

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

VIRNETX, INC. AND SCIENCE,	§	
APPLICATIONS INTERNATIONAL	§	
CORP.,	§	
	§	
Plaintiff,	§	CIVIL ACTION NO. 6:07-CV-80 (LED)
	§	
vs.	§	
	§	
MICROSOFT CORPORATION,	§	JURY TRIAL
	§	
Defendant.	§	

**ORDER GRANTING JOINT STIPULATION REGARDING MICROSOFT’S
INEQUITABLE CONDUCT COUNTERCLAIMS AND AFFIRMATIVE DEFENSES**

Before this Court is VirnetX, Inc.’s (“VirnetX”), Science Applications International Corp.’s (“SAIC”), and Microsoft Corporation’s (“Microsoft”) Joint Stipulation Regarding Microsoft’s Inequitable Conduct Counterclaims and Affirmative Defenses.

Pursuant to stipulation, it is so ORDERED:

1. Microsoft’s pending affirmative defenses of inequitable conduct as to U.S. Pat. Nos. 6,502,135 and 7,188,180 (as described in Microsoft’s Answer, Defenses, and Counterclaims to VirnetX Inc.’s and Science Applications International Corporation’s First Amended Complaint (Docket No. 133), Ninth Affirmative Defense, as it relates to inequitable conduct as to U.S. Pat. Nos. 6,502,135 and 7,188,180, and Microsoft’s responses to Interrogatories Nos. 6, 26, and 73 as they relate to inequitable conduct as to U.S. Pat. Nos. 6,502,135 and 7,188, 180) are withdrawn with prejudice.
2. Microsoft’s pending counterclaims for declaratory judgment of unenforceability due to inequitable conduct as to U.S. Pat. Nos. 6,502,135 and 7,188,180 (as

described in Microsoft's Answer, Defenses, and Counterclaims to VirnetX Inc.'s and Science Applications International Corporation's First Amended Complaint (Docket No. 133), paragraphs 103 and 129 as they relate to inequitable conduct as to U.S. Pat. Nos. 6,502,135 and 7,188,180, and Microsoft's responses to Interrogatories Nos. 6, 26, and 73 as they relate to inequitable conduct as to U.S. Pat. Nos. 6,502,135 and 7,188, 180) are withdrawn with prejudice.

3. VirnetX's Motion for Partial Summary Judgment and Judgment on the Pleadings as to Microsoft's Affirmative Defense and Counterclaim for Declaratory Judgment Regarding Inequitable Conduct (Docket No. 259) is withdrawn without prejudice.

4. Nothing in this Order will bar or otherwise prevent Microsoft from raising in any future litigation concerning U.S. Pat. Nos. 6,502,135 or 7,188,180 any claim or defense of inequitable conduct not presently known to Microsoft.

5. Nothing in this Order will bar or otherwise prevent Microsoft from raising in this or any future patent infringement litigation claims or defenses of inequitable conduct that may occur during the reexamination of U.S. Pat. Nos. 6,502,135 or 7,188,180.

6. This Order does not extend to any patent other than U.S. Pat. Nos. 6,502,135 or 7,188,180, whether related or unrelated to U.S. Pat. Nos. 6,502,135 and 7,188,180.

7. Each party will bear its own costs and fees in connection with Microsoft's withdrawn inequitable conduct defenses and counterclaims.

So ORDERED and SIGNED this 15th day of January, 2010.

A handwritten signature in black ink, appearing to read "Leonard Davis", written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**