

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORP., CAVIUM LLC, and DELL INC.,¹
Petitioners,

v.

ALACRITECH, INC.,
Patent Owner.

Case No. IPR2018-00234
U.S. Patent No. 8,805,948

PETITIONER DELL INC.'S NOTICE OF APPEAL

¹ Cavium LLC (formerly Cavium, Inc.), which filed a Petition in Case IPR2018-00403, and Dell Inc., which filed a Petition in Case IPR2018-01307, have been joined as petitioners in this proceeding.

Pursuant to 35 U.S.C. § 142 and in accordance with 37 C.F.R. § 90.2, Dell Inc. (“Dell”) hereby provides notice that it appeals to the United States Court of Appeals for the Federal Circuit from the Board’s Order Dismissing the Petition, Vacating Institution of *Inter Partes* Review, and Terminating *Inter Partes* Review (“Order”) entered on June 4, 2019 (Paper 66). Please note that the Order in this matter has been sealed to the public, and currently only the Parties and Board have access to it. Therefore, it is not attached to this Notice.

Decisions under 35 U.S.C. § 315(b) are reviewable under *Wi-Fi One, LLC v. Broadcom Corp.*, 878 F.3d 1364, 1367 (Fed. Cir. 2018) (en banc) (“We therefore hold that the time-bar determinations under § 315(b) are appealable.”).

For the limited purpose of providing the Director of the United States Patent and Trademark Office with the information requested under 37 C.F.R. § 90.2(a)(3)(ii), Dell expects that the issues on appeal may include the following, along with any underlying findings, determinations, rulings, opinions, orders, decisions, or other related issues:

- The Board’s determination that the IPR Petitions are time-barred under 35 U.S.C. § 315(b);

- The Board’s determination that Dell Inc. (“Dell”) is a real party in interest; and
- The Board’s determination that Intel and Dell are privies.

Dell reserves the right to challenge any finding or determination supporting or relating to the issues listed above. Dell also reserves the right to challenge any other issues decided against Dell in any order, decision, ruling, or opinion by the Board in the above-captioned proceeding.

Pursuant to 35 U.S.C. § 142 and 37 C.F.R. §§ 90.2(a), 90.3(a), and 90.3(b)(1), this Notice is being timely filed with the Director of the United States Patent and Trademark Office within 63 days of the Board’s Decision Granting in Part and Denying in Part Petitioner’s Request for Rehearing (Paper 71), and a copy of this Notice is being concurrently filed with the Patent Trial and Appeal Board. In addition, a copy of this Notice is being filed with the Clerk of the United States Court of Appeals for the Federal Circuit, along with an electronic copy of the Notice and the required docketing fee, which are being served electronically on the Court by CM/ECF and *pay.gov*.

Dated: October 30, 2019

Respectfully Submitted,

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CERTIFICATE OF FILING

The undersigned hereby certifies that, in addition to being electronically filed through PTAB E2E, a true and correct copy of the above-captioned PETITIONER DELL INC.'S NOTICE OF APPEAL is being sent via priority mail on October 30, 2019, to the Director of the United States Patent and Trademark Office, at the following address:

Director of the United States Patent and Trademark Office
c/o Office of the General Counsel, 10B20
Madison Building East
600 Dulany Street
Alexandria, VA 22314

The undersigned also hereby certifies that a true and correct copy of the above-captioned PETITIONER DELL INC.'S NOTICE OF APPEAL and the filing fee is being filed via CM/ECF with the Clerk's Office of the United States Court of Appeals for the Federal Circuit on October 30, 2019.

Date: October 30, 2019

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Patent 8,805,948

CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2019, a copy of **PETITIONER DELL INC.'S NOTICE OF APPEAL** was served by filing this document through the PTAB's E2E Processing System as well as delivering a copy via electronic mail upon the following counsel of record:

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