

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORPORATION,
Petitioner,

v.

ALACRITECH, INC.,
Patent Owner.

Case IPR2018-00234
Patent 8,805,948 B2

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

FISHMAN, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Intel Corporation (“Petitioner”) requests *inter partes* review of claims 1, 3, 6–8, 17, 19, 21, and 22 of U.S. Patent No. 7,337,948 B2 (“the ’948

patent,” Ex. 1001) pursuant to 35 U.S.C. §§ 311 *et seq.* Paper 2 (“Petition” or “Pet.”). Alacritech, Inc. (“Patent Owner”) filed a preliminary response. Paper 6 (“Prelim. Resp.”). Institution of an *inter partes* review is authorized by statute only when “the information presented in the petition . . . and any response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). Upon consideration of the Petition and Preliminary Response, we conclude the information presented shows there is a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of at least one of the challenged claims of the ’948 patent.

A. *Related Matters*

We are informed that the ’948 patent is presently related to the following: *Alacritech, Inc. v. CenturyLink, Inc.*, Case No. 2:16-cv-00693-JRG-RSP (E.D. Tex.); *Alacritech, Inc. v. Wistron Corp.*, Case No. 2:16-cv-00692-JRG-RSP (E.D. Tex.); and *Alacritech, Inc. v. Dell Inc.*, Case No. 2:16-cv-00695-RWS-RSP (E.D. Tex.). Pet. 5; Paper 4, 1.

Petitioner identifies numerous other related patents and other petitions related to this and other related patents. Pet. 5–7. Of particular note are IPR2017-01395 (“the 1395 IPR”) and IPR2017-01729 (seeking joinder with IPR2017-01395) challenging the ’948 patent. Pet. 6. IPR2017-01395, filed by Intel, challenging all claims challenged in this petition and relying on essentially the same arguments, evidence, and references. We did not address the substance of the arguments in the IPR2017-01395 petition but, instead, denied institution in IPR2017-01395 due to insufficient evidence of printed publication status of one reference relied upon in the asserted grounds. *See* IPR2017-01395 Paper 8.

B. The '948 Patent

The '948 patent describes a system and method for accelerating data transfer using an intelligent network interface card (“INIC”) or communication processing device (“CPD”). Ex. 1001, Abstract. The INIC or CPD provides a fast-path that avoids host protocol processing for larger messages that span multiple packets in a transmission. *Id.* According to the '948 patent, layered protocol models (such as TCP/IP or the OSI layered model) utilize header information for processing in each of the layers of the protocol stack. *See id.* at 1:33–3:19. According to the '948 patent, as complexity and popularity of such networks grew, the processing burden on a host CPU for processing these protocols grew proportionally. *Id.* at 3:20–35.

The '948 patent purports to reduce this bottleneck for processing on a host computer by providing fast-path processing in which processing for headers of a layered network protocol is offloaded from the host computer to an INIC or CPD. *See id.* at 4:65–5:6.

Figure 1 of the '948 patent is reproduced below.

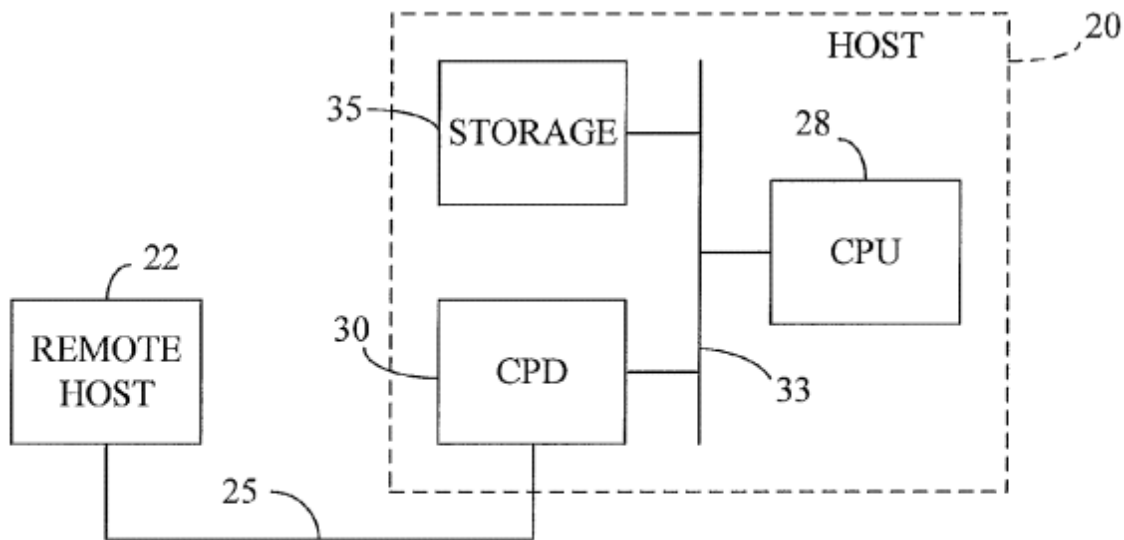


FIG. 1

Figure 1 is depicts a system including a host computer having a CPD for accelerating network communications. *Id.* at 4:9–12. Figure 1 shows host 20 connected with remote host 22 via network 25. *Id.* at 4:65–66. Host 20 includes CPU 28 and CPD 30 coupled via host bus 33. *Id.* at 5:6–7. CPD 30 processes network protocols and includes a microprocessor and memory buffers controlled by a direct memory access (“DMA”) controller. *Id.* at 5:8–10. A connection context (not shown in Figure 3) stores various elements of information regarding the connection between host 20 and remote host 22 and may be stored in a communication control block (“CCB”) within CPD 30 or storage 35. *Id.* at 5:22–29.

Figure 3 is reproduced below.

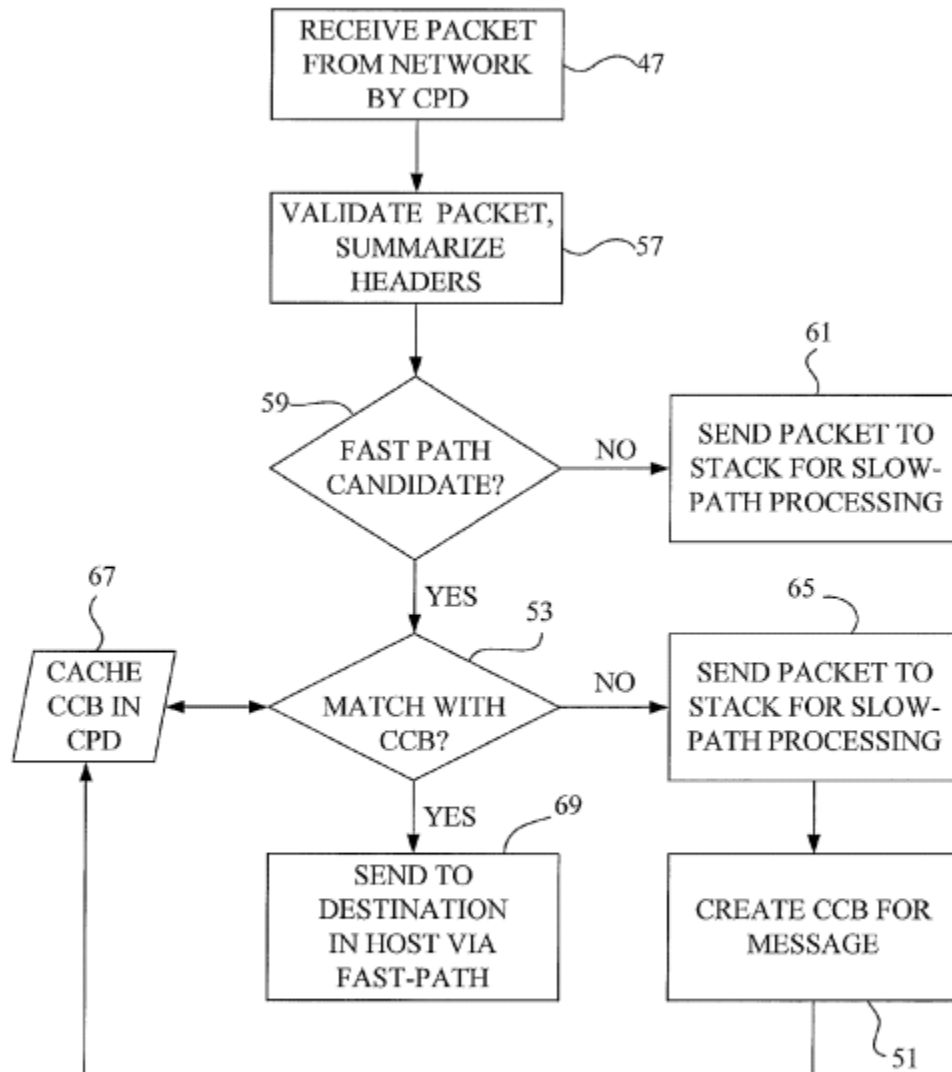


FIG. 3

Figure 3 is a flow chart describing processing of a received message. *Id.* at 4:17–18. At step 47, a packet is received in a CPD (or INIC) and, at step 57, the CPD validates various protocol headers of the received packet and summarizes the results. *Id.* at 6:30–34. The summary includes a determination as to whether the packet is a candidate for fast-path

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.