

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

ALACRITECH, INC.,	)	
	)	
	)	
Plaintiff,	)	
	)	
v.	)	2:16-cv-00693-RWS-RSP (LEAD CASE)
	)	
TIER 3, ET AL., WISTRON CORPORATION,	)	2:16-cv-00692-RWS-RSP
ET AL., DELL INC.,	)	
	)	2:16-cv-00695-RWS-RSP
Defendants	)	
	)	
and	)	
	)	
INTEL CORPORATION, CAVIUM, INC.,	)	
	)	
Intervenors.	)	
_____	)	

**STIPULATION AND JOINT MOTION TO  
STAY LITIGATION PENDING IPR PROCEEDINGS**

Plaintiff Alacritech, Inc.; Intervenors Intel Corporation and Cavium, Inc.; and Defendants Dell, Inc., Wistron Corporation, Wiwynn Corporation, SMS InfoComm Corporation, CenturyLink Communications LLC, Tier 3, Inc., and Savvis Communications Corp. hereby stipulate and request as follows:

1. Intel has filed the following IPR petitions currently pending before the Patent Trial and Appeal Board: IPR2017-01391; IPR2017-01392; IPR2017-01393; IPR2017-1395; IPR2017-1402; IPR2017-01405; IPR2017-01406; IPR2017-01409; IPR2017-01410; IPR2017-1559; IPR2017-01705; IPR2017-01713; IPR2018-00226; IPR2018-00234.

2. Cavium has filed the following IPR petitions currently pending before the Patent Trial and Appeal Board: IPR2017-1707; IPR2017-1711; IPR2017-1714; IPR2017-01734; IPR2017-01735; IPR2017-01718; IPR2017-01728; IPR2017-01733; IPR2017-01732; IPR2017-01705; IPR2017-01736; IPR2017-01737 and IPR2017-01729.

3. The Patent Trial and Appeal Board has instituted IPR proceedings based on the following petitions to date: IPR2017-01391, IPR2017-01392, IPR2017-01393, IPR2017-01405, IPR2017-01406, IPR2017-01409, and IPR2017-01410.

4. The parties agree that these cases should be stayed until the Patent Trial and Appeal Board issues either a final written decision or a decision not to institute IPR on each of the following IPR proceedings: IPR2017-01391; IPR2017-01392; IPR2017-1395; IPR2017-1402; IPR2017-01405; IPR2017-01406; IPR2017-01409; IPR2017-01410; IPR2017-01707; IPR2017-01713; IPR2018-00226; IPR2018-00234; IPR2017-01734; IPR2017-01735; IPR2017-01718; IPR2017-01728; IPR2017-01733; IPR2017-01732; IPR2017-01705; IPR2017-01736; IPR2017-01737 and IPR2017-01729. The stay should extend until the last of the final written

---

Joint Memorandum

decisions or decisions not to institute IPR in the foregoing IPR proceedings has issued. The parties reserve their right to seek modification of the stay for good cause.<sup>1</sup>

5. If this motion is granted, each of the Intervenor and Defendants agree to be estopped to the same extent for each IPR as the party who filed that IPR.

6. Cavium also agrees that its miscellaneous action seeking discovery from third party Crown Point (*Cavium, Inc. v. In re: Subpoena to CrownPoint Transactions LLC*, No. 2:17-MC-00002-JRG-RSP) shall be stayed for the duration of the stay of the above-entitled litigation.

7. Intel also agrees that it will promptly file an unopposed motion to withdraw its pending motion to strike Alacritech's amended infringement contentions (Dkt. 431).<sup>2</sup>

8. The parties further agree that all other discovery and pretrial proceedings shall be immediately stayed pending resolution of this motion. The parties and Crown Point further agree to take reasonable measures to preserve the fact discovery at issue in the parties' various pending motions to compel up to and including lifting of the stay of litigation, regardless of whether they dispute the discoverability and/or relevance of such evidence. As part of this agreement, Intel has agreed that it shall produce supplemental evidence identifying certain additional products including one or more of the accused Ethernet controllers sold from 2010 once the stay is lifted.<sup>3</sup>

---

<sup>1</sup> Alacritech reserves the right to move the Court to lift the stay for good cause before all petitions filed by all parties are resolved. Defendants reserve the right to oppose such a request.

<sup>2</sup> Intel has further agreed to withdraw its first subpoena to Dr. Almeroth and based thereon Alacritech shall withdraw its motion for a protective order (Dkt. 371) as moot.

<sup>3</sup> Alacritech and Intel reserve all rights and objections with respect to such further production of fact evidence.

9. Intel intends to file a motion to amend its invalidity contentions to add “Connery System” art. Alacritech opposes the motion. The parties agree that while Intel may file its motion before or during the pendency of the stay, Alacritech’s opposition shall not be due until at least 21 days after the stay has been lifted (or on a schedule otherwise agreed to by the parties). By so agreeing, Alacritech reserves all rights, arguments, and objections to the Connery System art including to the timing of Intel’s request to add the prior art and the parties stipulate that extending the deadline of Alacritech’s opposition shall not be the basis for any argument or finding regarding the lack of prejudice to or diligence by Alacritech.

10. Defendants agree that they shall provide updated financial information to reflect sales and revenue/profits relating to the accused products received during the time period of the stay within no more than forty-five (45) days of lifting the stay.

Dated: December 4, 2017

Respectfully submitted,

/s/ Garland T. Stephens

Garland T. Stephens, Lead Attorney (24053910)  
Douglas W. McClellan (24027488)  
Melissa L. Hotze (24049831)  
Justin L. Constant (24067551)  
Richard D. Eiszner (65891)  
WEIL, GOTSHAL & MANGES LLP  
700 Louisiana, Suite 1700  
Houston, TX 77002  
Telephone: (713) 546-5000  
Facsimile: (713) 224-9511  
garland.stephens@weil.com  
doug.mcclellan@weil.com  
melissa.hotze@weil.com  
justin.constant@weil.com  
richard.eiszner@weil.com

John M. ...

Anne Marie Cappella (181402)  
Jeremy Jason Lang (255642)  
Amanda K. Branch (300860)  
WEIL, GOTSHAL & MANGES LLP  
201 Redwood Shores Parkway  
Redwood Shores, CA 94065  
Telephone: (650) 802-3000  
Facsimile: (650) 802-3100  
anne.cappella@weil.com  
jason.lang@weil.com  
amanda.branch@weil.com

William Sutton Ansley (80085)  
WEIL, GOTSHAL & MANGES LLP  
1300 Eye Street, N.W., Suite 900  
Washington, DC 20005  
Telephone: (202) 682-7000  
Facsimile: (202) 857-0940  
sutton.ansley@weil.com

Harry L. Gillam, Jr. (07921800)  
Gillam & Smith LLP  
303 S. Washington Ave.  
Marshall, TX 75670  
Telephone: (903) 934-8450  
Facsimile: (903) 934-9257  
gil@gillamsmithlaw.com

David Folsom (07210800)  
Jackson Walker L.L.P.  
6002 Summerfield Dr., Suite B  
Texarkana, TX 75503  
Telephone: (903) 255-3250  
Facsimile: (903) 255-3265  
dfolsom@jw.com

*Counsel for Intervening Party*  
INTEL CORPORATION

/s/ Karineh Khachatourian

Karineh Khachatourian (CA Bar No. 202634)  
Megan Whyman Olesek (CA Bar No. 191218)  
Daniel T. McCloskey (CA Bar No. 191944)  
Duane Morris LLP

Joint Memorandum

# 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.