[redacted] **Case IPR2014-00172**

Paper No. _____
Filed on behalf of: RPX Corporation Filed: March 28, 2014

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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RPX CORPORATION,
Petitioner,

v.

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

_____

Case IPR2014-00172
Patent 6,502,135

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PETITIONER'S RESPONSE TO THE BOARD'S MARCH 17, 2014 ORDER (Regarding Real Party in Interest)

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Petitioner RPX Corp. is the only real party in interest in these *inter partes* reviews. Under the framework of *Taylor v. Sturgell*, 553 U.S. 880 (2008), RPX has no "pre-existing 'substantive legal relationship[]'" such as that of licensor, assignee, or successor, *id.* at 894, for any patent at issue; and RPX is expressly not a "designated representative" or "agent," *id.* at 895, of Apple Inc. or any other relevant entity. Accordingly, RPX has the right to petition in its own name.

Patent Owner VirnetX, Inc. fails to fit RPX within any of *Taylor*'s categories. VirnetX effectively concedes that it cannot prove Apple had control over RPX's decision to file the present IPR petitions or RPX's conduct in litigating them. Instead, VirnetX relies on factually overstated and legally deficient allegations that Apple partially funded RPX and gave it access to Apple's counsel. Under settled law, those allegations do not establish real-party-in-interest status. The Board should grant the RPX petitions and institute the requested IPRs.

I. Factual Background

RPX was founded as a Delaware corporation in July 2008 and issued shares to the public in May 2011. At the end of 2013, RPX had more than 160 customers for its patent services. RPX's services include obtaining patent rights for its customers, facilitating settlement of active litigation, gathering and analyzing market intelligence and data, providing insurance against patent litigation risks, and other services to reduce patent risk to customers and to help rationalize the market

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