P	aper No.		
Filed:	January	25,	2016

Filed on behalf of: VirnetX Inc.

By:

Joseph E. Palys Naveen Modi

Paul Hastings LLP
875 15th Street NW
Washington, DC 20005
Washington, DC 20005
Telephone: (202) 551 1006
Telephone: (202) 551 1006

Telephone: (202) 551-1996 Telephone: (202) 551-1990 Facsimile: (202) 551-0496 Facsimile: (202) 551-0490

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner

v.

VIRNETX INC. Patent Owner

Case IPR2015-00866 Patent 8,458,341

Patent Owner's Response



TABLE OF CONTENTS

I.	Intro	duction	n	1
II.	Claim Construction			1
	A.	"Inte	rception of the Request" (Claims 1, 11, 14, 15, 25, and 28)	4
	B.	"Pro	visioning Information" (Claims 1 and 15)	5
	C.		rual Private Network Communication Link" (Claims 1, 3, and 17)	8
		1.	A "VPN Communication Link" Requires a Virtual Private Network	9
		2.	"Authentication" and "Address Hopping" Alone Do Not Result in a "Virtual Private Network Communication Link"	10
		3.	A "Virtual Private Network Communication Link" Must Be Direct	12
		4.	A "Virtual Private Network Communication Link" Requires a Network	17
		5.	A "Virtual Private Network Communication Link" Requires Encryption	18
	D.	Othe	r terms	20
III.			References Do Not Render Claims 1–11, 14–25, and 28 le	22
	A.		r and RFC 2401 Do Not Render Claims 1–11, 14–25, and npatentable	22
		1.	Beser's Disclosure	22
		2.	Beser and RFC 2401 Do Not Disclose a "Send[ing] a Request to Look Up an Internet Protocol (IP) Address of a Second Network Device Based On a Domain Name Associated With the Second Network Device"	25



	3.	the Request"	28
	4.	Beser and RFC 2401 Do Not Disclose "Virtual Private Network Communication Link"	31
	5.	The Petition's Mapping of <i>Beser</i> and RFC 2401 Does Not Show the Features as Arranged in the Claims	32
	6.	Beser and RFC 2401 Would Not Have Been Combined as the Petition Suggests	34
	7.	Beser and RFC 2401 Do Not Render Obvious Dependent Claims 4-5 and 18-19	40
	8.	Beser in view of RFC 2401 Does Not Disclose the Features of Claim 17	43
	9.	Dependent Claims 2, 3, 6-11, 14, 16, 20-25, and 28	44
IV.		s Expert Testimony Should be Accorded Little, If Any	44
V.		ted Ground Is Based on At Least One Reference That Does y As Prior Art	48
		tioner Has Not Established that RFC 2401 Is a Prior Art ted Publication	49
	1.	The Evidence Presented with the Petition Cannot Establish by a Preponderance of the Evidence that RFC 2401 Was Publicly Accessible	49
	2.	The Board's Findings Are Insufficient to Establish by a Preponderance of the Evidence that RFC 2401 Was Publicly Accessible	52
	3.	The Supplemental Information Is Also Insufficient to Establish by a Preponderance of the Evidence that RFC 2401 Was Publicly Accessible	55
VI	Conclusion	·	57



TABLE OF AUTHORITIES

	Page(s)
Cases	
Alexsam, Inc. v. IDT Corp., 715 F.3d 1336, (Fed. Cir. 2013)	47
Apple Inc. v. DSS Technology Management, Inc., IPR2015-00369, Paper No. 9 (June 25, 2015)	50
Apple Inc. v. VirnetX Inc., IPR2014-00237, Paper No. 15 (May 14, 2014)	4, 29
Apple Inc. v. VirnetX Inc., IPR2015-00811, Paper No. 8 (Sept. 11, 2015)	6
Apple Inc. v. VirnetX Inc., IPR2015-00871, Paper No. 8 (Oct. 1, 2015)	15
Aspex Eyewear, Inc. v. Concepts In Optics, Inc., 111 F. App'x 582 (Fed. Cir. 2004)	45, 47
Becton, Dickenson & Co. v. Tyco Healthcare Group, LP, 616 F.3d 1249 (Fed. Cir. 2010)	33
Biogen Idec, Inc. v. GlaxoSmithKline LLC, 713 F.3d 1090 (Fed. Cir. 2013)	14
Brand v. Miller, 487 F.3d 862 (Fed. Cir. 2007)	45
Bruckelmyer v. Ground Heaters, Inc., 445 F.3d 1374 (Fed. Cir. 2006)	49
Centricut, LLC v. Esab Group, Inc., 390 F.3d 1361 (Fed. Cir. 2004)	45
<i>In re Cuozzo</i> , 793 F.3d 1297 (Fed. Cir. 2015)	
Cuozzo Speed Techs., LLC v. Lee, No. 15-446, 2016 WL 205946. (U.S. Jan. 15, 2016)	3



Cyber Corp. v. FAS Techs., Inc., 138 F.3d 1448 (Fed. Cir. 1998)14
Dish Network L.L.C. v. Dragon Intellectual Property, LLC, IPR2015-00499, Paper No. 7 (July 17, 2015)52
Elec. Frontier Found. v. Pers. Audio, LLC, IPR2014-00070, Paper No. 21 (Apr. 18, 2014)54
Eon-Net LP v. Flagstar Bancorp., 653 F.3d 1314 (Fed. Cir. 2011)
Finnigan Corp. v. ITC, 180 F.3d 1354 (Fed. Cir. 1999)57
Ex Parte Weideman, Appeal No. 2008-3454, Decision on Appeal (BPAI Jan. 27, 2009)33
In re Fulton, 391 F.3d 1195 (Fed. Cir. 2004)39
Garmin Int'l inc. v. Cuozzo Speed Tech, LLC, IPR2012-00001, Paper No. 15 (Jan. 9, 2013)
Google Inc. v. Art+Com Innovationpool GMBH, IPR2015-00788, Paper No. 7 (September 2, 2015)50
In re Gurley, 27 F.3d 551 (Fed. Cir. 1994)39
Heart Failure Techs., LLC v. Cardiokinetix, Inc., IPR2013-00183, Paper No. 12 (July 31, 2013)42
Kinetic Technologies, Inc. v. Skyworks Solutions, Inc., IPR2014-00690, Paper No. 43 (October 19, 2015)
In re Klopfenstein, 380 F.3d 1345 (Fed. Cir. 2004)
Koito Mfg. Co. v. Turn-Key-Tech LLC, 381 F.3d 1142 (Fed. Cir. 2004)45



DOCKET A L A R M

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.

