

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORPORATION,
Petitioner,

v.

ALACRITECH, INC.,
Patent Owner.

Case IPR2017-01392
Patent 7,337,241 B2

Before STEPHEN C. SIU, DANIEL N. FISHMAN, and
WILLIAM M. FINK, *Administrative Patent Judges*.

FISHMAN, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Intel Corporation (“Petitioner”) requests *inter partes* review of claims all claims (1–24) of U.S. Patent No. 7,337,241 B2 (“the ’241 patent,” Ex.

1001) pursuant to 35 U.S.C. §§ 311 *et seq.* Paper 4 (Corrected Petition “Pet.”). Alacritech, Inc. (“Patent Owner”) filed a preliminary response. Paper 10 (“Prelim. Resp.”). Institution of an *inter partes* review is authorized by statute when “the information presented in the petition . . . and any response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a); *see* 37 C.F.R. § 42.108. Upon consideration of the Petition and Preliminary Response, we conclude the information presented shows there is a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of all claims 1–24 of the ’241 patent.

A. *Related Matters*

We are informed that the ’241 patent is presently related to the following: *Alacritech, Inc. v. CenturyLink, Inc.*, Case No. 2:16-cv-00693-JRG-RSP (E.D. Tex.); *Alacritech, Inc. v. Wistron Corp.*, Case No. 2:16-cv-00692-JRG-RSP (E.D. Tex.); and *Alacritech, Inc. v. Dell Inc.*, Case No. 2:16-cv-00695-RWS-RSP (E.D. Tex.). Pet. 3; Paper 6, 1.

B. *The ’241 Patent*

The ’241 patent describes a system and method for accelerating data transfer between a network and storage unit. Ex. 1001, Abstract. In particular, the claimed invention of the ’241 patent relates to a fast-path processing in which processing for headers of a layered network protocol (e.g., TCP/IP or UDP/IP) is offloaded from the host computer to an intelligent network interface. *See id.* at 5:18–38, Fig. 24. Specifically, the intelligent network interface includes accelerated processing features, “[t]he accelerated processing includes employing representative control

instructions for a given message that allow data from the message to be processed via a fast-path which accesses message data directly at its source [in the host computer] or delivers it directly to its intended destination [in the host computer].” *Id.* at 5:18–22.

C. Illustrative Claim

Claims 1, 9, and 17 are the independent claims of the ’241 patent. Claims 1 and 9, reproduced below, are illustrative of the claimed subject matter:

1. A method for network communication, the method comprising:

receiving a plurality of packets from the network, each of the packets including a media access control layer header, a network layer header and a transport layer header;

processing the packets by a first mechanism, so that for each packet the network layer header and the transport layer header are validated without an interrupt dividing the processing of the network layer header and the transport layer header;

sorting the packets, dependent upon the processing, into first and second types of packets, so that the packets of the first type each contain data;

sending, by the first mechanism, the data from each packet of the first type to a destination in memory allocated to an application without sending any of the media access control layer headers, network layer headers or transport layer headers to the destination.

Id. at 98:32–49.

9. A method for communicating information over a network, the method comprising:

obtaining data from a source in memory allocated by a first processor;

dividing the data into multiple segments;

prepending a packet header to each of the segments by a second processor, thereby forming a packet corresponding to each segment, each packet header containing a media access control layer header, a network layer header and a transport layer header, wherein the network layer header is Internet Protocol (IP), the transport layer header is Transmission Control Protocol (TCP) and the media access control layer header, the network layer header and the transport layer header are prepended at one time as a sequence of bits during the prepending of each packet header; and

transmitting the packets to the network.

Id. at 99:19–35.

D. Asserted Grounds of Unpatentability

Petitioner asserts that claims 1–24 are unpatentable based on the following grounds (Pet. 14–15):

Reference(s)	Basis	Claims challenged
Erickson, ¹ Tanenbaum, ² and Alteon ³	§ 103	1–8
Erickson and Tanenbaum	§ 103	9–17, 19–21, and 24
Erickson, Tanenbaum, and Alteon	§ 103	18, 22, and 23
	§ 112, 2 nd paragraph ⁴	1–5, 7, 8, 17, 20, and 23

¹ U.S. Patent No. 5,768,618. (“Erickson,” Ex. 1005).

² Andrew S. Tanenbaum, *Computer Networks*, Third Edition, 1996 (“Tanenbaum96,” Ex. 1006).

³ Alteon Networks Inc., *Gigabit Ethernet Technical Brief: Achieving End-to-End Performance*, 1996. (“Alteon,” Ex. 1033).

⁴ Under 37 C.F.R. § 42.104(b)(2), we are not authorized to address patentability issues under 35 U.S.C. § 112, second paragraph.

Petitioner relies on the testimony of Dr. Robert Horst (Ex. 1003) in support of its assertions. Patent Owner relies on the testimony of Dr. Paul Prucnal (Ex. 2001) in support of its assertions.

II. DISCUSSION

A. *Claim Construction*

In an *inter partes* review, we construe claim terms in an unexpired patent according to their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b). Consistent with the broadest reasonable construction, claim terms are presumed to have their ordinary and customary meaning as understood by a person of ordinary skill in the art in the context of the entire patent disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). Only terms that are in controversy need to be construed and only to the extent necessary to resolve the controversy. *See Wellman, Inc. v. Eastman Chem. Co.*, 642 F.3d 1355, 1361 (Fed. Cir. 2011); *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999).

At this stage of the proceeding, we determine that it is not necessary to provide an express interpretation of any claim terms.

B. *Cited Prior Art References*

1. *Overview of Erickson*

Erickson is directed to a “method of controlling an input/output (I/O) device connected to a computer to facilitate fast I/O data transfers.” Ex. 1005, Abstract. Figure 3 of Erickson is reproduced below:

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