

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

VIRNETX, INC.,

Plaintiff,

vs.

CISCO SYSTEMS, INC., et al.

Defendants.

§
§
§
§
§
§
§
§
§
§

Civil Action No. 6:10-cv-417

JURY TRIAL DEMANDED

VIRNETX'S OPENING CLAIM CONSTRUCTION BRIEF

TABLE OF CONTENTS

I. TECHNOLOGY OVERVIEW1

II. PRINCIPLES OF CLAIM CONSTRUCTION2

III. LEVEL OF ORDINARY SKILL IN THE ART3

IV. DISPUTED CLAIM CONSTRUCTIONS3

 A. Disputes Concerning Types of Communication Links.....3

 1. “virtual private network” [included in asserted claims of the ’135, ’180, and ’759 patents]3

 2. “virtual private link” [included in asserted claims of the ’135 patent]9

 3. “secure communication link” [included in asserted claims of the ’504, ’211, and ’759 patents]10

 B. Disputes Concerning Domain Name, Domain Name Service, Secure Domain Name, etc.....13

 1. “domain name service” [included in asserted claims of the ’135, ’180, ’504, and ’211 patents].....13

 2. “domain name” [included in asserted claims of the ’135, ’180, ’504, and ’211 patents].....14

 3. “DNS proxy server” [included in asserted claims of the ’135 patent]16

 4. “secure domain name service” [included in asserted claims of the ’180 patent]17

 5. “domain name service system” [included in asserted claims of the ’504 and ’211 patents].....19

 6. “top-level domain name” [included in asserted claims of the ’504 and ’211 patents].....20

 C. Disputes Concerning Web Site, Secure Web Site, Secure Web Computer, etc.21

 1. “web site” [included in asserted claims of the ’135 patent]21

2.	“secure web site” [included in asserted claims of the ’135 patent]	21
3.	“secure target web site” [included in asserted claims of the ’135 patent].....	21
4.	“secure web computer” [included in asserted claims of the ’135 patent].....	22
5.	“secure server” [included in asserted claims of the ’151 patent]	24
6.	“target computer” [included in asserted claims of the ’135 patent]	24
D.	Disputes Concerning Defendants’ Attempt to Rewrite the Claims	26
1.	“between [A] and [B]” [included in asserted claims of the ’135, ’151, ’504, ’211, and ’759 patents]	26
2.	“determining whether the DNS request transmitted in step (1) is requesting access to a secure web site” [included in asserted claims of the ’135 patent]	26
3.	“generating from the client computer a Domain Name Service (DNS) request” [included in asserted claims of the ’135 patent]	26
4.	“an indication that the domain name service system supports establishing a secure communication link” [included in asserted claims of the ’504 patent]	26
5.	“indicate/indicating... whether the domain name service system supports establishing a secure communication link” [included in asserted claims of the ’211 patent]	26
6.	“enabling a secure communication mode of communication” [included in asserted claims of the ’759 patent]	27
E.	Miscellaneous Dispute	28
1.	“cryptographic information” [included in asserted claims of the ’759 patent]	28
V.	CONCLUSION.....	29

TABLE OF AUTHORITIES

FEDERAL CASES	PAGE(S)
<i>AIA Eng’g Ltd. v. Magotteaux Int’l S/A</i> , 2011 U.S. App. LEXIS 18125 (Fed. Cir. Aug. 31, 2011)	20
<i>Bd. of Regents of the Univ. of Tex. Sys. v. BENQ Am. Corp.</i> , 533 F.3d 1362 (Fed. Cir. 2008).....	20
<i>Clearwater Sys. Corp. v. Evapco, Inc.</i> , 394 Fed. Appx. 699 (Fed. Cir. 2010).....	<i>passim</i>
<i>E-Pass Techs., Inc. v. 3COM Corp.</i> , 343 F.3d 1364 (Fed. Cir. 2003).....	<i>passim</i>
<i>Eon-Net LP v. Flagstar Bancorp</i> , 653 F.3d 1314 (Fed. Cir. Jul. 29, 2011).....	9
<i>Globetrotter Software, Inc. v. Elan Computer Group, Inc.</i> , 362 F.3d 1367 (Fed. Cir. 2004).....	16
<i>Grantley Patent Holdings, Ltd. v. Clear Channel Communs., Inc.</i> , 2008 U.S. Dist. LEXIS 1588 (E.D. Tex. Jan. 8, 2008) (Clark, J.).....	27
<i>i4i Ltd. P’ship v. Microsoft Corp.</i> , 598 F.3d 831 (Fed. Cir. 2010).....	11, 25, 27
<i>Johnson Worldwide Assocs., Inc. v. Zebco Corp.</i> , 175 F.3d 985 (Fed. Cir. 1999).....	20
<i>MBO Labs., Inc. v. Becton, Dickinson & Co.</i> , 474 F.3d 1323 (Fed. Cir. 2007).....	20
<i>Momentum Golf, Inc. v. Swingrite Golf Corp.</i> , 187 Fed. Appx. 981 (Fed. Cir. 2006).....	8
<i>Nazomi Communications, Inc. v. ARM Holdings, PLC</i> , 403 F.3d 1364 (Fed. Cir. 2005).....	2
<i>Omega Eng’g, Inc. v. Raytek Corp.</i> , 334 F.3d 1314 (Fed. Cir. 2003).....	<i>passim</i>
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005).....	2, 22
<i>Rheox, Inc. v. Entact, Inc.</i> , 276 F.3d 1319 (Fed. Cir. 2002).....	7, 8

Vitronics Corp. v. Conceptronic,
90 F.3d 1576 (Fed. Cir. 1996).....21

Zircon Corp. v. Stanley Black & Decker, Inc.,
2011 U.S. App. LEXIS 20164 (Fed. Cir. Oct. 5, 2011).....9

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.