

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE, INC.  
Petitioner,

v.

VIRNETX INC.  
Patent Owner.

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Case IPR2014-000237 (Patent 8,504,697)  
Case IPR2014-000238 (Patent 8,504,697)<sup>1</sup>

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Before MICHAEL P. TIERNEY, KARL D. EASTHOM, and STEPHEN C. SIU,  
*Administrative Patent Judges.*

TIERNEY, *Administrative Patent Judge.*

ORDER  
Conduct of the Proceedings  
37 C.F.R. § 42.5

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<sup>1</sup> This decision addresses an issue that is identical in each case. We, therefore, exercise our discretion to issue one Order to be filed in each case. Unless otherwise authorized, the parties, however, are not authorized to use this style heading for any subsequent papers.

Conference calls were held on January 8, 10 and 16, 2014, involving Administrative Patent Judges Tierney, Siu and Easthom and representatives from Apple, RPX and Virnetx.<sup>2</sup> The purpose of the calls was to discuss scheduling and concerns regarding identification of real party in interest and privies in the related RPX proceedings. A court reporter was present on the calls.<sup>3</sup>

#### 1. Scheduling

RPX filed its involved petitions challenging Virnetx's patents on November 20, 2013. Apple filed on December 6, 2013, its petitions challenging a Virnetx patent, which claims 35 U.S.C. § 120 benefit of at least two of the RPX challenged patents.

The Board inquired as to whether the time for filing a patent owner preliminary response should be the same for both the RPX and Apple *inter partes* reviews. Based on the information provided by the parties, the Board concluded that the issues raised in the RPX petitions overlapped those raised in previously filed petitions and, further, that the issues raised in the RPX petitions overlapped those raised in the Apple petitions. Accordingly, the Board held that the time for filing patent owner preliminary responses in both the RPX and Apple proceedings is set for March 6, 2014.

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<sup>2</sup> Although Apple and RPX filed separate petitions, based on the nature of the issues raised by the petitions, the Board exercised its discretion and held a joint conference call.

<sup>3</sup> This Order summarizes statements made during the conference call. A more complete record may be found in the transcripts, which may be found in the RPX record, e.g., IPR2014-00171, Exs. 1075, 1076 and 1077.

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