

Filed: March 2, 2018

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

**PETITIONER'S OBJECTIONS TO DOCUMENTS SERVED WITH
PATENT OWNER'S CORRECTED RESPONSE**

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

Pursuant to 37 C.F.R. § 42.64(b), Petitioner Intel Corporation, hereby makes the following objections to the admissibility of documents submitted with Patent Owner's Corrected Response.

Evidence	Objections
Exhibit 2004	<p>FRE 801, 802: Patent Owner uses Ex. 2004 in support of its position regarding how a person of ordinary skill in the art would understand the term “kernel.” The document’s authors are not subject to cross-examination in this proceeding. Because Ex. 2004 is an out of court statement offered for its truth, and does not fall within any exception to the rule against hearsay, it is inadmissible hearsay.</p> <p>FRE 901: This exhibit is an unauthenticated document and is not self-authenticating under FRE 902.</p>
Corrected Exhibit 2026	<p>FRE 701/702/703: Intel objects to Ex. 2026 as being improper expert testimony because paragraphs 83-90, 101-145 and 147-157 are not based on sufficient facts or data, are irrelevant, are not based on a reliable foundation, and constitute conclusory opinions without sufficient support. It includes include opinions that are not admissible under FRE 701, 702, or 703 or <i>Daubert v. Merrell Dow Pharms., Inc.</i>, 509 U.S. 579 (1993).</p> <p>For example, paragraphs 101-109 are not based on sufficient facts or data because they provide no basis or evidence that Alteon was not publicly available.</p> <p>For example, paragraphs 147-157 are not based on sufficient facts or data because they provide no evidence of nexus to the invention.</p>
Exhibit 2030	<p>FRE 401/402: This evidence is not relevant because it does not reflect the broadest reasonable interpretation of the</p>

	<p>claims. <i>See In re Am. Acad. of Sci. Tech. Ctr.</i>, 367 F.3d 1359, 1364 (Fed. Cir. 2004).</p> <p>FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time.</p>
Exhibit 2031	<p>FRE 401/402: This evidence is not relevant because the Patent Owner has not shown any nexus between the invention and the alleged long-felt, yet unresolved need in the art.</p> <p>FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time.</p>
Exhibit 2032	<p>FRE 401/402: This evidence is not relevant because the Patent Owner has not shown any nexus between the invention and the alleged long-felt, yet unresolved need in the art.</p> <p>FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time.</p>
Exhibit 2033	<p>FRE 401/402: This evidence is not relevant because the Patent Owner has not shown any nexus between the invention and the alleged long-felt, yet unresolved need in the art.</p> <p>FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time.</p>
Exhibit 2034	<p>FRE 401/402: This evidence is not relevant because the Patent Owner has not shown any nexus between the invention and the alleged long-felt, yet unresolved need in the art.</p>

	<p>FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time.</p> <p>FRE 801, 802: This exhibit is an out of court statement offered for its truth, and because it does not fall within any exception to the rule against hearsay, it is inadmissible hearsay.</p> <p>FRE 901: This exhibit is an unauthenticated document and is not self-authenticating under FRE 902.</p>
Exhibit 2035	<p>FRE 401/402: This evidence is not relevant because the Patent Owner has not shown any nexus between the invention and the alleged commercial success.</p> <p>FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time.</p> <p>FRE 801, 802: This exhibit is an out of court statement offered for its truth, and because it does not fall within any exception to the rule against hearsay, it is inadmissible hearsay.</p> <p>FRE 901: This exhibit is an unauthenticated document and is not self-authenticating under FRE 902.</p>
Exhibit 2036	<p>FRE 401/402: This evidence is not relevant because the Patent Owner has not shown any nexus between the invention and the alleged commercial success.</p> <p>FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time.</p> <p>FRE 801, 802: This exhibit is an out of court statement offered for its truth, and because it does not fall within any exception to the rule against hearsay, it is inadmissible hearsay.</p>

	<p>FRE 901: This exhibit is an unauthenticated document and is not self-authenticating under FRE 902.</p>
Exhibit 2037	<p>FRE 401/402: This evidence is not relevant because the Patent Owner has not shown any nexus between the invention and the alleged commercial success.</p> <p>FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time.</p> <p>FRE 801, 802: This exhibit is an out of court statement offered for its truth, and because it does not fall within any exception to the rule against hearsay, it is inadmissible hearsay.</p> <p>FRE 901: This exhibit is an unauthenticated document and is not self-authenticating under FRE 902.</p>
Exhibit 2038	<p>FRE 401/402: This evidence is not relevant because the Patent Owner has not shown any nexus between the invention and the licenses in Exhibit 2038.</p> <p>FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time.</p> <p>FRE 801, 802: This exhibit is an out of court statement offered for its truth, and because it does not fall within any exception to the rule against hearsay, it is inadmissible hearsay.</p> <p>FRE 901: This exhibit is an unauthenticated document and is not self-authenticating under FRE 902.</p>
Exhibit 2039	<p>FRE 401/402: This evidence is not relevant because the Patent Owner has not shown any nexus between the invention and the alleged praise in the industry.</p> <p>FRE 403: The exhibit's probative value to any ground upon which trial was instituted is substantially outweighed by the</p>

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