

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 October 23, 2013 Status Report:
 - No change in the reexamination.
 - On December 2, 2013, Patent Owner filed its responsive brief with the Federal Circuit in appeal no. 2013-1489, which is an appeal of the decision of the Eastern District of Texas in No. 6:10-cv-00417-LED. Petitioner’s reply brief is due December 19, 2013.

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.

IPR2013-00349 – Update re: Reexamination Proceedings

- On November 12, 2013, the Board terminated IPR2013-00375 at the request of the petitioner in that proceeding.

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 October 23, 2013 Status Report:
 - No change in the reexamination.
 - On December 2, 2013, Patent Owner filed its responsive brief with the Federal Circuit in appeal no. 2013-1489, which is an appeal of the decision of the Eastern District of Texas in No. 6:10-cv-00417-LED. Petitioner's reply brief is due December 19, 2013.
 - On November 12, 2013, the Board terminated IPR2013-00376 at the request of the petitioner in that proceeding.

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 has requested, and the Office has granted, three extensions of time for filing its appeal brief. Patent Owner's appeal brief presently is due on December 25, 2013.
- Changes Since Petitioner's October 23, 2013 Status Report:
 - On October 23, 2013, the Office granted Patent Owner's request for a second extension of time to file an appeal brief in the reexamination, extending the deadline to November 25, 2013.
 - On November 4, 2013, the Director denied Patent Owner's April 12, 2013 petition to the Director requesting review of the Examiner's decision denying a petition to reopen prosecution.
 - On November 8, 2013, Patent Owner filed a petition for a third extension of time to file its appeal brief.
 - On November 12, 2013, the Board terminated IPR2013-00377 at the request of the petitioner in that proceeding.
 - On November 22, 2013, the Office granted Patent Owner's request for a third extension of time to file an appeal brief, extending the deadline to December 25, 2013.
 - On December 2, 2013, Patent Owner filed its responsive brief with the Federal Circuit in appeal no. 2013-1489, which is an appeal of the decision of the Eastern District of Texas in No. 6:10-cv-00417-LED. Petitioner's reply brief is due December 19, 2013.

- On December 6, 2013, Patent Owner filed a petition for a fourth extension of time to file its appeal brief in the reexamination, asserting the extension was necessary to allow the Director to enter a decision on Patent Owner's July 25, 2013 petition to enter into the record a supplemental declaration the Examiner already excluded as untimely.

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).
- Status of the Claims: All claims stand rejected under 35 U.S.C. § 102 or § 103.
- Last Office Action: June 26, 2013: Right of Appeal Notice.
- Status of Proceeding: Patent Owner filed a notice of appeal on July 25, 2013. Patent Owner has requested, and the Office has granted, three extensions of time for filing its appeal brief. Patent Owner's appeal brief presently is due on December 25, 2013.
- Changes Since Petitioner's October 23, 2013 Status Report:
 - On October 25, 2013, the Office granted Patent Owner's request for a second extension of time to file an appeal brief in the reexamination, extending the deadline to November 25, 2013.
 - On November 4, 2013, the Director denied Patent Owner's April 12, 2013 petition to the Director requesting review of the Examiner's decision denying a petition to reopen prosecution.
 - On November 8, 2013, Patent Owner filed a petition for a third extension of time to file its appeal brief.

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