

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner,

v.

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

Patent No. 8,504,697

Issued: August 6, 2013

Filed: December 28, 2011

Inventors: Victor Larson, *et al.*

Title: SYSTEM AND METHOD EMPLOYING AN AGILE NETWORK
PROTOCOL FOR SECURE COMMUNICATIONS USING SECURE DOMAIN
NAMES

Inter Partes Review No. IPR2014-00238

PETITION FOR INTER PARTES REVIEW

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Attachment A. Proof of Service of the Petition

Attachment B. List of Evidence and Exhibits Relied Upon in Petition

I. COMPLIANCE WITH REQUIREMENTS FOR A PETITION FOR INTER PARTES REVIEW

A. Certification the '697 Patent May Be Contested by Petitioner

Petitioner certifies that U.S. Patent No. 8,504,697 (the '697 patent) (Ex. 1001) is available for *inter partes* review. Petitioner certifies that it is not barred or estopped from requesting *inter partes* review of the claims of the '697 patent on the grounds identified in this Petition. Neither Petitioner, nor any party in privity with Petitioner, has filed a civil action challenging the validity of any claim of the '697 patent. The '697 patent has not been the subject of a prior *inter partes* review by Petitioner or a privy of Petitioner.

Petitioner also certifies this petition for *inter partes* review is filed within one year of the date of service of a complaint alleging infringement of a patent. On **August 5, 2013**, VirnetX filed a complaint in the Eastern District of Texas asserting the '697 patent in case No. 6:13-cv-00581. The case was dismissed without prejudice. On **August 27, 2013**, VirnetX amended its complaint in the 6:12:cv-00855 proceeding to add the '697 patent. Because the date of this petition is less than one year from **August 27, 2013**, this petition complies with 35 U.S.C. § 315(b). Petitioner also notes that the timing provisions of 35 U.S.C. § 311(c) and 37 C.F.R. § 42.102(a) do not apply to the '697 patent, as it pre-dates the first-to-file system. *See* Pub. L. 112-274 § 1(n), 126 Stat. 2456 (Jan. 14, 2013).

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