

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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UNIFIED PATENT INC.,  
Petitioner

v.

PLECTRUM LLC,  
Patent Owner

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IPR2017-01430  
Patent 5,978,951

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Before KEN B. BARRETT, MIRIAM L. QUINN, and  
SHEILA F. McSHANE, *Administrative Patent Judges*.

McSHANE, *Administrative Patent Judge*.

FINAL WRITTEN DECISION  
*Inter Partes* Review  
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

## I. INTRODUCTION

We have jurisdiction to hear this *inter partes* review under 35 U.S.C. § 6. This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed herein, we determine that Petitioner has shown, by a preponderance of the evidence, that claims 8 and 11 of U.S. Patent No. 5,978,951 (Ex. 1001, “the ’951 patent”) are unpatentable and Petitioner has not shown, by a preponderance of the evidence, that claims 1–6, 12–14, and 21–24 of the ’951 patent are unpatentable.

### A. Procedural Background

Unified Patents Inc. (“Petitioner”) filed a Petition requesting *inter partes* review of claims 1–6, 8, 11–14, and 21–24 (“the challenged claims”) of the ’951 patent pursuant to 35 U.S.C. §§ 311–319. Paper 3 (“Pet.”). The Declaration of Dr. Srinivasan Seshan (“Seshan Declaration”) in support of the Petition was filed. Ex. 1007. Plectrum LLC (“Patent Owner”) filed a Preliminary Response to the Petition. Paper 7 (“Prelim. Resp.”). Pursuant to 35 U.S.C. § 314(a), on November 14, 2017, we instituted *inter partes* review on the following ground:

-whether claims 8 and 11 would have been obvious under 35 U.S.C. § 103(a) in view of Cheriton<sup>1</sup> and Jain<sup>2</sup>.

See Paper 8 (“Inst. Dec.” or “Dec.”). Subsequent to institution, Petitioner filed a Request for Rehearing, which was denied. Papers 10, 11. Patent

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<sup>1</sup> U.S. Patent No. 6,091,725 (issued July 18, 2000) (Ex. 1002).

<sup>2</sup> European Patent Application No. 0 522 743 A1 (published January 13, 1993) (Ex. 1003).

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Owner filed a Patent Owner Response. Paper 12 (“PO Resp.”). Petitioner filed a Reply to the Patent Owner Response. Paper 14 (“Pet. Reply”).

On April 24, 2018, the Supreme Court held that a final written decision in an *inter partes* review must decide the patentability of all claims challenged in the petition. *SAS Inst. Inc. v. Iancu*, 138 S. Ct. 1348, 1359–60 (2018) (“SAS”). Pursuant to *SAS*, on May 3, 2018, we instituted *inter partes* review on the following additional grounds:

-whether claims 1, 2, and 21 would have been obvious under 35 U.S.C. § 103(a) in view of Cheriton;

-whether claims 3, 5, and 6 would have been obvious under 35 U.S.C. § 103(a) in view of Cheriton and Kessler<sup>3</sup>;

-whether claims 4 and 22–24 would have been obvious under 35 U.S.C. § 103(a) in view of Cheriton, Kessler, and Jain; and

-whether claims 12–14 would have been obvious under 35 U.S.C. § 103(a) in view of Cheriton and Jain.

*See* Paper 15; *see also PGS Geophysical AS v. Iancu*, 891 F.3d 1354, 1360–61 (Fed. Cir. 2018) (reading “the *SAS* opinion as interpreting the statute to require a simple yes-or-no institution choice respecting a petition, embracing all challenges included in the petition”); *Guidance on the Impact of SAS on AIA Trial Proceedings* (April 26, 2018) (available at <https://www.uspto.gov/patents-application-process/patent-trial-and->

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<sup>3</sup> R.E. Kessler, *Inexpensive Implementations of Set-Associativity*, ACM SIGARCH COMPUTER ARCHITECTURE NEWS—SPECIAL ISSUE: PROCEEDINGS OF THE 16TH ANNUAL INTERNATIONAL SYMPOSIUM ON COMPUTER ARCHITECTURE, 17:3, 131–139 (June 1989) (Ex. 1004). Petitioner provides a stamped copy of the portion of the Proceedings (Ex. 1005), and a declaration attesting to the authenticity of the document and its public availability. Ex. 1006.

appealboard/trials/guidance-impact-sas-aia-trial) (“[I]f the PTAB institutes a trial, the PTAB will institute on all challenges raised in the petition.”). The parties were requested to advise the Board if they wished to change the case schedule or submit further briefing in light of the institution on additional claims and grounds. Paper 15, 1. Petitioner requested leave to file additional supplemental briefing on the newly-instituted grounds, and the request was granted. Paper 16, 2–3. Petitioner later raised a request to submit additional evidence and that request was denied. Paper 17, 2–7. Petitioner filed a Supplemental Reply (Paper 18, “Pet. Supp. Reply”).

An oral hearing was held on August 2, 2018. A transcript of the hearing is included in the record. Paper 29 (“Tr.”).

#### *B. Related Proceedings*

Patent Owner indicates that related matters are these Eastern District of Texas cases: *Plectrum LLC v. Arista Networks, Inc.*, Case No. 4:17-cv-00076; *Plectrum LLC v. Brocade Communications Systems, Inc.*, Case No. 4:17-cv-00077; *Plectrum LLC v. Extreme Networks, Inc.*, Case No. 4:17-cv-00079; *Plectrum LLC v. Facebook, Inc.*, Case No. 4:17-cv-00081; *Plectrum LLC v. Fortinet, Inc.*, Case No. 4:17-cv-00082; *Plectrum LLC v. Huawei Technologies USA, Inc.*, Case No. 4:17-cv-00083; *Plectrum LLC v. Juniper Networks, Inc.*, Case No. 4:17-cv-00084; *Plectrum LLC v. AT&T, Inc.*, Case No. 4:17-cv-00120; *Plectrum LLC v. Broadcom Corporation*, Case No. 4:17-cv-00121; *Plectrum LLC v. Comcast Corporation*, Case No. 4:17-cv-00123; *Plectrum LLC v. F5 Networks, Inc.*, Case No. 4:17-cv-00124; *Plectrum LLC v. NEC Corporation of America*, Case No. 4:17-cv-00125; *Plectrum LLC v. Verizon Communications, Inc.*, Case No. 4:17-cv-00126;

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*Plectrum LLC v. Nokia USA, Inc.*, Case No. 4:17-cv-00140; and *Plectrum LLC v. Oracle Corporation*, Case No. 4:17-cv-00141. Paper 6, 2.

*C. The '951 Patent*

The '951 patent is entitled “High Speed Cache Management Unit for Use in a Bridge/Router,” and was filed as application No. 08/927,336 on September 11, 1997, and issued on November 2, 1999. Ex. 1001, [21], [22], [45], [54].

The '951 patent is directed to providing a network address cache. Ex. 1001, 1:23–31. The network address cache maintains hardware address and age tables, searches the address table for addresses received in network frames, and returns address search results, such as the destination port(s) for the received frame. *Id.* at 1:30–39. When a frame is received, the addresses in the frame are looked up, and the data associated with the cached addresses is returned in order to process the frame. *Id.* at 1:41–52.

Figure 2, reproduced below, depicts a block diagram illustrating a network interface module coupled to a motherboard via a backplane. Ex. 1001, 2:56–59.

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