

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SAFE STORAGE LLC,)	
)	
Plaintiff,)	C.A. No. 12-1626 (GMS)
)	
v.)	
)	JURY TRIAL DEMANDED
HEWLETT-PACKARD COMPANY AND)	
3PAR INC.,)	
)	
Defendants.)	

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which Plaintiff Safe Storage LLC (“Safe Storage”) makes the following allegations against Defendants Hewlett-Packard Company and 3PAR Inc. (“Defendants”):

PARTIES

1. Plaintiff Safe Storage LLC is a Delaware limited liability company.
2. On information and belief, Defendant Hewlett-Packard Company (“HP”) is a Delaware corporation with its principal office at 3000 Hanover Street, Palo Alto, California 94304. Defendant has appointed The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, as its agent for service of process.
3. On information and belief, Defendant 3PAR Inc. (“3PAR”) is a Delaware corporation with its principal office at 4209 Technology Dr, Fremont, California 94538. 3PAR has appointed The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, as its agent for service of process. On information and belief, 3PAR is a wholly-owned subsidiary of HP.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, including § 271. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Defendants because, among other reasons, Defendants are incorporated under the laws of the State of Delaware, have done business in this District, have committed and continue to commit acts of patent infringement in this District, and have harmed and continue to harm Safe Storage in this District, by, among other things, using, selling, offering for sale, and importing infringing products and services in this District.

6. Venue is proper in this District under 28 U.S.C. §§ 1391(b)-(c) and 1400(b) because, among other reasons, Defendants are subject to personal jurisdiction in this District, and have committed and continue to commit acts of patent infringement in this District. On information and belief, for example, Defendants have used, sold, offered for sale, and imported infringing products in this District.

COUNT I **(INFRINGEMENT OF U.S. PATENT NO. 6,978,346)**

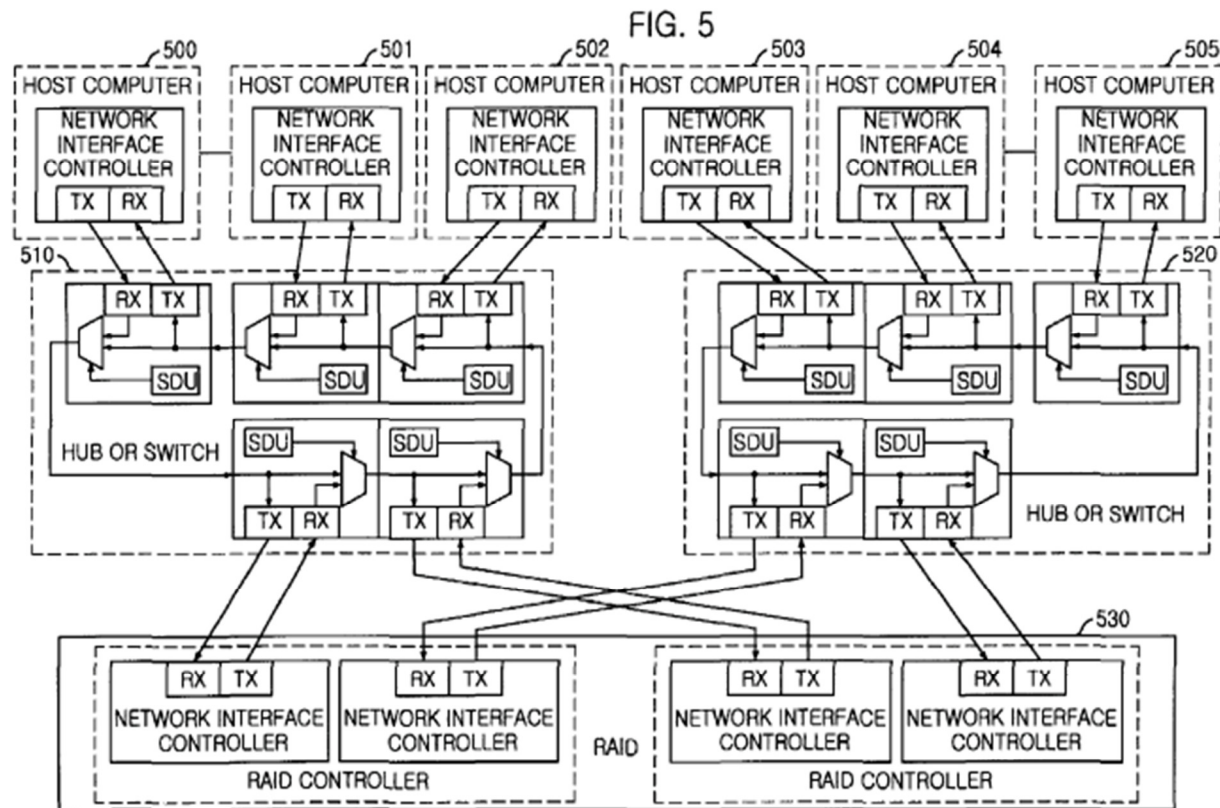
7. United States Patent No. 6,978,346 (“the Safe Storage Patent” or “the ’346 Patent”) was invented by Sung-Hoon Baek, Joong-Bae Kim, and Yong-Youn Kim of the Electronics and Telecommunications Research Institute (“ETRI”). ETRI is the national leader in Korea in the research and development of information technologies. Since its inception in 1976, ETRI has developed new technologies in 4M DRAM computer memory, CDMA and 4G LTE cellular phone communications, LCD displays, as well as large-scale computer storage, the technology at issue in this case. ETRI employs over 1730 research/technical staff, of whom 93%

hold a post-graduate degrees and 41% have earned a doctoral degree in their technological field. Over the last five years, ETRI has applied for a total of 18,639 patents, has contributed 7,548 proposals that have been adopted by international and domestic standard organizations, and has published over 1,300 articles in peer-reviewed technology publications.

8. Safe Storage is the exclusive licensee of the '346 Patent entitled "Apparatus for redundant interconnection between multiple hosts and RAID" ("Redundant Array of Inexpensive Disks"). The application for the '346 Patent was filed on December 29, 2000, with a priority date of at least September 19, 2000. The patent issued on December 20, 2005. Pursuant to Safe Storage's exclusive license, Safe Storage has all substantial rights regarding the '346 Patent, including the exclusive right to bring suit for infringement of the '346 Patent. A true and correct copy of the Safe Storage Patent is attached as Exhibit A.

9. The Safe Storage Patent claims, *inter alia*, an apparatus for a redundant interconnection between multiple hosts and a RAID, comprising: a first RAID controlling unit and a second RAID controlling unit for processing a requirement of numerous host computers, the first RAID controlling unit including a first network controlling unit and a second network controlling unit, and the second RAID controlling unit including a third network controlling unit and a fourth network controlling unit; and a plurality of connection units for connecting the first RAID controlling units and the second RAID controlling unit to the numerous host computers, wherein the first RAID controlling unit and the second RAID controlling unit directly exchange information with the numerous host computers through the plurality of connecting units, and the first network controlling unit exchanges information with the fourth network controlling unit, and the second network controlling unit exchanges information with the third network controlling unit.

10. One embodiment of the invention of the Safe Storage Patent is shown in Fig. 5 thereof, in which a plurality of host computers are connected to two RAID controllers by using hubs or switches:



11. Defendants have been and now are directly infringing the Safe Storage Patent, in this judicial District and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling redundant RAID storage system products and services that include an apparatus for a redundant interconnection between multiple hosts and a RAID, comprising: a first RAID controlling unit and a second RAID controlling unit for processing a requirement of numerous host computers, the first RAID controlling unit including a first network controlling unit and a second network controlling unit, and the second RAID controlling unit including a third network controlling unit and a fourth network controlling unit; and a plurality of connection units for connecting the first RAID controlling units and the second

RAID controlling unit to the numerous host computers, wherein the first RAID controlling unit and the second RAID controlling unit directly exchange information with the numerous host computers through the plurality of connecting units, and the first network controlling unit exchanges information with the fourth network controlling unit, and the second network controlling unit exchanges information with the third network controlling unit. The infringing products and services include, for example, the HP StorageWorks NAS Data Path Manager software for the HP StorageWorks NAS 8000 and 3PAR Multipath I/O for Microsoft Windows (“3PAR MPIO”).

12. HP has had knowledge of the Safe Storage Patent since at least November 29, 2012, when it received a letter identifying the ‘346 Patent, the HP StorageWorks NAS Data Path Manager software for the HP StorageWorks NAS 8000, and exemplary evidence of infringement, including the evidence set forth in Paragraph 13 below, and HP has induced its customers, users of the HP StorageWorks NAS Data Path Manager software for the HP StorageWorks NAS 8000, to assemble and use an apparatus for a redundant interconnection between multiple hosts and a RAID, comprising: a first RAID controlling unit and a second RAID controlling unit for processing a requirement of numerous host computers, the first RAID controlling unit including a first network controlling unit and a second network controlling unit, and the second RAID controlling unit including a third network controlling unit and a fourth network controlling unit; and a plurality of connection units for connecting the first RAID controlling units and the second RAID controlling unit to the numerous host computers, wherein the first RAID controlling unit and the second RAID controlling unit directly exchange information with the numerous host computers through the plurality of connecting units, and the first network controlling unit exchanges information with the fourth network controlling unit,

and the second network controlling unit exchanges information with the third network controlling unit.

13. For example, HP has instructed users of its NAS 8000 servers that are configured with multiple host bus adapters (HBAs) to use its hp StorageWorks NAS Data Path Manager software to provide automatic path load balancing and failover in a system configured as shown in Figure 1 below, so that access to storage can continue uninterrupted, in the event of a failure of all preferred paths, by using available alternate paths:

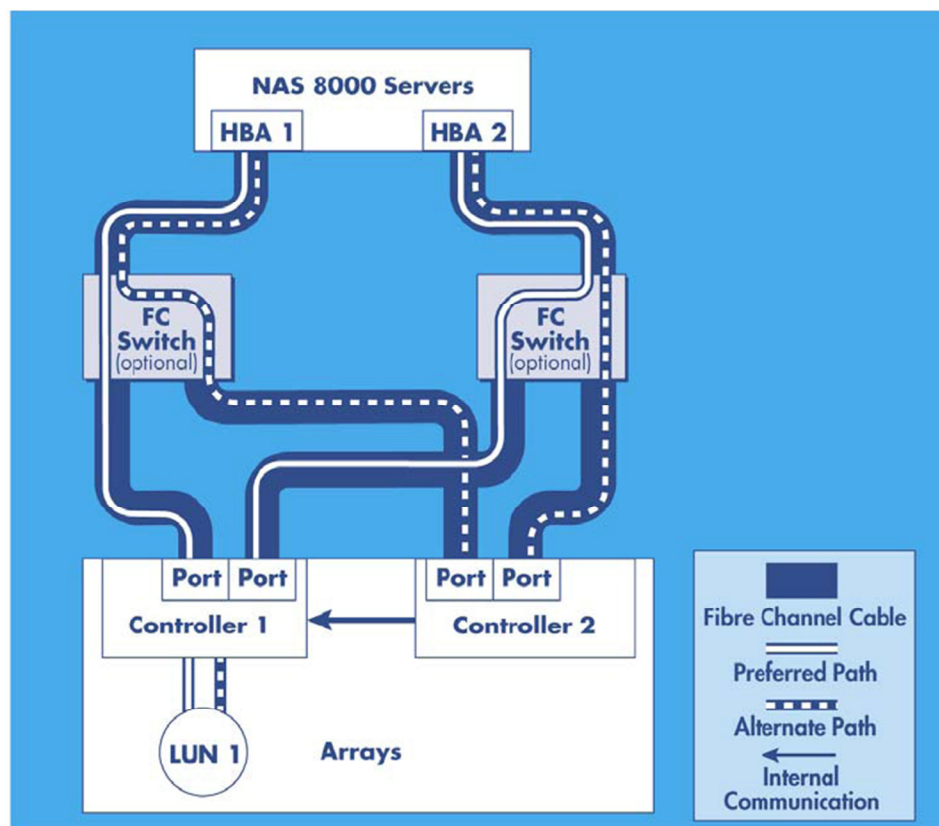


Figure 1: Preferred (optimal) and Alternate (non-optimal) Paths

These instructions were made available by HP to its customers on the following website, <http://bizsupport1.austin.hp.com/bc/docs/support/SupportManual/lpg80141/lpg80141.pdf> (entitled “hp StorageWorks NAS Data Path Manager installation and user’s guide”, page 12), and in making these instructions available, HP specifically intended to encourage its customers

to follow these instructions to assemble the HP StorageWorks NAS Data Path Manager software for the HP StorageWorks NAS 8000 with the HP StorageWorks NAS 8000 and other components into an infringing system, knowing that the assembly and use of the system described in its instructions constituted infringement of the '346 Patent.

14. 3PAR has had knowledge of the Safe Storage Patent since at least June 17, 2013, when it received a letter identifying the '346 Patent, 3PAR MPIO, and exemplary evidence of infringement, including the evidence set forth in Paragraph 15 below, and 3PAR has induced its customers, users of 3PAR MPIO, to assemble and use an apparatus for a redundant interconnection between multiple hosts and a RAID, comprising: a first RAID controlling unit and a second RAID controlling unit for processing a requirement of numerous host computers, the first RAID controlling unit including a first network controlling unit and a second network controlling unit, and the second RAID controlling unit including a third network controlling unit and a fourth network controlling unit; and a plurality of connection units for connecting the first RAID controlling units and the second RAID controlling unit to the numerous host computers, wherein the first RAID controlling unit and the second RAID controlling unit directly exchange information with the numerous host computers through the plurality of connecting units, and the first network controlling unit exchanges information with the fourth network controlling unit, and the second network controlling unit exchanges information with the third network controlling unit.

15. For example, 3PAR has instructed its customers, users of 3PAR MPIO, to connect numerous server/host computers to the two RAID controllers on a storage array through two switches in the manner shown in the below diagram, which ensures continued access to the storage array in the event one of the RAID controllers fails:

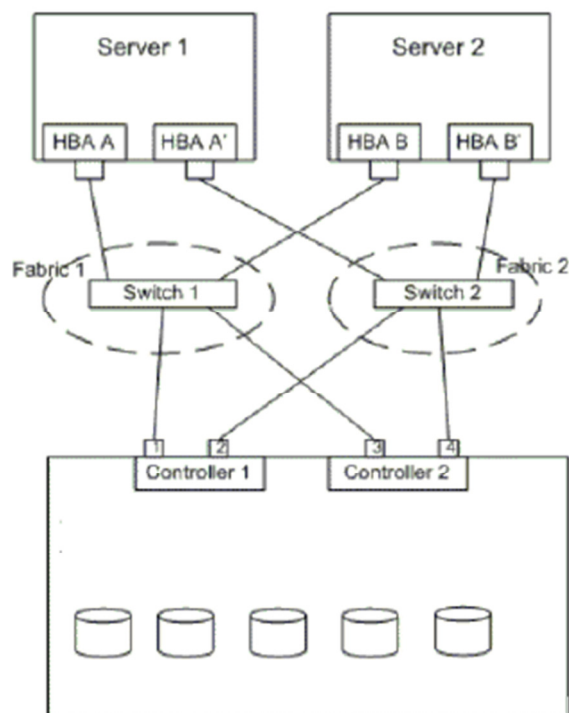


Figure 2-1. Fan Topology

- **Multiple paths to a 3PAR device - 3PAR MPIO for Microsoft Windows provides multiple path support from a host to an InServ Storage Server for enhanced system performance and reliability. For specific path support information, see the *3PAR InForm OS Configuration Matrix*, which can be found on the Document Control System (DCS).**

These instructions were made available by 3PAR to its customers on the following website, ftp://65.38.160.56/pub/3par/Documentation/3PAR_Multipath_Windows_Userguide.pdf (entitled “3PAR Multipath I/O 1.0.23 for Microsoft Windows User’s Guide for (IA64, x64, x86)”, page 14), and in making these instructions available, 3PAR specifically intended to encourage its customers to follow these instructions to assemble 3PAR MPIO with other components into an infringing system, knowing that the assembly and use of the system described in its instructions constituted infringement of the ‘346 Patent.

16. Thus, Defendants have induced their customers to infringe the Safe Storage Patent. Upon information and belief, Defendants acted with the specific intent to induce their

customers to make and use the apparatus claimed by the Safe Storage Patent by continuing the above-mentioned activities with knowledge of the Safe Storage Patent.

17. By engaging in the conduct described herein, Defendants have injured Safe Storage and are thus liable for infringement of the '346 Patent pursuant to 35 U.S.C. § 271.

18. Defendants have committed these acts of infringement without license or authorization.

19. As a result of Defendants' infringement of the '346 Patent, Safe Storage has suffered monetary damages and is entitled to a money judgment in an amount adequate to compensate for Defendants' infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendants, together with interest and costs as fixed by the Court, and Safe Storage will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court.

20. Safe Storage has also suffered and will continue to suffer severe and irreparable harm unless this Court issues a permanent injunction prohibiting Defendants, their agents, servants, employees, representatives, and all others acting in active concert therewith from infringing the '346 Patent.

PRAYER FOR RELIEF

Safe Storage respectfully requests that this Court enter:

- A. A judgment in favor of Safe Storage that Defendants have infringed, directly and/or indirectly, the '346 Patent;
- B. A permanent injunction enjoining Defendants and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement of the Safe Storage Patent, or such other equitable relief the Court determines is warranted;

- C. A judgment and order requiring Defendants to pay Safe Storage its damages, costs, expenses, and prejudgment and post-judgment interest for Defendants' infringement of the '346 Patent as provided under 35 U.S.C. § 284;
- D. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Safe Storage its reasonable attorneys' fees against Defendants;
- E. A judgment and order requiring Defendants to provide an accounting and to pay supplemental damages to Safe Storage, including without limitation, pre-judgment and post-judgment interest; and
- F. Any and all other relief to which Safe Storage may be entitled.

DEMAND FOR JURY TRIAL

Safe Storage, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: November 14, 2013

BAYARD, P.A.

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