

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

VirnetX Inc.	§	
	§	
Plaintiff,	§	
	§	
vs.	§	Case No. 6:10-cv-417
	§	
Cisco Systems, Inc., <i>et al.</i> ,	§	
	§	
Defendants.	§	<u>JURY TRIAL DEMANDED</u>

**DEFENDANT APPLE INC.’S ORIGINAL ANSWER, AFFIRMATIVE DEFENSES, AND
COUNTERCLAIMS TO PLAINTIFF’S THIRD AMENDED COMPLAINT**

Defendant Apple Inc. (“Apple”) files this Original Answer, Affirmative Defenses and Counterclaims to Plaintiff’s Third Amended Complaint for Patent Infringement (the “Complaint”) filed by VirnetX Inc. (“VirnetX”) and Science Applications International Corporation (“SAIC”).

I. ANSWER

THE PARTIES

1. - 3. Apple is without sufficient information or knowledge to either admit or deny the allegations in paragraphs 1 - 3 and therefore denies the same.

4. Apple admits that it is a California corporation organized and existing under the laws of California, with its principal place of business at One Infinite Loop, Cupertino, California 95014. Apple admits that it has conducted business in this district. Apple denies all other allegations contained in paragraph 4 of the Complaint.

VIRNETX EXHIBIT 0000

5. - 6. Apple is without sufficient information or knowledge to either admit or deny the allegations in paragraphs 5 and 6 and therefore denies the same.

JURISDICTION AND VENUE

7. Apple admits that VirnetX alleges a civil action for patent infringement under the laws of the United States, Title 35 United States Code §§ 101, *et seq.* Apple admits that this Court has subject matter jurisdiction over VirnetX's claims for patent infringement. Apple denies all other allegations contained in paragraph 7 of the Complaint.

8. To the extent the allegations in paragraph 8 relate to Apple, Apple admits that venue is proper in this Court, but Apple denies that this judicial district is the most convenient forum for this case. Apple denies all other allegations in this paragraph to the extent such allegations relate to Apple. To the extent the allegations in paragraph 8 relate to the other Defendants in this case, Apple is without sufficient information or knowledge to either admit or deny the allegations and therefore denies the same.

9. To the extent the allegations in paragraph 9 relate to Apple, Apple admits that this Court has personal jurisdiction over Apple. Apple admits that it has conducted business in the State of Texas. Apple admits that it has and does sell products and provide services to persons within the State of Texas and this District, but it denies that it has committed any acts of infringement within this District or the State of Texas, and specifically denies any wrongdoing, infringement, inducement of infringement, or contribution to infringement. Apple denies all other allegations in this paragraph to the extent such allegations relate to Apple. To the extent the allegations in paragraph 9 relate to the other Defendants in this case, Apple is without sufficient information or knowledge to either admit or deny the allegations and therefore denies the same.

ASSERTED PATENTS

10. Apple admits that, according to the face of the patent, United States Patent No. 6,502,135 (“the ‘135 patent”) is entitled “Agile Network Protocol for Secure Communications with Assured System Availability” and reflects an issue date of December 31, 2002. Apple admits that Edmund Colby Munger, Douglas Charles Schmidt, Robert Dunham Short, III, Victor Larson, and Michael Williamson are listed as inventors on the face of the patent. Apple admits that what appears to be a copy of the ‘135 patent is attached as Exhibit A to the Complaint. Apple denies all other allegations contained in paragraph 10 of the Complaint.

11. Apple admits that, according to the face of the patent, United States Patent No. 6,839,759 (“the ‘759 patent”) is entitled “Method for Establishing Secure Communication Link Between Computers of Virtual Private Network Without User Entering Any Cryptographic Information” and reflects an issue date of January 4, 2005. Apple admits that Victor Larson, Robert Dunham Short, III, Edmund Colby Munger, and Michael Williamson are listed as inventors on the face of the patent. Apple admits that what appears to be a copy of the ‘759 patent is attached as Exhibit B to the Complaint. Apple denies all other allegations contained in paragraph 11 of the Complaint.

12. Apple admits that, according to the face of the patent, United States Patent No. 7,188,180 (“the ‘180 patent”) is entitled “Method for Establishing Secure Communication Link Between Computers of Virtual Private Network” and reflects an issue date of March 6, 2007. Apple admits that Victor Larson, Robert Dunham Short, III, Edmund Colby Munger, and Michael Williamson are listed as inventors on the face of the patent. Apple admits that what appears to be a copy of the ‘180 patent is attached as Exhibit C to the Complaint. Apple denies all other allegations contained in paragraph 12 of the Complaint.

13. Apple admits that, according to the face of the patent, United States Patent No. 7,418,504 (“the ‘504 patent”) is entitled “Agile Network Protocol for Secure Communications Using Secure Domain Names” and reflects an issue date of August 26, 2008. Apple admits that Victor Larson, Robert Dunham Short, III, Edmund Colby Munger, and Michael Williamson are listed as inventors on the face of the patent. Apple admits that what appears to be a copy of the ‘504 patent is attached as Exhibit D to the Complaint. Apple denies all other allegations contained in paragraph 13 of the Complaint.

14. Apple admits that, according to the face of the patent, United States Patent No. 7,490,151 (“the ‘151 patent”) is entitled “Establishment of a Secure Communication Link Based on a Domain Name Service (DNS) Request” and reflects an issue date of February 10, 2009. Apple admits that Edmund Colby Munger, Robert Dunham Short, III, Victor Larson, and Michael Williamson are listed as inventors on the face of the patent. Apple admits that what appears to be a copy of the ‘151 patent is attached as Exhibit E to the Complaint. Apple denies all other allegations contained in paragraph 14 of the Complaint.

15. Apple admits that, according to the face of the patent, United States Patent No. 7,921,211 (“the ‘211 patent”) is entitled “Agile Network Protocol for Secure Communications Using Secure Domain Names” and reflects an issue date of April 5, 2011. Apple admits that Edmund Colby Munger, Robert Dunham Short, III, Victor Larson, and Michael Williamson are listed as inventors on the face of the patent. Apple admits that what appears to be a copy of the ‘211 patent is attached as Exhibit F to the Complaint. Apple denies all other allegations contained in paragraph 15 of the Complaint.

COUNT ONE

ALLEGED PATENT INFRINGEMENT BY AASTRA

16. Apple incorporates by reference paragraphs 1-15 above as if fully set forth herein. Apple is without sufficient information or knowledge to either admit or deny the allegations in paragraph 16 regarding Aastra and the '135, '504, and '211 patents and therefore denies the same.

16. – 36. Apple is without sufficient information or knowledge to either admit or deny the allegations in paragraphs 16-36 and therefore denies the same.

COUNT TWO

ALLEGED PATENT INFRINGEMENT BY APPLE

37. Apple incorporates by reference paragraphs 1-36 above as if fully set forth herein. Apple denies that it has infringed or continues to infringe the '135, '151, '504, or '211 patents.

38. Denied.

39. Denied.

40. Apple admits that it provides or has provided the iPhone, iPhone 3G, iPhone 3GS, iPhone 4, iPod touch, iPad, and iPad 2 to others in the United States. Apple denies that these or any other Apple products infringe any asserted claims of the '135 patent. Apple further denies all other allegations contained in paragraph 40 of the Complaint.

41. Denied.

42. Denied.

43. Apple admits that it makes or has made, uses or used, sells or sold, offers for sale or offered for sale, imports or imported, exports or exported, supplies or supplied, and/or distributes or distributed within and from the United States the iPhone, iPhone 3G, iPhone 3GS, iPhone 4, iPod touch, iPad and iPad 2, but it denies that these or any other Apple products

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