

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ALACRITECH, INC.,

Plaintiff,

v.

CENTURYLINK, INC., *et al.*,

Defendants,

and

CAVIUM, Inc., *et al.*,

Intervenors.

Case No. 2:16-cv-693-JRG-RSP

LEAD CASE

JURY TRIAL DEMANDED

**ANSWER AND COUNTERCLAIMS TO
CAVIUM INC.'S COMPLAINT IN INTERVENTION**

Plaintiff Alacritech, Inc. (“Alacritech”) responds to Intervenor Cavium, Inc.’s (“Cavium”) Complaint in Intervention as follows. Any allegation Alacritech does not expressly admit should be deemed denied.

PARTIES

1. Alacritech admits that Cavium purports to seek declaratory judgment of non-infringement in its Complaint in Intervention. Alacritech denies the remaining allegations of Paragraph 1 of the Complaint in Intervention.

2. Alacritech is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 of the Complaint in Intervention, and therefore denies them.

3. Alacritech admits the allegations of Paragraph 3 of the Complaint in Intervention.

4. Alacritech admits that it has brought patent claims against Defendant Dell, Inc. (“Dell”) in this action under 35 U.S.C. §§ 101 *et seq.*, and that this Court has subject matter jurisdiction over those claims pursuant to 28 U.S.C. §§ 1331 and 1338(a). Alacritech is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 4 of the Complaint in Intervention, and therefore denies them.

5. Alacritech admits the allegations of Paragraph 5 of the Complaint in Intervention.

FACTUAL BACKGROUND

6. Alacritech admits that on June 30, 2016, it filed its Complaint in this action accusing Dell of making, using, selling, offering to sell and/or importing Dell products and services that infringe United States Patent Nos. 7,124,205; 7,237,036; 7,337,241; 7,673,072; 7,945,699; 8,131,880; 8,805,948; and 9,055,104 (respectively, the ‘205 Patent, the ‘036 Patent, the ‘241 Patent, the ‘072 Patent, the ‘699 Patent, the ‘880 Patent, the ‘948 Patent, and the ‘104 Patent; collectively, the “Asserted Patents”). Alacritech is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 6 of the Complaint in Intervention, and therefore denies them.

7. Alacritech admits the allegations of Paragraph 7 of the Complaint in Intervention.

8. Alacritech admits that some of Alacritech’s allegations under the Asserted Patents are directed against infringing Dell products and services that have certain Cavium components. Alacritech denies the remaining allegations of Paragraph 8 of the Complaint in Intervention.

9. Alacritech admits that its Complaint alleges that Dell infringes certain of the asserted patents by making, using, selling, offering for sale, and/or importing Dell products and services that have the QLogic 8262-k as a component, among other components. Alacritech further admits that its infringement allegations are based, in part, on other QLogic products

included in Dell's accused products. Alacritech denies the remaining allegations of Paragraph 9 of the Complaint in Intervention.

10. Alacritech is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 10 of the Complaint in Intervention, and therefore denies them.

11. Alacritech is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 11 of the Complaint in Intervention, and therefore denies them.

COUNT I

DECLARATORY JUDGMENT REGARDING U.S. PATENT NO. 7,124,205

12. Alacritech incorporates by reference Paragraphs 1-11 of this Answer as if set forth fully here.

13. Alacritech denies the allegations of Paragraph 13 of the Complaint in Intervention.

14. Alacritech denies the allegations of Paragraph 14 of the Complaint in Intervention.

15. Alacritech denies the allegations of Paragraph 15 of the Complaint in Intervention.

16. Alacritech denies the allegations of Paragraph 16 of the Complaint in Intervention.

COUNT II

DECLARATORY JUDGMENT REGARDING U.S. PATENT NO. 7,237,036

17. Alacritech incorporates by reference Paragraphs 1-16 of this Answer as if set forth fully here.

18. Alacritech denies the allegations of Paragraph 18 of the Complaint in Intervention.

19. Alacritech denies the allegations of Paragraph 19 of the Complaint in Intervention.

20. Alacritech denies the allegations of Paragraph 20 of the Complaint in Intervention.

21. Alacritech denies the allegations of Paragraph 21 of the Complaint in Intervention.

COUNT III

DECLARATORY JUDGMENT REGARDING U.S. PATENT NO. 7,337,241

22. Alacritech incorporates by reference Paragraphs 1-21 of this Answer as if set forth fully here.

23. Alacritech denies the allegations of Paragraph 23 of the Complaint in Intervention.

24. Alacritech denies the allegations of Paragraph 24 of the Complaint in Intervention.

25. Alacritech denies the allegations of Paragraph 25 of the Complaint in Intervention.

26. Alacritech denies the allegations of Paragraph 26 of the Complaint in Intervention.

COUNT IV

DECLARATORY JUDGMENT REGARDING U.S. PATENT NO. 7,673,072

27. Alacritech incorporates by reference Paragraphs 1-26 of this Answer as if set forth fully here.

28. Alacritech denies the allegations of Paragraph 28 of the Complaint in Intervention.

29. Alacritech denies the allegations of Paragraph 29 of the Complaint in Intervention.

30. Alacritech denies the allegations of Paragraph 30 of the Complaint in Intervention.

31. Alacritech denies the allegations of Paragraph 31 of the Complaint in Intervention.

COUNT V

DECLARATORY JUDGMENT REGARDING U.S. PATENT NO. 8,131,880

32. Alacritech incorporates by reference Paragraphs 1-31 of this Answer as if set forth fully here.

33. Alacritech denies the allegations of Paragraph 33 of the Complaint in Intervention.

34. Alacritech denies the allegations of Paragraph 34 of the Complaint in Intervention.

35. Alacritech denies the allegations of Paragraph 35 of the Complaint in Intervention.

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