

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

CAVIUM-1062

Cavium, Inc. v. Alacritech, Inc.

Page 001

## TABLE OF CONTENTS

I.	INTRODUCTION .....	1
II.	LEVEL OF SKILL IN THE ART .....	2
III.	DISPUTED CLAIM TERMS .....	3
A.	“context [for communication]” .....	3
B.	“status information” .....	15
C.	“significant network layer or significant transport layer processing” .....	20
D.	“substantially no network layer or transport layer processing” .....	23
E.	“without an interrupt dividing” .....	24
F.	“second apparatus(es)” .....	31
G.	“RE-ASSEMBLY” CLAIM TERMS .....	34
H.	“FLOW” CLAIM TERMS .....	55
I.	Other Terms .....	80
J.	“means for receiving, by the network interface device from the computer, a command to transmit data from the computer to the network;” .....	90
K.	“means for sending, by the network interface device to the network, data corresponding to the command, including means for prepending a transport layer header to at least some of the data” .....	96
L.	“means for sending, by the network interface device to the computer, an indication that the data has been sent from the network interface device to the network, prior to receiving, by the network interface device from the network, an acknowledgement (ACK) that the data has been received” .....	102
M.	“means, coupled to the host computer, for receiving from outside the apparatus a response to an ISCSI read request command and for fast-path processing a portion of the response to the ISCSI read request command, the portion including data, the portion being fast-path processed such that the data is placed into the destination memory on the host computer without the protocol stack of the host computer doing significant network layer or significant transport layer processing, the means also being for receiving a subsequent portion of the response to the ISCSI read request command and for slowpath processing the subsequent portion such that the protocol stack of the host computer does network layer and transport layer processing on the subsequent portion.” .....	108

N. “first mechanism” / “second mechanism” .....116

IV. OTHER COMMENTS.....131

**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.

# 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.