

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

ALACRITECH, INC., a California corporation,

Plaintiff,

v.

DELL INC., a Delaware corporation,

Defendant.

Case No. 2:16-cv-695

Jury Trial Demanded

COMPLAINT FOR PATENT INFRINGEMENT

In this action for patent infringement under 35 U.S.C. § 271, Plaintiff Alacritech, Inc. ("Alacritech"), by and through its undersigned counsel, complains and alleges as follows against Defendant Dell Inc. ("Dell"), based on Alacritech's own personal knowledge with respect to its own actions and upon information and belief with respect to others' actions:

THE PARTIES

1. Alacritech is a California corporation with its principal place of business at P.O. Box 20307, San Jose, California 95160.
2. Dell is a Delaware corporation with its principal place of business at One Dell Way, Round Rock, Texas 78682.

NATURE OF THE ACTION

3. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*
4. Dell has infringed and continues to infringe, has contributed to and continues to contribute to the infringement of, and has actively induced and continues to actively induce others to infringe the following Alacritech patents: U.S. Patent Numbers 7,124,205; 7,237,036;

7,337,241; 7,673,072; 7,945,699; 8,131,880; 8,805,948; and 9,055,104 (collectively, the "Asserted Patents"). Alacritech is the legal owner by assignment of the Asserted Patents, which were all duly and legally issued by the United States Patent and Trademark Office. Alacritech seeks injunctive relief and monetary damages.

JURISDICTION AND VENUE

5. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, including § 271. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Dell because, among other reasons, Dell regularly conducts business in Texas, including in this District, and Dell has committed and continues to commit direct and indirect acts of patent infringement complained of herein within this District and elsewhere in Texas and the United States. For example, Dell maintains its global headquarters in Round Rock, Texas, and it maintains facilities in Austin, Texas that it uses to build and/or provide a variety of products and services, including infringing products and services complained of herein. In addition, Dell advertises, sells, and provides its products and services, including infringing products and services complained of herein, directly to businesses and consumers in this District. As such, Dell has purposefully availed itself of the privilege of conducting business within this District, has established sufficient minimum contacts with this District such that Dell should reasonably and fairly anticipate being haled into this Court, and has purposefully directed activities at residents in this District, wherein at least a portion of the claims alleged herein arise out of or are related to those activities.

7. In addition, Dell has participated in well-over one hundred previous patent cases in this District and has, through its subsidiary Dell USA L.P., availed itself of the jurisdiction of

this Court by filing a complaint for patent infringement in this District (*see, e.g., Dell USA L.P. v. Lucent Technologies, Inc.*, No. 4:03-cv-00347-RAS).

8. Venue is proper in this District under 28 U.S.C. §§ 1391(b)-(c) and 1400(b) at least because, as discussed above, Dell is subject to personal jurisdiction in this District, regularly conducts business in this District, and has committed and continues to commit direct and indirect acts of patent infringement complained of herein within this District.

FACTUAL BACKGROUND

Alacritech's History

9. Alacritech was founded in 1997 by technology pioneer Larry Boucher, the creator and author of the original Small Computer System Interface ("SCSI") specification and a visionary, award-winning leader in server adapter, storage and networking technologies.

10. Mr. Boucher has more than 50 years of experience in the industry. Following a twelve-year tenure in IBM's Storage Division, he served as director of design services at Shugart Associates, where he developed the Shugart Associates System Interface ("SASI") and then SCSI, the industry standard for connecting storage and other peripherals to PCs and servers. In 1981, Mr. Boucher founded Adaptec, Inc., which became a global leader for host adapters and other innovative storage solutions. After taking Adaptec public, Mr. Boucher founded Auspex Systems, Inc., a manufacturer of enterprise servers, where he pioneered the networked file system design that is the basis of today's network-attached storage ("NAS") model. In 1997, Mr. Boucher founded Alacritech.

11. Mr. Boucher and other innovators at Alacritech (including Peter Craft, Clive Philbrick, Stephen Blightman, David Higgen, and Daryl Starr) foresaw the convergence of storage and networking and, as a result, the enormous processing demands that would be placed on host computer CPUs in order to move and store large quantities of data within a network,

creating bottlenecks and reducing CPU processing power available for performing more substantive computing tasks. To solve this impending problem, the Alacritech team pioneered a series of fundamental network acceleration technologies, including but not limited to techniques for streamlining, bypassing and/or offloading aspects of conventional network protocol processing from host CPUs to "intelligent" network interface devices (sometimes called "NIDs"). These technologies are critical to modern network computing, dramatically increasing the speed and efficiency with which data is transferred and stored, while reducing the associated processing burden imposed on host CPUs.

12. Working with industry partners, Alacritech released a number of network and storage products related to the technologies it developed. For example, Alacritech produced a series of Scalable Network Accelerators (also referred to as TCP Offload Engine (TOE) Network Interface Cards (TNICs)) and the ANX 1500, a sophisticated Network File System (NFS) Throughput Acceleration Appliance for use with Network-Attached Storage (NAS) systems.

Alacritech's Asserted Patents

13. Network computing is ubiquitous in contemporary society. It enables the dissemination of information and digital content to people around the world, and it is a critical component of the modern information economy. Many businesses have their own data centers (made up of large numbers of networked servers) that they use for the remote storage, management, processing, and/or distribution of their data. And a lucrative and rapidly-growing industry has developed to provide cloud computing services, which essentially allow businesses (and consumers) to offload their data to shared, third-party data centers.

14. However, as growing volumes of data are moved across networks of increasing complexity and bandwidth, more and more of the processing power of the servers (and/or other

computers) in a network is consumed by simply moving and storing the data, greatly diminishing the ability of the servers to perform other more substantive tasks. In addition, bottlenecks develop when there is insufficient processing power available to transfer data, and the data cannot be moved as quickly or efficiently as desired. The Alacritech team foresaw these problems years ago and, to address them, they developed and patented a collection of innovative network acceleration techniques that dramatically speed up the transfer and storage of data, and decrease the corresponding processing demands on servers. Alacritech holds 71 United States patents covering its groundbreaking inventions.

15. Conventionally, computers connected over a network rely on a multi-layered software architecture to transfer and store data. The architecture (also called a protocol stack) is generally based on one or more specifications and/or protocols, such as TCP/IP (a protocol suite including the Transmission Control Protocol ("TCP") and Internet Protocol ("IP")). Depending on the specifications and/or protocols at issue, the architecture may include up to seven different layers described by the Open Systems Interconnection (OSI) model (listed, in order, from highest to lowest): the application layer, the presentation layer, the session layer, the transport layer, the network layer, the data link layer, and the physical layer. Each software layer performs different functions associated with transferring and storing data.

16. In order to prepare data for transmission over a network, a sending computer must process the data through each layer of the protocol stack (working from highest to lowest). At each layer, the sending computer must perform further processing on the data resulting from processing by the previous layer, such as preparing and attaching a new header containing associated metadata. In the transport layer, the sending computer must also divide the data up into units (e.g., packets) that are small enough to be transmitted over the network medium.

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