

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

VIRNETX INC,
Patent Owner.

Case No. IPR2015-00812
U.S. Patent No. 8,850,009

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

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I. Introduction

In its Institution Decision, the Board correctly found that Beser and RFC 2401 render claims 1-8, 10-20, and 22-25 of the '009 patent obvious. Paper 8 (Dec.) at 10-14. In its Response ("Resp.") (Paper 24), Patent Owner advances a number of irrelevant challenges or clarifications to the Board's claim constructions, makes several narrow challenges to the substance of the Board's findings about Beser and RFC 2401, challenges whether RFC 2401 is a printed publication, and then concludes by asserting that the Board lacks the ability to compare the prior art to the challenged claims on its own and instead must rely on expert testimony. Each of Patent Owner's arguments lacks merit and should be rejected.

The Board's initial determination that the challenged claims are unpatentable is supported by more than substantial evidence and should be maintained.

II. Claim Construction

Petitioner believes that the constructions set forth in the petition represent the broadest reasonable constructions of the claims. However, in the Institution Decision, the Board correctly found that it need not adopt specific constructions here because under any reasonable construction, Beser and RFC 2401 render the claims obvious.

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