UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

.....

INTEL CORP. and CAVIUM, INC.,

Petitioners,

v.

ALACRITECH INC.,

Patent Owner.

Case IPR2017-01392¹ U.S. Patent 7,337,241

PATENT OWNER'S RESPONSE PURSUANT TO 35 U.S.C. § 313 AND 37 C.F.R. § 42.107

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



TABLE OF CONTENTS

		<u></u>	Page
I.	INTR	RODUCTION	1
II.	BACKGROUND OF THE RELEVANT TECHNOLOGY		
III.	LEVI	EL OF ORDINARY SKILL IN THE ART	8
IV.	OVE	RVIEW OF THE '241 PATENT	8
	A.	The '241 Patent Specification	8
	B.	The '241 Patent Claims	13
V.	PROS	SECUTION HISTORY OF THE '241 PATENT	15
VI.	OVE	RVIEW OF THE ASSERTED PRIOR ART	16
	A.	U.S. Patent No. 5,768,618 ("Erickson")	17
	B.	Tanenbaum, Computer Networks, 3rd ed. (1996) ("Tanenbaum")	19
	C.	"Gigabit Ethernet Technical Brief: Achieving End-to- End Performance" ("Alteon")	20
	D.	Dr. Min Testified He Had "No Opinion" on the Prior Art	21
VII.	CLA	IM CONSTRUCTION	22
	A.	"[first/second] mechanism" (claims 1-5, 7, 8, 17, 20, 23)	23
	B.	"without an interrupt dividing" (claims 1, 18, 22)	25
VIII.	QUA	TIONER FAILED TO PROVE THAT <i>ALTEON</i> LIFIES AS A "PRINTED PUBLICATION" OR IS OR ART	27
IX.	ERIC	CKSON, TANENBAUM, AND ALTEON DO NOT DER CLAIMS 1-8 OBVIOUS	
	A.	The Combination Does Not Show or Suggest Validation of Network and Transport Layer Headers "Without An Interrupt Dividing the Processing" of the Layer Headers (Claim 1)	32
	B.	The Combination Does Not Show or Suggest Sending the Data From Each Packet to a Destination in Memory Without Sending Any of the Headers (Claim 1)	37



	C.	The Combination Does Not Show or Suggest Processing MAC Layer Headers Without an Interrupt Dividing the Processing (Claim 2)	40
	D.	The Combination Does Not Show or Suggest Additionally Processing an Upper Layer Header by a Second Mechanism (Claim 3)	41
	E.	The Combination Does Not Show or Suggest Sorting The Packets By Classifying Each as Having an IP and TCP Header (Claim 6)	42
	F.	There Is No Motivation to Combine <i>Erickson</i> , <i>Tanenbaum</i> , and <i>Alteon</i>	42
X.		KSON AND TANENBAUM DO NOT RENDER CLAIMS 19-21, AND 24 OBVIOUS	46
	A.	The Combination Does Not Show or Suggest Prepending the MAC, Network, and Transport Layer Headers at One Time as a Sequence of Bits (Claim 9)	47
	B.	The Combination Does Not Show or Suggest Prepending Each Packet Header Without an Interrupt Dividing the Prepending of the MAC, IP, and TCP Headers (Claim 17)	50
	C.	The Combination Does Not Show or Suggest Dividing the Data Into Multiple Segments and Prepending a Packer Header to Each of the Segments by a Second Processor/Mechanism (Claims 9 and 17)	52
	D.	There Is No Motivation to Combine <i>Erickson</i> and <i>Tanenbaum</i>	54
XI.	ERICKSON, TANENBAUM, AND ALTEON DO NOT RENDER CLAIMS 18, 22, AND 23 OBVIOUS		56
XII.		STRONG EVIDENCE OF SECONDARY SIDERATIONS WEIGHS AGAINST OBVIOUSNESS	56
XIII.	THE PETITION FAILS TO DISCLOSE ALL REAL PARTIES-IN-INTEREST 6		
XIV.	ALA PENI	CRITECH RESERVES ITS RIGHTS UNDER THE DING <i>OIL STATES</i> CASE AT THE UNITED STATES REME COURT	65



		Case No. IPR2017-01392 U.S. Patent No. 7,337,241
XV.	CONCLUSION	66



TABLE OF AUTHORITIES

<u>Pag</u>	ge
Cases	
Bruckelmyer v. Ground Heaters, Inc., 445 F.3d 1374 (Fed. Cir. 2006)	31
CCS Fitness, Inc. v. Brunswick Corp. 288, F.3d 1359, 1366 (Fed. Cir. 2002)	22
Dynamic Drinkware, LLC v. Nat'l Graphics, Inc., 800 F.3d 1375 (Fed. Cir. 2015)	27
<u>In re Cronyn,</u> 890 F.2d 1158 (Fed. Cir. 1989)	31
<u>Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.,</u> 821 F.3d 1359 (Fed. Cir. 2016)	31
Nautilus, Inc. v. Biosig Instruments, Inc., 134 S. Ct. 2120 (2014)	26
Oil States Energy Servs. LLC v. Greene's Energy Group, LLC, Case No. 16-712, certiorari granted (U.S. Jun. 12, 2017)	55
Pfizer v. Biogen, Case IPR2017-001166 at 11 (PTAB Nov. 13, 2017) 2	27
Statutory Authorities	
35 U.S.C. § 112(6)	24
35 U.S.C. § 312(a)(2)	53
35 U.S.C. § 316(e)	27
Rules and Regulations	
37 C.F.R. § 42.6(e)	59
37 C F R 88 42 22 42 23	66



DOCKET

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.

