UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MICROSOFT CORPORATION,
Petitioner,

v.

VIRNETX INC.,
Patent Owner.

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Case IPR2014-00615
Case IPR2014-00616
Case IPR2014-00618
Patent 7,921,211 B2[1]

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

SIU, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review in IPR2014-00615 and IPR2014-00618
and Denying Institution of *Inter Partes* Review in IPR2014-00616
37 C.F.R. § 42.108

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[1] A copy of this Decision will be entered in each case. Hereinafter, using the heading style of the Scheduling Order, all papers and exhibits by the parties will be filed only in IPR2014-00615.

I.   INTRODUCTION

A.   Background

Microsoft Corporation ("Petitioner") filed three Petitions requesting *inter partes* review of claims 1, 2, 6, 14–17, 19–23, 26–41, 43–47, and 50–60 of U.S. Patent No. 7,921,211 B2 (issued April 5, 2011) (Ex. 1001,[2] "the '211 Patent"). VirnetX Inc. ("Patent Owner") filed a Preliminary Response ("Prelim. Resp.") in each of the three proceedings, as listed in the following chart.

Case No.	Challenged Claims	Petition Paper No.	Preliminary Response Paper No.
IPR2014-00615	1, 2, 6, 14–17, 19–23, 26–41, 43–47, and 50–60	Paper 2	Paper 7
IPR2014-00616	1, 2, 6, 14–17, 19–23, 26–41, 43–47, and 50–60	Paper 2	Paper 7
IPR2014-00618	1, 2, 6, 14–17, 19–23, 26–41, 43–47, and 50–60	Paper 1	Paper 8

We have jurisdiction under 35 U.S.C. § 314. The standard for instituting *inter partes* review is set forth in 35 U.S.C. § 314(a) which provides:

> THRESHOLD.—The Director may not authorize an inter partes review to be instituted unless the Director determines that the information presented in the petition filed under section 311

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[2] For the purposes of clarity and expediency, we use Case IPR2014-00615 as representative of the three proceedings. Unless otherwise noted, all citations to "Pet.," "Prelim. Resp.," and "Ex." refer to the Petition, Preliminary Response, and exhibits, respectively, in Case IPR2014-00615.

and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.

We determine, based on the record, that Petitioner has demonstrated, under 35 U.S.C. § 314(a), that there is a reasonable likelihood it would prevail in establishing unpatentability with respect to all of the challenged claims, claims 1, 2, 6, 14–17, 19–23, 26–41, 43–47, and 50–60.

Petitioner relies on the following references:

US 6,557,037 B1   Apr. 29, 2003   (Ex. 1008, "Provino")[3]
US 6,225,993 B1   May 1, 2001   (Ex. 1009, "Lindblad")

P. Mockapetris, *Domain Names — Concepts and Facilities*, NETWORK WORKING GROUP, REQUEST FOR COMMENTS: 1034 1–55 (1987) (Ex. 1010, "RFC 1034").

E. Rescorla & A. Schiffman, *The Secure HyperText Transfer Protocol*, Enterprise Integration Technologies 1–35 (1996) (Ex. 1012, "RFC 2660").

Takahiro Kiuchi & Shigekoto Kaihara, *C-HTTP -- The Development of a Secure, Closed HTTP-based Network on the Internet*, PROCEEDINGS OF THE SYMPOSIUM ON NETWORK AND DISTRIBUTED SYSTEM SECURITY, IEEE 64–75 (1996) (Ex. 1018, "Kiuchi").

Aventail Corp., *Aventail Connect v3.01/v2.51 Administrator's Guide* and *Aventail Extranet Center v3.0 Administrator's Guide* 1–194 (1996–99) (Ex. 1007, "Aventail") ('616 IPR, Ex. 1007, "Aventail").

Dave Kosiur, *Building and Managing Virtual Private Networks* (Sept. 1, 1998) ("Kosiur") ('618 IPR, Ex. 1024).

Petitioner contends that the challenged claims are unpatentable under 35 U.S.C. § 102 and/or § 103 based on the following specific grounds:

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[3] Exhibit in the '618 IPR.

Reference(s)	Basis	Claims Challenged
Kiuchi	§ 102	1, 2, 6, 14–17, 19–23, 26–31, 33–41, 43–47, 50–55, and 57–60
Aventail	§ 102 or § 103	1, 2, 6, 14–17, 19–23, 26–41, 43–47, and 50–60
Provino	§ 102	1, 2, 6, 14–17, 19–23, 26–41, 43–47, and 50–60
RFC 1034 and one of Kiuchi, Aventail, or Provino	§ 103	20, 21, 35, 44, 45, and 59
RFC 2660 and one of Kiuchi, Aventail or Provino	§ 103	16, 27, 33, 40, 51, and 57
Lindblad and one of Kiuchi or Aventail	§ 103	32 and 56
Provino and Kosiur	§ 103	29–32 and 53–56

Petitioner also relies on two declarations provided by Dr. Roch Guerin, Exhibit 1023 in the '618 IPR and Exhibit 1021 in the '615 IPR.

B.   The '211 Patent

The '211 Patent describes a system and method for establishing a secure communication link between a first computer and a second computer over a computer network. Ex. 1001, 6:36–39, 48:58–60. The user obtains a URL for a secure top-level domain name by querying a secure domain name service that contains a cross-reference database of secure domain names and corresponding secure network addresses. *Id.* at 50:27–30, 50:65–66. When the user queries the secure domain name service for a secure computer network address, the secure domain name service determines the particular

secure computer network address and returns the network address

corresponding to the request. *Id.* at 38:61–63, 39:3–5, 51:17–21.

Claim 1 of the '211 Patent is reproduced below:

1. A system for providing a domain name service for establishing a secure communication link, the system comprising:
a domain name service system configured and arranged to be connected to a communication network, store a plurality of domain names and corresponding network addresses, receive a query for a network address, and indicate in response to the query whether the domain name service system supports establishing a secure communication link.

Petitioner states that the '211 Patent is presently the subject of co-

pending proceedings, as follows:

1) Civil Action No. 6:13-cv-00211-LED (E.D. Tex.), filed February 26, 2013;
2) Civil Action No. 6:12-cv-00855-LED (E.D. Tex.), filed November 6, 2012;
3) Civil Action No. 6:10-cv-00417-LED (E.D. Tex.), filed August 11, 2010;
4) Civil Action No. 6:11-cv-00018-LED (E.D. Tex), filed April 27, 2012;
5) Civil Action No. 6:13-cv-00351-LED (E.D. Tex), filed April 22, 2013 ("the 2013 litigation");
6) Civil Action No. 6:13-mc-00037 (E.D. Tex), filed November 19, 2013; and

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