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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner

v.

VIRNETX INC.
Patent Owner

Case IPR2015-00187
Patent 7,490,151

**Patent Owner's Preliminary Response
to Petition for *Inter Partes* Review
of U.S. Patent No. 7,490,151**

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I. Introduction

Board decisions and sound policy support denying Apple's Petition, which is the seventh Office challenge to U.S. Patent No. 7,490,151 ("the '151 patent").

Apple itself initiated four of these challenges, either by itself or, as the Board found, through its "proxy" RPX Corporation. (IPR2014-00173, Paper No. 56 at 7 (redacted) (June 5, 2014) (finding that "RPX is Apple's proxy").) Apple filed a first IPR petition, which was denied as time-barred. RPX filed another IPR petition, which was denied because Apple was an unnamed and time-barred real party-in-interest. Apple also initiated an *inter partes* reexamination of the '151 patent.

Three proceedings involving the '151 patent are now pending before the Office. These include Apple's own *inter partes* reexamination, a separate *inter partes* reexamination initiated by Cisco Systems, Inc., and an IPR filed by Microsoft Corporation.¹ Because Apple's Petition here seeks to essentially replicate issues and evidence already before the Office, they should be denied under 35 U.S.C. §§ 315(d) and 325(d).

¹ Microsoft and VirnetX have settled and have filed a joint motion to terminate in the IPR. The motion to terminate is pending.

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