UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,

Petitioner,

V.

VIRNETX INC.,

Patent Owner.

Case IPR2015-00810 (Patent 8,868,705 B2)
Case IPR2015-00811 (Patent 8,868,705 B2)
Case IPR2015-00812 (Patent 8,850,009 B2)

Wednesday, June 8, 2016

Before HONORABLE KARL D. EASTHOM, HONORABLE JENNIFER S. BISK, and HONORABLE GREGG I. ANDERSON, Administrative Patent Judges.

Hearing in the above matter was held at the U.S. Patent & Trademark Office, Patent Trial and Appeal Board, Madison Building, 9th Floor, Hearing Room A, 600 Dulany Street, Alexandria, Virginia, at 1:30 p.m.

Reported by Elizabeth Mingione, RPR and Notary Public for the Commonwealth of Virginia.

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1   P R O C E E D I N G S

2   (1:30 p.m.)

3   JUDGE BISK: Please be seated. Judge

4   Anderson, can you hear us?

5   JUDGE ANDERSON: I can. Thank you.

6   JUDGE BISK: Okay. Great. So this is a

7   hearing for Apple, Inc. versus Virnetx, Inc. And it's three

8   separate cases that we are hearing together,

9   IPR2015-00810, 2015-00811 and 2015-00812.

10   As you can see, we have Judge Anderson

11   joining us on video from Denver. Or where are you

12   joining us from? Are you in California or Denver today?

13   JUDGE ANDERSON: I'm in California today.

14   JUDGE BISK: California. So please be aware

15   of that and try to direct all of your speaking into the

16   microphone. Otherwise, Judge Anderson can't hear you.

17   He also can't see the board. So if you are

18   using your slides, be sure to tell us which slide number

19   you are on. And with that, we have 40 minutes per side.

20   And can the parties tell us who's here for each party.

21   MR. BORDER: Yes, Your Honor. Scott

22   Border for Petitioner, Apple. And with me is Tom

23   Broughan.

1   MR. ZEILBERGER: Your Honor, Daniel

2   Zeilberger for patent owner; lead counsel, Joseph Palys;

3   Naveen Modi, chief counsel.

4   JUDGE BISK: Okay. And, Petitioner,

5   whenever you are ready. Did you want to save time for

6   rebuttal?

7   MR. BORDER: Yes, Your Honor. I plan on

8   saving about 15 minutes.

9   JUDGE BISK: Okay.

10   MR. BORDER: May I approach with

11   demonstratives?

12   JUDGE BISK: Sure.

13   MR. ZEILBERGER: Your Honor, would you

14   like us to provide you our demonstratives as well?

15   JUDGE BISK: Sure. Whenever you are ready.

16   PRESENTATION FOR PETITIONER

17   MR. BORDER: Good afternoon, Your Honors.

18   May it please the Board. We are here to

19   discuss three proceedings involving two patents owned by

20   Virnetx, the '705 and the '009 patents.

21   There are two primary prior art references

22   we'll be discussing today, Exhibit 1007, a U.S. patent to

23   Beser, and Exhibit 1009, which is an Aventail reference

24   publication. We'll also be discussing RFC 2401, which is

25   Exhibit 1008.

1   Can you change to slide 15, please.

2   Very quickly I want to go over Claim 1 of the

3   '705 patent. The '705 describes a method of creating an

4   encryptic communications channel between a client and

5   target device, and comprises three steps.

6   The first step is intercepting from the client

7   device a request to look up the IP address. The second

8   step is determining whether that request corresponds to a

9   device that accepts an encrypted channel connection. The

10   final step is in response to that determination, providing

11   certain provisioning information to initiate the creation of

12   the encrypted communication channel.

13   The basic steps of Claim 1 of the '009 patent

14   are similar, but they are from the point of view of a client

15   device, rather than a server. There are some distinctions.

16   I'll touch on those shortly.

17   On slide 3, I've created a brief road map of the

18   issues we are going to discuss today with respect to the

19   '810 and '812 proceedings. There are four primary issues

20   I want to address.

21   But, first, before I get into these, I want to

22   walk through the combination of Beser and RFC 2401, and

23   then I'll focus on these issues of dispute. Slide 4, please.

24   This slide includes two figures from Beser and

25   one excerpt from RFC 2401. At the top left is Figure 1 of

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