

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

ALACRITECH, INC.,

Plaintiff,

v.

CENTURYLINK COMMUNICATIONS,
LLC, ET AL, WISTRON CORPORATION,
ET AL., DELL INC.,

Defendants,

INTEL CORPORATION, CAVIUM, INC.,

Intervenors.

Case No. 2:16-cv-693-RWS-RSP

(LEAD CASE)

Case No. 2:16-cv-692-RWS-RSP

Case No. 2:16-cv-695-RWS-RSP

JURY TRIAL DEMANDED

**JOINT MOTION REGARDING USE OF ACCUSED INSTRUMENTALITIES BY DELL
INC.**

Plaintiff Alacritech, Inc. (“Alacritech”) and Defendant Dell Inc. (“Dell”) hereby collectively request, for the convenience of the parties and for the purpose of streamlining discovery in this action, that the Court grant their Joint Motion Regarding Use of Accused Instrumentalities by Dell Inc., and order that the following facts and issues are undisputed and admitted solely for the purposes of the above-captioned actions and suffice as evidence of the facts admitted herein for purposes of presentation at trial or with respect to any motion in the above-captioned cases, and agree to the granting of this Order as follows:

1. Since June 2010, Dell has used and uses within the United States each of the Dell system-level products identified in the document produced by Dell in this action bearing the Bates number DELL_ALACRITECH_N-00004;

2. Since June 2010, Dell has used and uses within the United States each of the Dell system-level products identified in DELL_ALACRITECH_N-00004 with at least one of the

corresponding adapter-level products identified in sheets 1 and 2 of the document produced by Dell in this action bearing the Bates number DELL_ALACRITECH_N-00007;

3. Since June 2010, the adapters identified in DELL_ALACRITECH_N-00007 have been and are utilized in the Dell products identified in DELL_ALACRITECH_N-00004 in the same relative proportion as Dell's U.S. sales of the adapter-level products within each of the system-level products reflected in sheets 1 and 2 of the Dell document identified by Bates No. DELL_ALACRITECH_N-00007, as indicated in the document produced by Dell in this action bearing the Bates number DELL_ALACRITECH_N-00009;

4. Since June 2010, Dell has used and uses within the United States the adapter-level products identified in DELL_ALACRITECH_N-00009;

5. Since June 2010, Dell has used and uses within the United States each of the Dell system-level products identified in DELL_ALACRITECH_N-00004 with the system software identified in the document produced by Dell in this action bearing the Bates number DELL_ALACRITECH_N-00010 in the proportions identified in that document.

6. Since June 2010, Dell's configuration and installation of the installed NICs and system software in the Dell system-level products identified in DELL_ALACRITECH_N-00004 is and has been according to the manufacturer default settings for each respective installed NIC and system software.

DATED: November 7, 2017

By: /s/ Michael J. Newton

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**ATTORNEYS FOR PLAINTIFF
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on November 7, 2017 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

Dated: November 7, 2017

By: /s/ Iman Lordgooei