

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 IPR2017-01392¹
U.S. Patent No. 7,337,241

**PATENT OWNER'S UNOPPOSED MOTION TO ENTER CORRECTED
RESPONSE AND CORRECTED EXHIBIT 2026**

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

Patent Owner Alacritech, Inc. (“PO”) submits this Motion to enter the Corrected Response and the Corrected Exhibit 2026 (Dr. Kevin Almeroth’s Declaration) filed on February 24, 2018. PO also contingently moves to expunge the Original Response and Exhibit 2026 filed on February 23, 2018 should the Board enter the Corrected Response and the Corrected Exhibit 2026. PO and Petitioner have conferred through email, and Petitioner does not oppose this motion.

PO filed and served the Corrected Response and the Corrected Exhibit 2026 one day after the filing of the original Response after it discovered certain clerical errors. All edits are confined to the Secondary Consideration section, and the corresponding markups are shown below:

Markups in the Corrected Response

2. *The Claimed Inventions Were Commercially Successful*

The features described in the challenged claims also enjoyed great commercial success for over a decade before Patent Owner stopped selling them and still enjoy marked commercial success today as evidenced by the sales of Petitioner’s infringing products ~~and numerous licenses to third parties.~~ (*Id.*, ¶ 149.)

Indeed, ~~the '241 Patent~~ Alacritech's patent portfolio covering network acceleration techniques was the subject of several successful commercial licenses to many large network and storage players in the industry, such as Broadcom, Chelsio, Emulex, Microsoft, Neterion, NetXen, and QLogic. These licenses generated over \$~~40~~59M in up-front licensing revenue and sometimes also included additional running royalty payments based on a percentage of net revenues of licensed products. (Ex. 2038) This remarkable commercial success was attributed

3. *The Claimed Invention Received Praise in the Industry*

The industry universally praised ~~the~~ commercial embodiments of the features described in the challenged claims. HP found that the "Alacritech NIC is

4. *Many Others Tried and Failed to Develop the Claimed Technology*

The industry consensus was that prior attempts at "TCP offload [have] repeatedly failed." (Ex. 2041, 2.) Moreover, the prevailing analysis was that the "repeated" failure of TCP offload was the result of the "complexities of deploying TCP offload in practice." *Id.* While stating that "it might appear . . . that TCP offload is inherently useless," Mogul concluded "that past attempts to employ TCP offload were mismatched to the applications in question." (*Id.*, Ex. 2026, ¶ 152.) The TCP offload described above is a form of network processing offload that is described by the challenged claims, and this failure of others therefore has a direct nexus to the claimed inventions. (Ex. 2026, ¶ 154.)

Markups in Exhibit 2026

Petitioner's infringing products ~~and numerous licenses to third parties~~. In fact, the offloading and other network acceleration technology described in the challenged claims became the *de facto* standard in network acceleration techniques shortly after its introduction and is still the standard today. Almost every network interface device today supports these network acceleration techniques because of the dramatic benefits provided by claimed technologies.

150. Indeed, ~~the '241 Patent~~ Alacritech's patent portfolio covering network acceleration techniques was the subject of several successful commercial licenses to many large network and storage players in the industry, such as Broadcom, Chelsio, Emulex, Microsoft, Neterion, NetXen, and QLogic. These licenses generated over \$59M in up-front licensing revenue and sometimes also included additional running royalty payments based on a percentage of net revenues of licensed products. (Ex. 2038.) This remarkable commercial success was attributed

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PO respectfully requests that the Board grant this motion and enter the Corrected Response and the Corrected Exhibit 2026 filed on February 24, 2018, and expunge the original Response and Exhibit 2026 filed on February 23, 2018.

Date: February 28, 2018

Respectfully submitted,

By: /s/ James M. Glass, Reg. No. 46,729

James M. Glass (Reg. No. 46,729)

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