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. 8,458,341
Issued: June 4, 2013
Filed: December 23, 2011
Inventors: Victor Larson, *et al.*
Title: SYSTEM AND METHOD EMPLOYING AN AGILE NETWORK PROTOCOL FOR SECURE COMMUNICATIONS USING SECURE DOMAIN NAMES

Inter Partes Review No. IPR2015-00866

Petition for *Inter Partes* Review of
U.S. Patent No. 8,458,341

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

Table of Contents

I. Introduction....1

A. Certification the '341 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 '341 Patent 3

1. The '341 Patent Specification....3
2. Representative Claims 5

B. Patent Owner's Assertion of Related Patents....6

C. Effective Filing Date....6

D. The Person of Ordinary Skill in the Art 8

E. Claim Construction....9

1. "interception of the request" 9
2. "provisioning information"....10
3. "secure communications service"....11
4. "indication" 13
5. "virtual private network communication link" 14
6. "domain name" 15
7. "modulation"....16

IV. Analysis of the Patentability of the '341 Patent....16

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

A. Overview of Beser (Ex. 1007) 17

a) Request Containing a Unique Identifier 19

b) Negotiation of Private IP Addresses 22

B. Overview of RFC 2401 (Ex. 1008) 24

C. Beser (Ex. 1007) In View of RFC 2401 (Ex. 1008) Would Have Rendered Obvious Claims 1-11, 14-25 and 28 26

1. A Person of Ordinary Skill Would Have Found It Obvious to Encrypt IP Traffic in the Beser Scheme Based on the Teachings in Beser and RFC 2401 29

2. Independent Claims 1 and 15 Would Have Been Obvious 33

a) Claim 15 Preamble 33

b) "send[ing]. . . a request to look up an internet protocol (IP) address . . . based on a domain name . . ." 34

c) The "receiving" step 36

d) "connect[ing] . . . [over the virtual private network communication link,] using the received IP address . . . and the provisioning information . . ." 44

e) "communicat[e/ing]. . . using the secure communications service via the virtual private network communication link." 46

f) Additional System Elements of Claim 1 47

3. Claims 2 and 16 Would Have Been Obvious 48

4. Claims 13 and 17 Would Have Been Obvious 49

5. Claims 4, 5, 18 and 19 Would Have Been Obvious 50

6. Claims 6 and 20 Would Have Been Obvious 51

7. Claims 7, 8, 21 and 22 Would Have Been Obvious 52

8. Claims 9 and 23 Would Have Been Obvious 53

9. Claims 10 and 24 Would Have Been Obvious 53

10. Claims 11 and 25 Would Have Been Obvious 54

11. Claims 14 and 28 Would Have Been Obvious 56

D. No Secondary Considerations Exist 56

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

V. Conclusion 57

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

I. Introduction

A. Certification the '341 Patent May Be Contested by Petitioner

Petitioner certifies that U.S. Patent No. 8,458,341 (Ex. 1001) (the '341 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 '341 patent. Neither Petitioner, nor any party in privity with Petitioner, has filed a civil action challenging the validity of any claim of the '341 patent. The '341 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 '341 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.