

Filed on behalf of: VirnetX Inc.

By:

Joseph E. Palys  
Finnegan, Henderson, Farabow,  
Garrett & Dunner, L.L.P.  
11955 Freedom Drive  
Reston, VA 20190-5675  
Telephone: (571) 203-2700  
Facsimile: (202) 408-4400  
E-mail: joseph.palys@finnegan.com

Naveen Modi  
Paul Hastings LLP  
875 15th Street NW  
Washington, DC 20005  
Telephone: (202) 551-1990  
Facsimile: (202) 551-0490  
E-mail: naveenmodi@paulhastings.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

APPLE INC.  
Petitioner

v.

VIRNETX INC.  
Patent Owner

---

Case IPR2014-00481  
Patent 7,188,180

---

**Patent Owner's Preliminary Response  
to Petition for *Inter Partes* Review  
of U.S. Patent No. 7,188,180**

**Table of Contents**

- I. Introduction.....1
- II. The Petition Fails to Meet the Requirements for Instituting an *Inter Partes* Review .....2
  - A. The Petition Fails to Comply with 35 U.S.C. §§ 312(a)(3)-(4) and 37 C.F.R. § 42.104(b).....2
  - B. Apple’s Petition Should Be Denied Under 35 U.S.C. § 325(d).....8
  - C. The Board Should Not Institute Based on the Petition’s Redundant Grounds .....11
  - D. Apple Asserts an Anticipation Ground Based on Three Documents, Contrary to Basic Anticipation Law .....14
- III. The Petition’s Claim Constructions Are Flawed and Should Be Rejected .....16
  - A. Overview of the ’180 Patent.....16
  - B. Level of Ordinary Skill in the Art .....18
  - C. “Virtual Private Network” (Claims 4-10, 20-26, and 35-40).....19
  - D. “Virtual Private Network Communication Link” (Claims 1-3, 17-19, and 34).....23
  - E. “Secure Computer Network Address” (Claims 1, 2, 5, 8, 9, 12, 17, 18, 21, 24, 25, 28, 33, 34, 36, 39, 40) .....26
  - F. “Secure Domain Name” (Claims 1, 2, 11, 13, 17, 18, 27, 29, 33, 34, and 41) .....30
  - G. “Secure Domain Name Service” (Claims 1, 17, and 33).....32
  - H. “Provisioning Information” (Claims 4, 20, and 35).....34
  - I. “Client Computer” (Claims 13, 15, 29, 30 and 31).....36
- IV. If Trial Is Instituted, VirnetX Requests an 18-Month Schedule .....39

V. Conclusion .....40

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>Federal Cases</b>	
<i>Advanced Display Sys., Inc. v. Kent State Univ.</i> , 212 F.3d 1272 (Fed. Cir. 2000) .....	16
<i>Apple Inc. v. Evolutionary Intelligence, LLC</i> , IPR2014-00079, Paper No. 8 (Apr. 25, 2014).....	3
<i>Apple Inc. v. Int’l Trade Comm’n</i> , 725 F.3d 1356 (Fed. Cir. 2013) .....	14, 16
<i>Atrium Med. Corp. v. Davol Inc.</i> , IPR2013-00186, Paper No. 34 (Oct. 23, 2013) .....	3
<i>CaptionCall, LLC v. Ultratec, Inc.</i> , IPR2013-00549, Paper No. 20 (Apr. 28, 2014).....	4
<i>EMC Corp. v. Personal Web Techs., LLC</i> , IPR2013-00087, Paper No. 25 (June 5, 2013).....	12, 14
<i>Google Inc. et al. v. Everymd.com LLC</i> , IPR2014-00347, Paper No. 9 (May 22, 2014).....	3, 8
<i>Idle Free Sys., Inc. v. Bergstrom, Inc.</i> , IPR2012-00027, Paper No. 26 (June 11, 2013).....	12
<i>Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.</i> , IPR2013-00324, Paper No. 19 (Nov. 21, 2013) .....	9
<i>Kyocera Wireless Corp. v. Int’l Trade Com’n</i> ; 545 F.3d 1340, 1351 (Fed. Cir. 2008).....	16
<i>Liberty Mut. Ins. Co. v. Progressive Cas. Ins. Co.</i> , CBM2012-00003, Paper No. 7 (Oct. 25, 2012).....	11, 12, 13
<i>ScentAir Techs., Inc. v. Prolitec, Inc.</i> , IPR2013-00180, Paper No. 18 (Aug. 26, 2013).....	12, 14
<i>Synopsys, Inc. v. Mentor Graphics Corp.</i> , IPR2012-00041, Paper No. 16 (Feb. 22, 2013).....	3

*Tasco, Inc. v. Pagnani*,  
IPR2013-00103, Paper No. 6 (May 23, 2013).....3

*Wowza Media Sys., LLC et al. v. Adobe Sys., Inc.*,  
IPR2013-00054, Paper No. 16 (July 13, 2013) .....3

**Federal Statutes**

35 U.S.C. § 312(a)(3).....1, 3, 7, 8

35 U.S.C. § 312(a)(4).....1, 3, 7, 8

35 U.S.C. § 313.....1

35 U.S.C. § 316(a)(1).....40

35 U.S.C. § 325(d) .....1, 8, 9, 11

**Regulations**

37 C.F.R. § 42.8 .....39

37 C.F.R. § 42.100(c).....40

37 C.F.R. § 42.104(b) .....1

37 C.F.R. § 42.104(b)(4).....3, 8

37 C.F.R. § 42.104(b)(5).....3, 8

37 C.F.R. § 42.107 .....1

**Other Authorities**

157 Cong. Rec. S1041-42 (daily ed. Mar. 1, 2011).....9

77 Fed. Reg. 48680 (Aug. 14, 2012).....8

77 Fed. Reg. 48756 (Aug. 14, 2012).....8

# 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.