

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORP., CAVIUM, INC.,
WISTRON CORPORATION, and DELL INC.
Petitioners,

v.

ALACRITECH, INC.,
Patent Owner

Case IPR2017-01406¹
U.S. Patent No. 7,673,072

PATENT OWNER'S OBSERVATION ON CROSS-EXAMINATION

¹ Cavium, Inc., which filed a Petition in Case IPR2017-01718, Wistron Corporation, which filed a Petition in Case IPR2018-00327, and Dell Inc., which filed a Petition in Case IPR2018-00371, have been joined as petitioners in this proceeding.

Pursuant to Parties' Stipulation Regarding Schedule dated June 8, 2018 (Paper 52), Patent Owner timely moves for observations on cross-examination in light of Patent Owner's cross-examination of Petitioner's witness, Robert Horst on June 8, 2018. The transcript of Dr. Horst's cross-examination testimony is being filed as exhibit 2600 ("Ex. 2600").

Observations on Cross-Examination:

1. In exhibit 2600, on page 16 line 2 to page 20 line 16, the witness testified that:
 - The first script divides the data into segments by repetitively extracting only one segment's worth of data from the host to the adaptor.
 - The second script divides the data into segments in a similar way, *i.e.*, repetitively copying one segment's worth of data from the host to the adaptor.

This testimony is relevant to the non-disclosure of claim elements [1.4], [9.4], and [15.4], "dividing, by the interface device, the data into segments" , on pages 1003.102-1003.103 of Exhibit 1003 (Horst Opening Declaration), pages 24-33 of Corrected Patent Owner's Response (Paper 34), and pages 20-21 of Exhibit 1223 (Horst Reply Declaration).

The testimony is relevant because the claim elements require two things: 1) “*transferring data* from the network host to the interface device, after transferring the protocol header information to the interface device”; and 2) “*dividing*, by the interface device, *the data* into segments.” (emphasis added). In other words, the claim requires first, transferring some data to the interface device, and second, dividing the same data. However, according to the first and the second scripts, after the data is transferred from the host to the adaptor, no further division is performed.

2. In exhibit 2600, on page 16 line 2 to page 20 line 16, the witness testified that:

- The third script divides the data into segments by transferring all of the data identified by the user from the host to the adaptor and repeatedly extracting one segment, and encapsulating and transmitting it to the Ethernet.
- By doing this, the adaptor has to be subject to termination conditions in determining when to stop sending data, including the consideration of Window size, because the window size indicates that the receive side no longer has room to accept the writes.

This testimony is relevant to the non-disclosure of claim elements [1.4], [9.4], and [15.4], “dividing, by the interface device, the data into segments” , on pages 1003.102-1003.103 of Exhibit 1003 (Horst Opening Declaration), pages 24-33 of Corrected Patent Owner’s Response (Paper 34), and pages 20-21 of Exhibit 1223 (Horst Reply Declaration), as well as to the motivation to combine Erickson and the TCP protocol disclosed in Tanenbaum96 and the expectation of success thereof, on pages 34-37 of Petition for *Inter Partes* Review (Paper 1), pages 35-55 of Corrected Patent Owner’s Response (Paper 34), and pages 2-14 of Petitioner’s Reply to Patent Owner's Response to Petition for *Inter Partes* Review (Paper 45).

The testimony is relevant because determining the Window field in TCP header is necessary for the operation of the third script allegedly rendering the “dividing” step obvious. However, Petitioner does not disclose *any specific evidence* as to why a person of ordinary skill in the art would have a reasonable expectation of success in performing this necessary step, *i.e.*, determining the Window field, in the adaptor disclosed by Erickson.

3. In exhibit 2600, on page 13 line 21 to page 14:11, the witness testified that:
 - The determination of how the Window field works is a fairly complex process.

- The Window field is a part of the TCP header, so the Window field has to be determined for processing TCP packets.

This testimony is relevant to the motivation to combine Erickson and the TCP protocol disclosed in Tanenbaum96 and the expectation of success thereof, on pages 34-37 of Petition for *Inter Partes* Review (Paper 1), pages 35-55 of Corrected Patent Owner's Response (Paper 34), and pages 2-14 of Petitioner's Reply to Patent Owner's Response to Petition for *Inter Partes* Review (Paper 45).

The testimony is relevant because determining the Window field in TCP header is necessary for processing TCP packets and is a complex process. However, Petitioner does not disclose *any specific evidence* as to why a person of ordinary skill in the art would have a reasonable expectation of success in performing this necessary step, *i.e.*, determining the Window field, in the adaptor disclosed by Erickson.

Date: June 15, 2018

Respectfully submitted,

By: /s/ James M. Glass, Reg. No. 46,729

James M. Glass (Reg. No. 46,729)

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

51 Madison Avenue, 22nd Floor
New York, NY 10010

Tel: (212) 849-7000

Fax: (212) 849-7100

Explore Litigation Insights

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.