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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 IPR2015-00189
Patent 7,418,504

**Patent Owner's Preliminary Response
to Petition for *Inter Partes* Review
of U.S. Patent No. 7,418,504**

Table of Contents

- I. Introduction.....1
- II. Apple Remains Time-Barred and Institution Is Precluded by Statute2
- III. Apple’s Petition Should Be Denied Under 35 U.S.C. §§ 315(d) and 325(d), Consistent with Board Precedent and Policy.....3
 - A. Apple’s Petitions Are the Eleventh and Twelfth *Inter Partes* Office Challenges to the ’504 Patent3
 - B. Denial of the Petition Under 35 U.S.C. §§ 315(d) and 325(d) Is Authorized and Appropriate.....7
- IV. Institution Would Prejudice VirnetX, Yet Denial of Institution Would Not Unduly Prejudice Apple13
- V. Conclusion16

TABLE OF AUTHORITIES

	Page(s)
Federal Cases	
<i>Butamax Adv. Biofuels LLC v. Gevo, Inc.</i> , IPR2014-00581, Paper No. 8 (Oct. 14, 2014)	3
<i>Conopco, Inc. v. Procter & Gamble Co.</i> , IPR2014-00507, Paper No. 17 at 2 (July 7, 2014)	8, 9
<i>Conopco, Inc. v. Procter & Gamble Co.</i> , IPR2014-00628, Paper No. 21 at 11 (Oct. 20, 2014)	12
<i>Medtronic, Inc. v. Nuvasive, Inc.</i> , IPR2014-00487, Paper No. 8 (Sept. 11, 2014).....	9, 10
<i>Prism Pharma Co., Ltd. v. Choongwae Pharma Corp.</i> , IPR2014-00315, Paper No. 14 (July 8, 2014)	11
<i>SAS Institute, Inc. v. Complementsoft, LLC</i> , IPR2013-00581, Paper No. 15 (Dec. 30, 2013).....	15
<i>Standard Innovation Corp. v. Lelo, Inc.</i> , IPR2014-00907, Paper No. 10 (Dec. 1, 2014).....	12, 15
<i>Unified Patents, Inc. v. Personal Web Techs., LLC et al.</i> , IPR2014-00702, Paper No. 13 (July 24, 2014)	10, 11
<i>VirnetX, Inc. v. Cisco Sys., Inc.</i> , 767 F.3d 1308 (Fed. Cir. 2014)	4
Federal Statutes	
35 U.S.C. § 311	2
35 U.S.C. § 314.....	2
35 U.S.C. § 315(b)	2, 3, 5, 13
35 U.S.C. § 315(c)	2, 3
35 U.S.C. § 315(d)	<i>passim</i>

35 U.S.C. § 325(d)*passim*

Regulations

37 C.F.R. § 42.1(b)13

37 C.F.R. § 42.1113

I. Introduction

Board decisions and sound policy support denying the eleventh and twelfth Office challenges to U.S. Patent No. 7,418,504 (“the ’504 patent”)—Apple Inc.’s Petition here and in IPR2015-00188.

Apple itself initiated seven of these twelve challenges, either by itself or, as the Board found, through its “proxy” RPX Corporation. (IPR2014-00176, Paper No. 57 at 7 (redacted) (June 5, 2014) (finding that “RPX is Apple’s proxy”).) Apple filed two IPR petitions, which were both denied as time-barred. RPX filed two more IPR petitions, which were denied because Apple was an unnamed and time-barred real party-in-interest. Apple also initiated an *inter partes* reexamination of the ’504 patent.

Three proceedings involving the ’504 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 two IPRs filed by Microsoft Corporation that have been consolidated with one another.¹ Because Apple’s Petition here and that in IPR2015-00188 seek 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 consolidated IPR. The motion to terminate is pending.

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