UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____

INTEL CORPORATION,
Petitioner,

v.

ALACRITECH, INC.,
Patent Owner.

_____

Case IPR2017-01392
U.S. Patent No. 7,337,241

_____

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

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 Preliminary Response.

Evidence	Objections
Exhibit 2001	Ex. 2001 lacks any acknowledgement by Dr. Prucnal that willful false statements are punishable by fine, imprisonment, or both, or that the statements are true under penalty of perjury. To the extent that the Board does not give weight to declarations or affidavits without such an acknowledgement (pursuant to 37 C.F.R § 1.68 or 28 U.S.C. § 1746), it should also not consider Ex. 2001. *See* Intel Corporation v. Alacritech, Inc., IPR2017-01402, Paper 8 at 6 (Nov. 6, 2017). **FRE 702:** Intel objection to Ex. 2001 as being improper expert testimony. For example, Patent Owner uses Ex. 2001 to support its assertion that Alteon was not publicly accessible. POPR, Paper 10 at 42. However, Dr. Prucnal in Ex. 2001 notes that he "did not perform this investigation." Ex. 2001 at ¶ 97, p. 39 n.4. Thus, this testimony is not based on sufficient facts or data. **FRE 801, 802:** Intel objects to Ex. 2001 as inadmissible hearsay. Patent Owner uses Ex. 2001 to support its contention that the claims of the '241 Patent are not obvious in view of Erickson, Tanenbaum, and Alteon, that Alteon is allegedly not prior art, and to provide general characterizations of the prior art and the '241 Patent. Because Ex. 2001 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. Also, Ex. 2001 purports to quote Ex. 2004 and Ex. 2006 which are also inadmissible hearsay. Thus, Ex. 2001 contains hearsay within hearsay and no part of the combined statements conforms with an exception to the rule against

	hearsay.
Exhibit 2004	**FRE 401, 402:** Intel objects to Ex. 2004 as lacking relevance given the January 21, 2005 date in the header of the document. January 21, 2005 is well after the filing date of the application that resulted in the '241 Patent, September 27, 2002, and the date to which Patent Owner claims priority, October 14, 1997. **FRE 801, 802**: Intel objects to Ex. 2004 as inadmissible hearsay. Patent Owner uses Ex. 2004 to show how one of ordinary skill in the art would understand the term "interrupt." The document's authors are not under oath and 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. **FRE 901:** Ex. 2004 is an unauthenticated document and is not self-authenticating under FRE 902. Thus, Ex. 2004 lacks authentication.
Exhibit 2006	**FRE: 401, 402:** Intel objects to Ex. 2006 as lacking relevance. Ex. 2006 appears to be a web page rendering from archive.org. In the declaration submitted in support of Patent Owner's preliminary response, Dr. Prucnal suggests that this is evidence that Alteon was not publicly available, but notes that he "did not perform this investigation." Ex. 2001 at ¶ 97, p. 39 n.4. As Ex. 2006 purports to be only a single webpage and Dr. Prucnal did not conduct any investigation, Patent Owner has not established the relevance of this document. **FRE: 801, 802:** Intel objects to Ex. 2006 as inadmissible hearsay. While Patent Owner does not directly cite to Ex. 2006, a representation of this exhibit appears in the Declaration of Dr. Prucnal in support of its response (Ex. 2001). Dr. Prucnal suggests that this is evidence that Alteon was not publicly available, but notes that he "did not perform this investigation." Ex. 2001 at ¶ 97, p. 39 n.4. The document's authors are not under oath and are not subject to cross-examination in this proceeding. Because Ex. 2006 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. |
| | **FRE 901:** Ex. 2006 is an unauthenticated document and is not self-authenticating under FRE 902. Thus, Ex. 2006 lacks authentication. |

Dated: December 11, 2017

Respectfully submitted,

/s/ Garland T. Stephens
Garland T. Stephens, Reg. No. 37,242
Weil, Gotshal & Manges LLP
700 Louisiana, Suite 1700
Houston, TX 77002
Tel: (713) 546-5000
Fax: (713) 224-9511
garland.stephens@weil.com

Anne M. Cappella, Reg. No. 43,217
Adrian Percer, Reg. No. 46,986
Jeremy Jason Lang, Reg. No. 73,604
Weil, Gotshal & Manges LLP
201 Redwood Shores Parkway
Redwood Shores, CA 94065
Tel: (650) 802-3141
Fax: (650) 802-3100
anne.cappella@weil.com
adrian.percer@weil.com
jason.lang@weil.com

Attorneys for Petitioner Intel Corporation

Explore Litigation Insights

DOCKET ALARM

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.

WHAT WILL YOU BUILD? | sales@docketalarm.com | 1-866-77-FASTCASE
fastcase®
Smarter legal research.