Paper No. 1

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner,

v.

VIRNETX, INC. AND SCIENCE APPLICATION INTERNATIONAL CORPORATION,
Patent Owner.

Patent No. 8,868,705
Issued: October 21, 2014
Filed: September 13, 2012
Inventors: Victor Larson, *et al.*
Title: AGILE NETWORK PROTOCOL FOR SECURE COMMUNICATIONS USING SECURE DOMAIN NAMES

Inter Partes Review No. IPR2015-00811

Petition for *Inter Partes* Review of
U.S. Patent No. 8,868,705

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

Table of Contents

I. Introduction....1

A. Certification the '705 Patent May Be Contested by Petitioner....1

B. Fee for Inter Partes Review (§ 42.15(a)) 1

C. Mandatory Notices (37 CFR § 42.8(b)) 1

1. Real Party in Interest (§ 42.8(b)(1))....1
2. Other Proceedings (§ 42.8(b)(2))....2
3. Lead and Backup Lead Counsel (§ 42.8(b)(3)) 2
4. Service Information (§ 42.8(b)(4)) 2
5. Proof of Service (§§ 42.6(e) and 42.105(a))....2

II. Identification of Claims Being Challenged (§ 42.104(b))....2

III. Relevant Information Concerning the Contested Patent 3

A. Overview of the '705 Patent 3

1. The '705 Patent Specification....3
2. Representative Claims 5

B. Patent Owner's Contentions About Related Patents....6

C. Effective Filing Date....6

D. The Person of Ordinary Skill in the Art 8

E. Claim Construction....8

1. "intercept[ing] . . . a request"....9
2. "domain name" 10
3. "secure domain name" 11
4. "provisioning information"....11
5. "modulated transmission link" / "unmodulated transmission link"....13
6. "phone" 14

IV. Analysis of the Patentability of the '705 Patent....14

A. Summary of Prior Art to the '705 Patent 15

DOCKET ALARM Find authenticated court documents without watermarks at docketalarm.com.

1. Overview of Aventail (Ex. 1009), Aventail User's Guide (Ex. 1010) and Aventail Extranet Guide (Ex. 1011) 15
a) Nature of the Aventail Documents 15
b) Components of the Aventail scheme 17
c) Incorporation of Aventail Into A Client Computer 18
d) Handling Requests 18
e) Establishing a Secure Connection 20
f) Using Multiple Proxies 22
g) Secure Extranet Explorer 23
h) The End-User's Viewpoint 24
2. Overview of RFC 2401 (Ex. 1008) 24
3. Overview of RFC 2543 (Ex. 1013) 26
4. Overview of U.S. Patent Number 5,237,566 (Brand) (Ex. 1012) 27
B. Aventail (Ex. 1009) in View of RFC 2401 (Ex. 1008) Would Have Rendered Obvious Claims 1-3, 6, 14, 16-25, 28, 31, 33 and 34 27
1. Aventail Describes or, with RFC 2401, Suggests Every Element of Independent Claims 1 and 21 28
a) Claim Preambles 29
b) "intercepting . . . a request to look up an [] IP address corresponding to a domain name associated with the target . . ." 31
c) "determining whether the request . . . corresponds to a device that accepts an encrypted channel connection" .. 33
d) In response to step (2) "provid[ing] provisioning information required to initiate . . . [an] encrypted communications channel" 35
e) "the client device being a device at which a user accesses the encrypted communications channel" 38
2. The Distinctions Between the Claimed Methods and Systems Would Have Been Obvious Based on Aventail in View of RFC 2401 39
3. Claim 2 Would Have Been Obvious 43

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

4. Claims 3 and 25 Would Have Been Obvious 44
5. Claims 6 and 28 Would Have Been Obvious 46
6. Claims 14 and 31 Would Have Been Obvious 47
7. Claims 16 and 33 Would Have Been Obvious 48
8. Claims 17 and 34 Would Have Been Obvious 48
9. Claims 18 and 22 Would Have Been Obvious 49
10. Claims 19 and 23 Would Have Been Obvious 50
11. Claims 20 and 24 Would Have Been Obvious 50

C. Aventail in View of RFC 2401 in Further View of RFC 2543 Would Have Rendered Claims 8-10, 12, 15, 30 and 32 Obvious ..51

1. Claims 8, 15, 30 and 32 Would Have Been Obvious 51
2. Claims 9 Would Have Been Obvious 54
3. Claim 10 Would Have Been Obvious.....55
4. Claim 12 Would Have Been Obvious.....55

D. Aventail in View of RFC 2401 in Further View of Brand Would Have Rendered Claims 4, 5, 7, 26, 27 and 29 Obvious 55

1. Claims 4 and 26 Would Have Been Obvious 55
2. Claims 5 and 27 Would Have Been Obvious 56
3. Claims 7 and 29 Would Have Been Obvious 57

E. Aventail in View of RFC 2401 in Further View of RFC 2543 and Brand Would Have Rendered Claims 11 and 13 Obvious.....58

1. Claim 11 Would Have Been Obvious.....58
2. Claim 13 Would Have Been Obvious.....59

F. No Secondary Considerations Exist 59

V. Conclusion 60

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

I. Introduction

A. Certification the '705 Patent May Be Contested by Petitioner

Petitioner certifies that U.S. Patent No. 8,868,705 (Ex. 1001) (the '705 patent) is available for inter partes review. Petitioner also certifies it is not barred or estopped from requesting inter partes review of the claims of the '705 patent. Neither Petitioner, nor any party in privity with Petitioner, has filed a civil action challenging the validity of any claim of the '705 patent. The '705 patent has not been the subject of a prior inter partes review by Petitioner or a privy of Petitioner.

Petitioner also certifies this petition for inter partes review is timely filed as it has never been asserted against Petitioner in litigation. Thus, because there is no patent owner's action, this petition complies with 35 U.S.C. § 315(b). Petitioner also notes that the timing provisions of 35 U.S.C. § 311(c) and 37 C.F.R. § 42.102(a) do not apply to the '705 patent, as it pre-dates the first-to-file system. See Pub. L. 112-274 § 1(n), 126 Stat. 2456 (Jan. 14, 2013).

B. Fee for Inter Partes Review (§ 42.15(a))

The Director is authorized to charge the fee specified by 37 CFR § 42.15(a) to Deposit Account No. 50-1597.

C. Mandatory Notices (37 CFR § 42.8(b))

1. Real Party in Interest (§ 42.8(b)(1))

The real party in interest of this petition pursuant to § 42.8(b)(1) is Apple Inc. ("Apple") located at One Infinite Loop, Cupertino, CA 95014.

DOCKET ALARM Find authenticated court documents without watermarks at docketalarm.com.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.