

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORP. and CAVIUM, INC.,
Petitioner,

v.

ALACRITECH, INC.,
Patent Owner.

Case IPR2017-01392
U.S. Patent No. 7,337,241¹
Title: FAST-PATH APPARATUS FOR RECEIVING DATA CORRESPONDING
TO A TCP CONNECTION

**DECLARATION OF ROBERT HORST, PH.D.
IN SUPPORT OF PETITIONER'S RESPONSE IN OPPOSITION
TO PATENT OWNER'S CONTINGENT MOTION TO AMEND
UNDER 37 C.F.R. § 42.121**

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U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

¹ Cavium, Inc., which filed a Petition in Case IPR2017-01728, has been joined as a petitioner in this proceeding.

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. QUALIFICATIONS AND COMPENSATION.....	2
III. MATERIALS REVIEWED	2
IV. UNDERSTANDING OF THE GOVERNING LAW	2
V. LEVEL OF ORDINARY SKILL IN THE ART	2
VI. STATE OF THE ART AND OVERVIEW OF TECHNOLOGY AT ISSUE	3
VII. OVERVIEW OF 241 PATENT	3
VIII. 241 PATENT PROSECUTION HISTORY	4
IX. THE PRIOR ART	4
X. OBVIOUSNESS COMBINATIONS – MOTIVATIONS TO COMBINE.....	9
XI. WRITTEN DESCRIPTION SUPPORT.....	10
XII. GROUNDS OF INVALIDITY	10

I, Robert Horst, hereby declare as follows:

I. INTRODUCTION

1. My name is Robert Horst. I previously submitted a declaration in support of the petition for Inter Partes Review of United States Patent No. 7,337,241 (Ex. 1001, the “241 Patent”) by Petitioner Intel Corporation (“Intel”) (“Petition”), Ex. 1003 (“Horst Decl.”).

2. I understand that the Patent Trial and Appeal Board (“PTAB” or “Board”) instituted a review of all the claims at issue in the Petition, claims 1-24. In response, I understand that the Patent Owner has submitted a motion to amend all claims of the 241 Patent, claims 1-24. Paper No. 25 (“Motion”) at 1. The substitute claims are claims 25-48. *Id.* I have now been asked by Intel to provide this Declaration evaluating the substitute claims presented by Patent Owner in its Motion. I reserve the right to supplement this Declaration in response to additional evidence that may come to light.

3. As detailed in this Declaration, it is my opinion that all of the 24 substitute claims are invalid over prior art references that predate the priority date of the 241 Patent. If requested by the PTAB, I am prepared to testify about my opinions expressed in this Declaration.

II. QUALIFICATIONS AND COMPENSATION

4. My qualifications and compensation are set forth in my prior declaration. Ex. 1003, ¶¶ 3-11.

5. I am over 18 years of age. I have personal knowledge of the facts stated in this Declaration and could testify competently to them if asked to do so. No portion of my compensation is dependent or otherwise contingent upon the results of this proceeding or the specifics of my testimony.

III. MATERIALS REVIEWED

6. In addition to the materials identified in my prior declaration (Ex. 1003, ¶ 12), I have reviewed the following materials in formulating my opinions presented in this declaration: the Patent Owner’s Preliminary Response (Paper No. 9) and its exhibits, the Decision (Paper No. 10) and the Patent Owner’s Corrected Response (“PO’s Response”) (Paper No. 34) and its exhibits; and the Motion with appendices.

IV. UNDERSTANDING OF THE GOVERNING LAW

7. My understanding of the governing law is set forth in my prior declaration. Ex. 1003, ¶¶ 13-17.

V. LEVEL OF ORDINARY SKILL IN THE ART

8. The definition of a POSA is set forth in my prior declaration. Ex. 1003, ¶¶ 18-20. While it would be rare to find all of these skills in a single

individual, it is my opinion that a POSA is a person with at least the equivalent of a B.S. degree in computer science, computer engineering or electrical engineering with at least five years of industry experience including experience in computer architecture, network design, network protocols, software development, and hardware development. Ex. 1003, ¶ 19.

9. I understand that Patent Owner contends that a POSA would be a person with a Bachelor’s degree in computer science, computer engineering, or the equivalent, and several years’ experience in the fields of computer networking and/or networking protocols. While I disagree with this proposed level of ordinary skill, my opinions in this declaration would remain the same even if Patent Owner’s opinion concerning the level of ordinary skill in the art were applied.

VI. STATE OF THE ART AND OVERVIEW OF TECHNOLOGY AT ISSUE

10. In my prior declaration, I set forth my understanding of the state of the art and an overview of the technology at issue. Ex. 1003, ¶¶ 21-104.

VII. OVERVIEW OF 241 PATENT

11. In my prior declaration, I set forth my understanding of the background and general description of the 241 Patent. Ex. 1003, ¶¶ 105-110.

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