Case No. IPR2014-00618

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION
Petitioner

v.

VIRNETX INC.
Patent Owner

Case IPR2014-00618
Patent 7,921,211

**Patent Owner's Preliminary Response
to Petition for *Inter Partes* Review
of U.S. Patent No. 7,921,211**

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I.   Introduction

Patent Owner VirnetX Inc. respectfully submits this Preliminary Response in accordance with 35 U.S.C. § 313 and 37 C.F.R. § 42.107, responding to the Petition for *Inter Partes* Review (the "Petition") filed by Microsoft Corporation against U.S. Patent No. 7,921,211 ("the '211 patent"). VirnetX requests that the Board not institute *inter partes* review for several reasons.

First, the Petition fails to comply with 37 C.F.R. § 42.6(a)(2)(ii) because it uses a font that the Board has deemed noncompliant for being too narrow. The result is that Microsoft's Petition contains additional arguments that it could not otherwise have made if written in a compliant font.

Second, this proceeding is duplicative of other actions before the Office and should be dismissed under 35 U.S.C. § 325(d). The Office currently has two *inter partes* reexamination proceedings against the '211 patent. Another set of Office proceedings against the '211 patent, as Microsoft requests here, is unnecessary and burdens both the Office and VirnetX. In addition, the primary prior art reference Microsoft relies on here is already being considered by the Office in a reexamination of the '211 patent. Section 325(d) was designed to avoid the type of serial challenge Microsoft requests.

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