

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

ALACRITECH, INC.,
Patent Owner

Case IPR2018-00234¹
U.S. Patent No. 8,805,948

**PATENT OWNER'S OBJECTIONS TO EVIDENCE
UNDER 37 C.F.R. § 42.64**

¹ Cavium LLC (formerly Cavium, Inc.), which filed a Petition in Case IPR2018-00403, and Dell Inc., which filed a Petition in Case IPR2018-01307, have been joined as petitioners in this proceeding.

Pursuant to 37 C.F.R. § 42.64(b), Patent Owner, Alacritech, Inc. hereby makes the following objections to the admissibility of documents submitted with Petitioner's Opposition to Patent Owner's Motion to Amend.

Evidence	Objections
Ex. 1227 (New ASIC drives Alacritech into storage by R. Merritt, EE Times (January 11, 2011))	<p>FRE 401, 402, and 403: Patent Owner objects to this exhibit because it is not relied on as a reference and is irrelevant, and its probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, wasting time, and needlessly presenting cumulative evidence.</p> <p>FRE 801: Patent Owner also objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.</p> <p>FRE 901: Patent Owner objects to this exhibit because Petitioner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit.</p>
Ex. 1228 (Internet page from Alacritech.com downloaded on May 6, 2018)	<p>FRE 401, 402, and 403: Patent Owner objects to this exhibit because it is not relied on as a reference and is irrelevant, and its probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, wasting time, and needlessly presenting cumulative evidence.</p> <p>FRE 801: Patent Owner also objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.</p> <p>FRE 901: Patent Owner objects to this exhibit because Petitioner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit.</p>
Ex. 1230 (Why	FRE 401, 402, and 403: Patent Owner objects to this exhibit

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<p>Are We Deprecating Network Performance Features? By B. Wilson downloaded on May 2, 2018)</p>	<p>because it is not relied on as a reference and is irrelevant, and its probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, wasting time, and needlessly presenting cumulative evidence.</p> <p>FRE 801: Patent Owner also objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.</p> <p>FRE 901: Patent Owner objects to this exhibit because Petitioner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit.</p>
<p>Ex. 1399 (Horst Declaration)</p>	<p>Patent Owner objects to this exhibit because it includes information that is not discussed sufficiently in the Petition. Admissibility of such declaration would permit the use of declarations to circumvent the page limits that apply to petitions.</p> <p>FRE 702: Patent Owner objects to this exhibit to the extent it is irrelevant, not based on a reliable foundation, and constitutes conclusory opinions without sufficient support. For example, it provides no basis or evidence that:</p> <p>“A POSA would know that a gate-level design can be fabricated into a chip using well-known software tools and chip fabrication facilities. A POSA would have understood the teachings of Thia without the need for Thia to create a final chip.”</p> <p>“A POSA would also have known that the predictable template must filter out packets that would require processing not handled by the bypass stack, which would be processed normally.”</p> <p>“Given the years of experience that a POSA would</p>

Evidence	Objections
	<p>have had in networking protocols and computer networking, a POSA certainly would have understood Thia’s teachings and been able to implement them.”</p> <p>“A POSA would understand that checking the characteristics of a packet is not limited to checking the characteristics of, or processing, the network layer header, and the claims do not require that the network layer be checked to examine the characteristics of a packet.”</p> <p>FRE 801: Patent Owner also objects to this exhibit because it includes hearsay under FRE 801 by citing Dr. Lin’s declaration, and does not fall within the hearsay exceptions under FRE 803.</p>
Ex. 1414 (Declaration of Garland T. Stephens)	<p>FRE 401, 402, and 403: Patent Owner objects to this exhibit because it is irrelevant, and its probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, wasting time, and needlessly presenting cumulative evidence.</p> <p>FRE 501 and FRE 502: Patent Owner objects to this exhibit because Intel asserts privilege over the subject matter at issue and in the meantime puts the privileged information at issue. To the extent Intel asserts privilege with regard to the subject matter at issue, this Declaration is not admissible.</p> <p>FRE 801: Patent Owner also objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.</p> <p>FRE 901: Patent Owner objects to this exhibit because Petitioner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit.</p>

Evidence	Objections
<p>Ex. 1419 (Declaration of Karineh Khachatourian in Support of Cavium LLC's Opposition to Alacritech, Inc.'s Motion for Additional Discovery from Case No. IPR2018-00401)</p>	<p>FRE 401, 402, and 403: Patent Owner objects to this exhibit because it is not relied on as a reference and is irrelevant, and its probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, wasting time, and needlessly presenting cumulative evidence.</p> <p>FRE 602: Patent Owner objects to this exhibit because Petitioner does not introduce evidence of declarant's personal knowledge of the subject matter of the testimony contained therein.</p>
<p>Ex. 1420 (Article: Fragmentation Considered Harmful by C. Kent and J. Mogul (October, 1987))</p>	<p>FRE 401, 402, and 403: Patent Owner objects to this exhibit because it is not relied on as a reference and is irrelevant, and its probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, wasting time, and needlessly presenting cumulative evidence.</p> <p>Patent Owner also objects to this exhibit because Petitioner fails to establish that this exhibit was publicly available before the priority date of the patent at issue.</p> <p>FRE 801: Patent Owner also objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. To the extent that Petitioner attempts to rely on any date that appears on this exhibit to establish public accessibility, the date is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.</p> <p>FRE 901: Patent Owner objects to this exhibit because Petitioner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit.</p>

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