

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

VirnetX Inc. and
Science Applications International
Corporation,

Plaintiffs,

v.

Apple Inc.,

Defendant.

Civil Action No. 6:12-cv-855

**DEFENDANT APPLE INC.'S ORIGINAL ANSWER, AFFIRMATIVE DEFENSES, AND
COUNTERCLAIMS TO PLAINTIFF VIRNETX INC.'S AND PLAINTIFF SCIENCE
APPLICATIONS INTERNATIONAL CORPORATION'S ORIGINAL COMPLAINT**

Defendant Apple Inc. ("Apple") files this Original Answer, Affirmative Defenses, and Counterclaims to Plaintiff VirnetX Inc.'s ("VirnetX") and Plaintiff Science Applications International Corporation's ("SAIC") (collectively, "Plaintiffs") Original Complaint (Dkt. No. 1).

ANSWER

THE PARTIES

1.-2. Apple is without sufficient information or knowledge to either admit or deny the allegations in paragraphs 1-2 and therefore denies the same.

JURISDICTION AND VENUE

3. Apple admits that Plaintiffs allege a civil action for patent infringement under the patent laws of the United States, Title 35. Apple admits that this Court has subject matter jurisdiction over VirnetX's claims for patent infringement. Apple denies all other allegations contained in paragraph 3 of the Complaint.

4. Apple admits that venue is proper in this Court, but Apple denies that this judicial district is the more convenient forum for this case. Apple denies all other allegations in this paragraph.

5. 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.

ASSERTED PATENTS

6. 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 6 of the Complaint.

7. 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 B to the Complaint. Apple denies all other allegations contained in paragraph 7 of the Complaint.

8. 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 C to the Complaint. Apple denies all other allegations contained in paragraph 8 of the Complaint.

9. 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 D to the Complaint. Apple denies all other allegations contained in paragraph 9 of the Complaint.

COUNT I

ALLEGED PATENT INFRINGEMENT BY APPLE

10. Apple incorporates by reference paragraphs 1–9 above as if fully set forth herein. Apple denies that it has infringed or continues to infringe the ’135, ’151, ’504, or ’211 patents.

11. Denied.

12. Denied.

13. Apple admits that it provides or has provided the iPhone 5, iPod touch (5th generation), iPad (4th generation), iPad mini, and Apple computers containing the Mountain Lion operating system 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 13 of the Complaint.

14. Denied.

15. Denied.

16. 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 5, iPod touch (5th generation), iPad (4th generation), iPad mini, and Apple computers containing the Mountain Lion operating system, but Apple denies that these or any other Apple products infringe any claim of the '151 patent. Apple further denies all other allegations contained in paragraph 16 of the Complaint.

17. 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 5, iPod touch (5th generation), iPad (4th generation), iPad mini, and Apple computers containing the Mountain Lion operating system, but Apple denies that these or any other Apple products infringe any claim of the '151 patent. It is not clear what is referenced by “media that store, cache, or distribute iPhone OS.” As such, Apple denies allegations in paragraph 17 regarding the foregoing statement. Apple further denies all other allegations contained in paragraph 17 of the Complaint.

18. Apple admits that it provides or has provided the iPhone 5, iPod touch (5th generation), iPad (4th generation), iPad mini, and Apple computers containing the Mountain Lion operating system to others in the United States. Apple denies that these or any other Apple products infringe any asserted claims of the '151 patent. It is not clear what is referenced by "media that store, cache, or distribute iPhone OS." As such, Apple denies allegations in paragraph 18 regarding the foregoing statement. Apple further denies all other allegations contained in paragraph 18 of the Complaint.

19. Denied.

20. Denied.

21. Denied.

22. 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 5, iPod touch (5th generation), iPad (4th generation), iPad mini, Apple computers containing the Mountain Lion operating system, and Apple computers that can run Apple's FaceTime for Mac application, but Apple denies that these or any other Apple products infringe any claim of the '504 patent. It is not clear what is referenced by "Apple computers running ... iMessage" and "Apple's servers, master discs and other media that store, cache, or distribute iPhone OS." As such, Apple denies allegations in paragraph 22 regarding the foregoing statements. Apple further denies all other allegations contained in paragraph 22 of the Complaint.

23. Denied.

24. Apple admits that it provides or has provided the iPhone 5, iPod touch (5th generation), iPad (4th generation), iPad mini, and Apple computers containing the Mountain

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