UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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CAVIUM, INC.,

Petitioners,

v.

ALACRITECH INC.,

Patent Owner.
_____

Case IPR2017-01392[1]
U.S. Patent No. 7,337,241
_____

PATENT OWNER'S EXHIBIT 2305
DECLARATION OF KEVIN ALMEROTH, PH.D.
IN SUPPORT OF PATENT OWNER'S REPLY TO PATENT OWNER'S
CONTINGENT MOTION TO AMEND UNDER 37 C.F.R. § 42.121

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[1]   Cavium, who filed a Petition in Case IPR2017-01735, has been joined as a

petitioner in this proceeding.

1.   I have been retained on behalf of Alacritech, Inc. ("Alacritech" or "Patent Owner") in connection with the above-captioned *inter partes* review (IPR). I understand that on January 29, 2018, Alacritech filed its Contingent Motion to Amend (Paper 25). I further understand that on April 4, 2018, Petitioner Intel Corp. filed its Opposition to the Contingent Motion to Amend (Paper 40). I have been retained to provide my opinions in support of Alacritech's Reply In Support of its Contingent Motion to Amend. I am being compensated for my time at the rate of $600 per hour. I have no interest in the outcome of this proceeding.

2.   In preparing this declaration, I have reviewed and am familiar with the Contingent Motion to Amend ("Contingent Motion"), the Opposition to the Contingent to Amend ("Opposition"), and the Institution Decision (Paper 11). I have also considered all other materials cited and discussed in the Contingent Motion, Opposition, and Institution Decision, including the declarations of Dr. Robert Horst, the *Erickson* reference (Ex. 1005), the *Tanenbaum* reference (Ex. 1006), the *Alteon* reference (Ex. 1033), and the Institution Decision (Paper 11). Moreover, I have reviewed the Institution Decision and the materials cited therein.

3.   The statements made herein are based on my own knowledge and opinion. This Declaration represents only the opinions I have formed to date. I may consider additional documents as they become available or other documents

that are necessary to form my opinions. I reserve the right to revise, supplement, or amend my opinions based on new information and on my continuing analysis.

II. QUALIFICATIONS

4.   My Qualifications are listed in my Declaration in Support of Alacritech's Response. *See* Ex. 2026 at ¶¶ 6-29; *see also* Ex. 2027.

III. LEGAL UNDERSTANDING

A. The Person of Ordinary Skill in the Art

5.   My understanding and opinions regarding the level of ordinary skill in the art are set forth in my Declaration in Support of Alacritech's Response. *See* Ex. 2026 at ¶¶ 30-35.

6.   In my opinion, a POSITA at that time 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.

B. Legal Principles

7.   I am not a lawyer and will not provide any legal opinions. Though I am not a lawyer, I have been advised that certain legal standards are to be applied by technical experts in forming opinions regarding the meaning and validity of patent claims.

8.   I understand that a patent claim is invalid if the claimed invention would have been obvious to a person of ordinary skill in the field at the time the

application was filed. This means that even if all of the requirements of the claim cannot be found in a single prior art reference that would anticipate the claim, the claim can still be invalid.

9.   To obtain a patent, a claimed invention must have, as of the priority date, been nonobvious in view of the prior art in the field. I understand that an invention is obvious when the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art.

10.   I understand that to prove that prior art, or a combination of prior art, renders a patent obvious, it is necessary to: (1) identify the particular references that singly, or in combination, make the patent obvious; (2) specifically identify which elements of the patent claim appear in each of the asserted references; and (3) explain how the prior art references could have been combined to create the inventions claimed in the asserted claim.

11.   I understand that in evaluating the validity of the '241 Patent claims, the content of a patent or printed publication prior art should be interpreted the way a person of ordinary skill in the art would have interpreted the prior art as of the effective filing date (October 1997) of the challenged patent. My full analysis below is based upon these understandings.

12. I have been instructed by counsel on the law regarding claim construction and patent claims, and understand that a patent may include two types of claims—independent claims and dependent claims. An independent claim stands alone and includes only the features it recites. A dependent claim can depend from an independent claim or another dependent claim. I understand that a dependent claim includes all the features that it recites in addition to all the features recited in the claim from which it depends.

13. I understand that in this inter partes review the claims must be given their broadest reasonable interpretation, but that interpretation must be consistent with the patent specification.

14. It is my understanding that a patent must contain a written description of the claimed invention. The written description must clearly convey to those skilled in the art that, as of the filing date sought, the applicant was in possession of the invention claimed.

IV. THE SUBSTITUTE CLAIMS

15. I understand that Patent Owner has proposed substitute claims 25-48. I further understand that the substitute claims are reproduced in Appendix A and B of the Contingent Motion to Amend.

16. I understand that substitute independent claim 25 (and dependent claims 26-32) correspond to original independent claim 1 (and dependent claims 1-

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