

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner,

v.

VIRNETX, INC. AND SCIENCE APPLICATION INTERNATIONAL
CORPORATION,
Patent Owner

Patent No. 6,502,135

Issued: December 31, 2002

Filed: November 29, 1999

Inventors: Victor Larson, *et al.*

Title: Agile Network Protocol For Secure Communications With Assured System
Availability

Inter Partes Review No. IPR2013-00349

**PETITIONER'S UPDATE REGARDING THE CO-PENDING
REEXAMINATION PROCEEDINGS**

Pursuant to the Order issued by the Panel on August 14, 2013 in Paper No. 6, Petitioner Apple Inc. (“Petitioner”) files this update regarding the status of co-pending reexamination proceedings concerning the patents that are the subject of IPR petitions filed by Apple.¹

U.S. Patent No. 6,502,135 (IPR2013-00348 & -00349)

- Related Proceedings: The ’135 patent is the subject of merged *inter partes* reexamination control Nos. 95/001,682 (filed by Petitioner) and 95/001,679 (filed by Cisco).
- Status of the claims: All claims presently stand rejected under 35 U.S.C. § 102 or § 103.
- Last Office Action: March 11, 2013: Non-Final Action.
- Status of Proceeding: Patent Owner and Requestor each have filed comments on the March 11, 2013 Non-Final Action. The case is awaiting further action by the Examiner.
- Changes Since Petitioner’s August 28, 2013 Status Report:
 - No change in the reexamination.
 - On October 17, 2013, Petitioner filed its opening brief with the Federal Circuit appeal no. 2013-1489, which is an appeal of the decision of the Eastern District of Texas in No. 6:10-cv-00417-

¹ Petitioner is filing a substantively identical document in each of the seven IPR proceedings: IPR2013-00348, IPR2013-00349, IPR2013-00354, IPR2013-00393, IPR2013-00394, IPR2013-00397, and IPR2013-00398.

LED. Patent Owner's responsive brief is due November 15, 2013, and Petitioner's reply brief is due December 2, 2013.

- On October 18, 2013, Petitioner in IPR2013-00375 requested leave to file a motion to terminate that proceeding. On October 21, 2013 Petitioner Apple communicated its opposition to termination of the proceeding, and on the same date Patent Owner communicated its support of termination. A phone conference with the Board has been scheduled for Tuesday, October 29 in connection with Petitioner New Bay Capital's communication.

U.S. Patent No. 7,490,151 (IPR2013-00354)

- Related Proceedings: The '151 patent is the subject of merged *inter partes* reexamination control Nos.: 95/001,714 (filed by Petitioner) and 95/001,697 (filed by Cisco).
- Status of the Claims: All claims stand rejected under 35 U.S.C. § 102 or § 103.
- Last Office Action: April 20, 2012: Non-Final Action.
- Status of Proceeding: Patent Owner and Requestor each have filed comments on the April 20, 2012 Non-Final Action. The case is awaiting further action by the Examiner.
- Changes Since Petitioner's August 28, 2013 Status Report:
 - No change in the reexamination.
 - On October 17, 2013, Petitioner filed its opening brief with the Federal Circuit appeal no. 2013-1489, which is an appeal of the decision of the Eastern District of Texas in No. 6:10-cv-00417-

LED. Patent Owner's responsive brief is due November 15, 2013, and Petitioner's reply brief is due December 2, 2013.

- On October 18, 2013, Petitioner in IPR2013-00376 requested leave to file a motion to terminate that proceeding. On October 21, 2013 Petitioner Apple communicated its opposition to termination of the proceeding, and on the same date Patent Owner communicated its support of termination. A phone conference with the Board has been scheduled for Tuesday, October 29 in connection with Petitioner New Bay Capital's communication.

U.S. Patent No. 7,418,504 (IPR2013-00393 & -00394)

- Related Proceeding: The '504 patent is the subject of *inter partes* reexamination control No. 95/001,788 (filed by Petitioner).
- Status of the Claims: All claims stand rejected under 35 U.S.C. § 102 or § 103.
- Last Office Action: June 25, 2013: Right of Appeal Notice.
- Status of Proceeding: Patent Owner filed a notice of appeal on July 25, 2013. Patent Owner requested and the office granted Patent Owner a one-month extension of time, to October 25, 2013, for filing its appeal brief.
- Changes Since Petitioner's August 28, 2013 Status Report:
 - On October 11, 2013, Patent Owner requested an indefinite extension of time to file its appeal brief, asking to file its brief three weeks after the Director enters decisions on (a) Patent Owner's petition to enter into the record a supplemental

declaration the Examiner already excluded as untimely, and (b) Patent Owner's April 12, 2013 petition to the Director to review the decision not to reopen prosecution. Petitioner Apple has filed oppositions to both petitions.

- On October 17, 2013, Petitioner filed its opening brief with the Federal Circuit appeal no. 2013-1489, which is an appeal of the decision of the Eastern District of Texas in No. 6:10-cv-00417-LED. Patent Owner's responsive brief is due November 15, 2013, and Petitioner's reply brief is due December 2, 2013.
- On October 18, 2013, Petitioner in IPR2013-00377 requested leave to file a motion to terminate that proceeding. On October 21, 2013 Petitioner Apple communicated its opposition to termination of the proceeding, and on the same date Patent Owner communicated its support of termination. A phone conference with the Board has been scheduled for Tuesday, October 29 in connection with Petitioner New Bay Capital's communication.
- On October 23, 2013, the office granted Patent Owner a one-month extension of time for filing its appeal brief. Patent Owner's appeal brief is now presently due on November 25, 2013.

U.S. Patent No. 7,921,211 (IPR2013-00397 & -00398)

- Related Proceeding: The '211 patent is the subject of *inter partes* reexamination control No. 95/001,789 (filed by Petitioner).

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