

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RPX, 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. IPR2014-00172

THIRD PARTY APPLE'S RESPONSE TO DISCOVERY

VIRNETX EXHIBIT 2058

[REDACTED]

Pursuant to the Board’s Decision (Paper No. 33), and based on the scope of discovery identified in Third Party Apple’s Discovery Proposal, Apple Inc. (Apple) hereby responds as follows. Third Party Apple confirms that it has complied with the instructions and conditions set forth in the Board’s Order – Decision – Scope of Discovery (Paper No. 33) in providing this response.

Apple observes that the parties agreed that the provision of information responsive to the discovery sought by Patent Owner does not constitute waiver of any attorney client privilege. Apple also observes that the Board’s discovery order is limited to communications between Apple and RPX, including counsel acting within the scope of agency of one of those parties.

I. REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS AND INTERROGATORY

REQUEST FOR PRODUCTION NO. 1

Documents or things containing communications between Apple and RPX regarding the preparation or filing of the RPX IPRs to the extent such responsive documents are not otherwise produced by RPX.

Third Party Apple’s Response

There are no documents or things responsive to this request.

REQUEST FOR PRODUCTION NO. 2

Documents or things containing communications between Apple and RPX regarding the First Addendum to the Membership and License Agreement,

[REDACTED]

including communications relating to negotiating the First Addendum to the Membership and License Agreement to the extent such responsive documents are not otherwise produced by RPX.

Third Party Apple's Response

There are no documents or things responsive to this request that have not already been produced by RPX and identified in Appendix A of Petitioner's Response to Discovery, other than those identified in Appendix A to this response.

INTERROGATORY NO. 1

Identify any communication between Apple and RPX not reduced to a tangible form and not otherwise identified in any document or thing produced in response to RFP No. 1 or RFP No. 2, in which Apple discussed with RPX (i) the preparation or filing of the RPX IPRs or (ii) the First Addendum to the Membership and License Agreement, including communications relating to negotiating the First Addendum to the Membership and License Agreement. For any such communication, describe the topic, the individuals between whom the communications occurred, and the approximate date of the communication.

Third Party Apple's Response

There are no communications responsive to this interrogatory other than those that have already been identified in Appendices B and C of Petitioner's Response to Discovery.

[REDACTED]

In making this representation, Third Party Apple confirms that it had no discussions with its counsel at Sidley Austin LLP during the period specified in the Board's Order concerning the preparation or filing of the RPX IPRs, other than in relation to the communication between Apple and RPX identified in the second row of the table in Petitioner's Appendix B (i.e., concerning a communication on or before November 8, 2013 between [REDACTED] (RPX) and [REDACTED] (Apple) concerning consent to file a copy of the confidential First Addendum to the Membership and License Agreement Between RPX and Apple to the Patent Office in connection with the RPX IPR petitions).

Dated: March 4, 2014

Respectfully Submitted,

/Jeffrey P. Kushan/
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[REDACTED]

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of March, 2014, a copy of this **Third Party Apple's Response to Discovery**, has been served in its entirety by e-mail on the following counsel of record for patent owner and on the petitioner in IPR2014-00171, -00172, -00173 -00174, -00175, -00176 and -00177:

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Dated: March 4, 2014

Respectfully submitted,

/Jeffrey P. Kushan/
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