

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

VIRNETX INC.,
Patent Owner.

Case IPR2015-00810
Case IPR2015-00811
Patent 8,868,705 B2¹

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

ANDERSON, *Administrative Patent Judge*.

ORDER

Conduct of the Proceedings
37 C.F.R. § 42.5

¹ The parties are not authorized to use this caption.

INTRODUCTION

On December 9, 2015, a conference call was held in the above proceedings, among counsel for Apple, Inc. (“Petitioner”), counsel for VirnetX, Inc. (“Patent Owner”), and Judges Easthom, Bisk, and Anderson. Patent Owner requests authorization to file a motion requesting permission to file a request for certificate of correction under 37 C.F.R. § 1.322(a)(3), which applies where the error is made by the Patent Office.

DISCUSSION

Patent Owner asserted in its Preliminary Response (“Prelim. Resp.,” Paper 3)² that claims 1 and 21 of the ’705 patent incorrectly includes the word “transmitted” instead of “intercepted.” Prelim. Resp. 29, n.3 (citing Ex. 1002, 638–639, 641, 655–656). Patent Owner represented in the Preliminary Response that the error was made by the Office during prosecution. *Id.* Petitioner agrees the error was made by the Office.

During the call, the parties stipulated that the change from “transmitted” to “intercepted” was not of patentable significance. Based on the stipulation, Petitioner agreed to Patent Owner’s filing of a request for certificate of correction without the need for the filing of a motion seeking our authorization.

ORDER

In consideration of the foregoing, it is hereby:

² Citations are to IPR2015-00810. IPR2015-00811 raises the identical issues.

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ORDERED that Patent Owner is authorized to file a request for a certificate of correction changing the word “transmitted” in claims 1 and 21 to “intercepted;”

FURTHER ORDERED that the change of wording does not affect the patentable significance of claims 1 and 21; and

FURTHER ORDERED that a copy of this Order will be filed in IPR2015-00810 and IPR2015-00811.

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