

EXHIBIT A

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

**ALACRITECH, INC., A California
corporation,**

Plaintiff,

v.

TIER 3, ET AL.,

WISTRON CORPORATION ET AL.,

DELL INC., A Delaware corporation,

Defendants.

and

INTEL CORPORATION,

Intervenor.

2:16-cv-00693-JRG (LEAD CASE)

2:16-cv-00692-JRG

2:16-cv-00695-JRG

JURY TRIAL DEMANDED

INTEL CORPORATION'S COMPLAINT IN INTERVENTION

Pursuant Federal Rule of Civil Procedure 24(c), Intervenor Intel Corporation ("Intel") hereby alleges for its Complaint in Intervention as follows:

PARTIES

1. Intel seeks a declaratory judgment of non-infringement pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201(a) and 2202.
2. Intel is a Delaware corporation with its worldwide headquarters in Santa Clara, California. Intel designs, manufactures, and sells networking products for use in computer systems.
3. Upon information and belief, Plaintiff and Defendant in Intervention, Alacritech Inc., is a California corporation with its principal place of business in San Jose, California.

4. This action arises under the patent law of the United States, 35 U.S.C. §§ 101 et seq., and the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Alacritech by virtue of, inter alia, its filing of the Complaint in this action.

BACKGROUND AND INTEL'S INTEREST IN THIS LAWSUIT

6. On June 30, 2016, Alacritech filed its Complaint in this action accusing Dell Inc. – an Intel customer – of making, using, selling, offering to sell and/or importing products that allegedly infringe United States Patent Nos. 7,124,205; 7,237,036; 7,337,241; 7,673,072; 7,945,699; 8,131,880; 8,805,948; 9,055,104 (respectively, the 205 Patent, the 036 Patent, the 241 Patent, the 072 Patent, the 699 Patent, the 880 Patent, the 948 Patent, and the 104 Patent; collectively, the “Asserted Patents”).

7. Dell designs, manufactures, and sells certain computer systems that incorporate Intel networking products.

8. Alacritech’s allegations under the Asserted Patents are directed against Dell’s products that incorporate Intel’s networking technology.

9. Alacritech’s assertion that computer systems in which Intel products provide networking functionality infringe certain of its patents is tantamount to accusing Intel of infringement. For example, the Complaint alleges that Dell has infringed seven of the asserted patents based on its making, using, selling, offering for sale, and/or importing “the Intel Ethernet Network Daughter Card X520-DA2 /1350-T2,” among other products.” [Complaint (Dkt. 1), ¶35 (emphasis added)]. Alacritech’s infringement allegations are also based in large part on Intel’s 82599 Ethernet Controller. The Intel 82599 Datasheet is cited extensively throughout

Alacritech's Complaint. [Complaint (Dkt. 1), ¶¶35, 49, 62, 75, 101, 114, 127]. Thus, Intel has a direct and substantial interest in defending against and defeating Alacritech's infringement claims.

10. Intel has agreed to a request from Dell to defend and partially indemnify Dell in connection with Alacritech's claims directed at Intel technology used in their products. As a result, Intel has a substantial financial interest in the outcome of this litigation.

11. As a result of Alacritech's infringement allegations against Dell products and Intel technology, Intel has an objectively reasonable apprehension that Alacritech will claim that Intel's products directly or indirectly infringe one or more of the Asserted Patents. Therefore, an actual controversy exists between Intel and Alacritech. By intervening in this action, Intel seeks the Court's assistance and declaration concerning these matters, which have been and are subject of disagreement among the parties.

COUNT 1

DECLARATORY JUDGMENT REGARDING U.S. PATENT NO. 7,124,205

12. Intel incorporates by reference the allegations in paragraphs 1-12.

13. A valid and justiciable controversy has arisen and exists between Intel and Alacritech regarding the 205 Patent.

14. By making, using, selling, offering to sell, marketing, licensing or importing its products, Intel does not directly or indirectly infringe any claim of the 205 Patent.

15. Dell does not directly or indirectly infringe any claim of the 205 Patent by making, using, selling, offering to sell, marketing, licensing or importing products that incorporate Intel networking technology.

16. A judicial declaration concerning these matters is necessary and appropriate at this time so that Intel can ascertain its rights and duties with respect to the parties and with regard to designing, developing, manufacturing, marketing, and selling its products.

COUNT II

DECLARATORY JUDGMENT REGARDING U.S. PATENT NO. 7,237,036

17. Intel incorporates by reference the allegations in paragraphs 1-18.

18. A valid and justiciable controversy has arisen and exists between Intel and Alacritech regarding the 036 Patent.

19. By making, using, selling, offering to sell, marketing, licensing or importing its products, Intel does not directly or indirectly infringe any claim of the 036 Patent.

20. Dell does not directly or indirectly infringe any claim of the 036 Patent by making, using, selling, offering to sell, marketing, licensing or importing products that incorporate Intel networking technology.

21. A judicial declaration concerning these matters is necessary and appropriate at this time so that Intel can ascertain its rights and duties with respect to the parties and with regard to designing, developing, manufacturing, marketing, and selling its products.

COUNT III

DECLARATORY JUDGMENT REGARDING U.S. PATENT NO. 7,337,241

22. Intel incorporates by reference the allegations in paragraphs 1-24.

23. A valid and justiciable controversy has arisen and exists between Intel and Alacritech regarding the 241 Patent.

24. By making, using, selling, offering to sell, marketing, licensing or importing its products, Intel does not directly or indirectly infringe any claim of the 241 Patent.

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