

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

ALACRITECH, INC.,

Plaintiff,

v.

CENTURYLINK COMMUNICATIONS
LLC, et al.

Defendants.

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

LEAD CASE

JURY TRIAL DEMANDED

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**REBUTTAL DECLARATION OF PAUL S. MIN IN SUPPORT OF PLAINTIFF'S
CLAIM CONSTRUCTION BRIEF**

I. INTRODUCTION

1. I have been retained by counsel for Plaintiff Alacritech, Inc. (“Alacritech”) as an expert in this litigation to provide opinions regarding certain claim terms in U.S. Patent Nos. 7,124,205 (“the ’205 Patent”), 7,237,036 (“the ’036 Patent”), U.S. Patent No. 7,337,241 (“the ’241 Patent”), 7,673,072 (“the ’072 Patent”), U.S. Patent No. 7,945,699 (“the ’699 Patent”), 8,131,880 (“the ’880 Patent”), U.S. Patent No. 8,805,948 (“the ’948 Patent”), and U.S. Patent No. 9,055,104 (“the ’104 Patent”) (collectively, the “Asserted Patents”). The scope and nature of my retention is set forth in my February 22, 2017 Declaration (“Opening Declaration”), which I incorporate into this document in its entirety.

2. My qualifications and experience are listed in my Opening Declaration.

3. I am not a lawyer. I have been instructed on the relevant legal standards regarding claim construction, which I set forth in my Opening Declaration.

4. The purpose of this Declaration is to address opinions rendered by Mr. Mark Lanning in his February 22 Declaration of Mr. Mark Lanning Regarding Claim Construction. (“Lanning Decl.”).

5. In rendering my opinions, I considered the items listed in Exhibit A attached to this Declaration, the items discussed or listed herein, and my own experiences in the field. I also considered and consulted my Opening Declaration as well as the exhibits thereto. I understand that discovery in this litigation is still ongoing, and I reserve the right to amend or supplement my opinions in light of further documents, depositions, or discovery disclosures. I further reserve the right to rely upon any additional information or materials that may be provided to me or that are relied upon by any of Defendants’ experts or witnesses, if called to testify or to give

additional opinions regarding this matter. I reserve the right to address, including through reference to new evidence and/or opinions, any further arguments and opinions raised by Defendants, Mr. Lanning, or any other of Defendants' experts once they are disclosed.

II. LEVEL OF SKILL IN THE ART

6. In my Opening Declaration, I set forth my opinion that “a person of ordinary skill in the art with respect to the Asserted Patents would have: (i.) at least four years of relevant work or research experience in the field of network engineering and/or design; (ii.) a Bachelor’s of Science degree in electrical engineering, computer science, or a related field plus at least two to three years of relevant work or research experience in the field of network engineering and/or design, *or* (iii) an advanced degree (*e.g.*, Masters or PhD) and one to two years of relevant work or research experience in the field of network engineering and/or design.” (Opening Decl. at ¶55.)

7. In his opening declaration, Mr. Lanning states that “I have been asked to assume that a person of ordinary skill in the art at the time of the invention of the Patents-in-Suit would be a person with at least the equivalent of a B.S. degree in computer science, computer engineering or electrical engineering with at least five years of industry experience including experience in computer architecture, network design, network protocols, software development, and hardware development. In addition, someone with less technical education and more work or research experience (or vice versa) could also qualify as a person of ordinary skill in the art.” (Lanning Decl. at ¶ 7.)

8. Initially, it is unclear whether Mr. Lanning is reciting his own opinion as to the relevant level of skill in the art, or whether he is merely repeating an opinion that someone else—presumably Defendants—instructed him to adopt. In either case, I disagree with Mr.

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