

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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INTEL CORPORATION, CAVIUM, LLC, and  
DELL INC.,<sup>1</sup>  
Petitioner,

v.

ALACRITECH, INC.,  
Patent Owner.

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Cases IPR2018-00226 (Patent 7,124,205 B2)  
IPR2018-00234 (Patent 8,805,948 B2)  
IPR2018-00401 (Patent 7,945,699 B2)

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Before STEPHEN C. SIU, DANIEL N. FISHMAN, and  
CHARLES J. BOUDREAU, *Administrative Patent Judges*.

FISHMAN, *Administrative Patent Judge*.

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<sup>1</sup> Cavium, Inc., which filed petitions in Cases IPR2018-00400 and IPR2018-00403, and Dell Inc., which filed petitions in IPR2018-01306 and IPR2018-01307, were joined as petitioners in IPR2018-00226 and IPR2018-00234, respectively. Intel Corporation, which filed a petition in IPR2018-01352, was joined as a petitioner in IPR2018-00401 and was designated as the primary petitioner. According to updated mandatory notices filed in the captioned proceedings, Cavium, Inc. has now been converted to Cavium, LLC. *See, e.g.*, IPR2018-00226, Paper 28.

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ORDER<sup>2</sup>  
Oral Hearing  
*35 U.S.C. § 316(a)(10) and 37 C.F.R. § 42.70*

Petitioner Intel Corporation and Patent Owner Alacritech, Inc. have requested an oral hearing in each of the captioned proceedings pursuant to 37 C.F.R. § 42.70. *See* IPR2018-00226, Papers 48, 50; IPR2018-00234, Papers 39, 41; IPR2018-00401, Papers 33, 35. Each party requests one hour of argument time per side for all three cases. *See, e.g.*, IPR2017-00234, Papers 39, 41. Petitioner further requests that a portion of the hearing be closed to the public for discussion of confidential information. *See* IPR2017-00234, Paper 39.

Although the cases have not been consolidated or joined, we determine that they entail overlapping issues such that oral argument will be provided in a single hearing to commence at **10:00 am Pacific Time** on **March 4, 2019**, on the 3rd floor of the USPTO's **Silicon Valley Regional Office, 26 South 4th Street, San Jose, California.**<sup>3</sup>

Petitioner Intel and Patent Owner Alacritech, Inc. each will have sixty (60) minutes of *total* argument time for all three cases. Furthermore, we grant Petitioner's request for a portion of the hearing, not to exceed twenty (20) minutes of each party's allotted sixty minutes, to be closed to the public. *See, e.g.*, IPR2017-00234, Paper 39. The closed portion of the hearing will be the first

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<sup>2</sup> This order addresses issues that are similar in all identified cases. We exercise our discretion to issue one order to be filed in each case. The parties are not authorized to use this style heading in subsequent papers.

<sup>3</sup> Information concerning the Silicon Valley Regional Office can be found in the USPTO website at <https://www.uspto.gov/about-us/uspto-locations/silicon-valley-california>.

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portion of the hearing, after which the hearing will be open to the public.

Allocation of time between the parties and the cases during the closed portion of the hearing will be discussed at the start of the hearing. Regarding issues of patentability of the challenged claims during the publicly open portion of the hearing, Petitioner will proceed first to present its case with regard to the challenged claims. Petitioner may reserve some, but not more than one half, of its argument time for rebuttal. Thereafter, Patent Owner will respond to Petitioner's case and also may reserve some of its argument time, for sur-rebuttal. Next, Petitioner may use any time it has reserved for rebuttal to respond to Patent Owner's specific arguments presented at the hearing. Then, Patent Owner may present a brief sur-rebuttal if it has reserved time. No live testimony from any witness will be taken at the oral argument.

The parties are advised that the hearing room has limited capacity. Therefore, to facilitate access to the regional office hearing room, each party is asked to ***email the Board*** ([Trials@uspto.gov](mailto:Trials@uspto.gov)), at least five business days prior to the hearing, indicating the number of attendees for its side (attorneys and others).

Any demonstrative exhibits shall be served at least four business days before the hearing. The parties shall confer regarding any objections to demonstrative exhibits, and file demonstrative exhibits with the Board, as a separate exhibit in accordance with 37 C.F.R. § 42.63, at least three business days prior to the hearing.

The parties are reminded that the demonstrative exhibits presented in this case are not evidence and are intended only to assist the parties in presenting their oral argument to the panel. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. Board of Regents of the University of Michigan*, Case IPR2013-00041, slip op. 2–5 (PTAB Jan. 27, 2014) (Paper 65), and *CBS*

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*Interactive Inc. v. Helferich Patent Licensing, LLC*, Case IPR2013-00033, slip op. at 2–4 (PTAB Oct. 23, 2013) (Paper 118), for guidance regarding the appropriate content of demonstrative exhibits. For any issue regarding the proposed demonstrative exhibits that cannot be resolved after conferring with the opposing party, the parties may file jointly a one-page list of objections at least two business days prior to the hearing. The list should identify with particularity which demonstrative exhibits are subject to objection and include a short statement (no more than one concise sentence) of the reason for each objection. No argument or further explanation is permitted. We will consider the objections and may schedule a conference call, if necessary, to discuss them. Typically, however, we reserve ruling on the objections until the hearing or ruling is necessary to resolve the dispute. Any objection to demonstrative exhibits that is not presented timely will be considered waived. Each party also shall provide a hard copy of its demonstrative exhibits to the court reporter at the hearing.

The parties are reminded that the presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number and by content) referenced during each hearing to ensure the clarity and accuracy of the reporter’s transcript. Further, because a consolidated hearing will be conducted for three proceedings, if an argument and/or evidence applies only to a particular proceeding or proceedings, the presenter must identify the proceeding or proceedings, to which that argument and/or evidence applies. The parties also should note that Judges Siu and Fishman will be attending electronically and will only have access to the courtesy copy of the demonstratives provided in advance, as referenced above. If a demonstrative is not made available to the Board in the manner indicated above, that demonstrative may not be available to each of the

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judges during the hearing and may not be considered. Further, images projected using audio visual equipment in San Jose will not be visible to Judges Siu and Fishman. Because of limitations on the audio transmission systems in our hearing rooms, the presenter may speak only when standing at the hearing room podium. If the parties have questions as to whether demonstrative exhibits would be sufficiently visible and available to all of the judges, the parties are invited to contact the Board at (571) 272-9797.

The Board expects lead counsel for each party to be present at oral hearing, although any backup counsel may make the actual presentation, in whole or in part. If lead counsel for either party is unable to attend the oral argument, the Board should be notified via a joint telephone conference call no later than five business days prior to the oral hearing to discuss the matter. Patent Owner has notified the Board in an e-mail message that its lead counsel is unavailable for the hearing but its backup counsel will represent Patent Owner's interests.

The Board will provide a court reporter for each hearing, and the reporter's transcript will constitute the official record of the hearing. The reporter's transcript will be entered in the record of the proceedings.

Requests for audio-visual equipment or special accommodations at the hearing are to be made five days in advance of the hearing date. The requests must be sent to [Trials@uspto.gov](mailto:Trials@uspto.gov). If the requests are not received timely, equipment or accommodations may not be available on the day of the hearing.

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