases.	49
iv.	The Petition Cites Expert Testimony That Fails To Support The Rationale Offered in the Petition for Modifying Druschel Based on Andjelic.	52
3.	The Petition’s Failure to Offer a Supportable Rationale for Modifying Druschel Based on Andjelic Is Fatal to All Grounds.....	55
D.	Ground 1: The Petition Fails to Demonstrate that the Alleged Combination of Druschel and Andjelic Would Have Met All Limitations Of Any of the Independent Claims.	55
1.	The Petition Fails to State With Specificity How A POSA Allegedly Would Have Combined the Teachings of the References.	57
2.	The Petition Fails to Demonstrate that All Claim Elements Of Either Independent Claim Are Met By The Proposed Combination of Druschel and Andjelic.....	58
a.	Petitioner’s Assertion That Druschel Discloses an OS Configured to Access a Data Buffer and its Corresponding Connection State to Continue a Networking Operation Begun by a Non-OS Functionality, is Unsupported.	59
b.	Edwards Does Not Support Petitioner’s Assertion that Druschel Teaches Having the Kernel Continue a User- Level Networking Operation	61
3.	Conclusion re Missing Limitation.....	69
E.	Grounds 2-3 Suffer The Same Deficiencies as Ground 1.	69
IV.	CONCLUSION.....	71

TABLE OF AUTHORITIES

CASES

<i>In re Am. Acad. of Sci. Tech Ctr.</i> , 367 F.3d 1359 (Fed. Cir. 2004)	54
<i>In re Butler</i> , 1999 WL 164952 (Fed. Cir. Mar. 23, 1999)	46
<i>Kinetic Concepts v. Smith & Nephew</i> , 688 F.3d 1342 (Fed. Cir. 2012)	37, 45
<i>KSR Int’l Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007)	46, 55
<i>Microsoft Corp. v. Enfish</i> , 2016 WL 6994254 (Fed. Cir. Nov. 30, 2016)	45, 46
<i>PAR Pharm. v. TWi Pharm., Inc.</i> , 773 F.3d 1186 (Fed. Cir. 2014)	68
<i>Seabery N.A. v. Lincoln Global, Inc.</i> , IPR2016-00749, Paper 13 (Sept. 21, 2016)	54, 64
<i>TRW Automotive US LLC v. Magna Elecs. Inc.</i> , IPR2014-00293 and IPR2014-00294, Paper 19 (July 1, 2014)	58
REGULATIONS	
37 C.F.R. § 42.65(a).....	55

APPENDIX LISTING OF EXHIBITS

Exhibit	Description
2001	<i>Collins English Dictionary</i> , 540 (HarperCollins, 3rd ed. 1994)
2002	Andrew S. Tanenbaum, <i>Computer Networks</i> , 61-65 (Prentice Hall PTR, 4th ed. 2003)
2003	Radia Perlman, <i>Interconnections</i> , 168-176 and 288-292 (Addison-Wesley, 2nd ed. 2000)
2004	James F. Kurose, <i>Computer Networking</i> , 254-285 and 482-488 (Pearson Educ., Inc., 3rd ed. 2005)

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.