

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.
VIRNETX INC.,
Patent Owner.

Case No. IPR2015-00866
U.S. Patent No. 8,458,341

PETITIONER'S REPLY BRIEF

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37 C.F.R. 42.6518, 22, 25

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I. Introduction

In its Institution Decision, the Board correctly found that Beser and RFC 2401 render claims 1-11, 14-25, and 28 of the '341 patent obvious. Paper 8 (Dec.) at 7-12. In its Response ("Resp.") (Paper 23), Patent Owner advances a number of irrelevant claim construction challenges, 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 without 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 was correct and should be maintained.

II. Claim Construction

In the Institution Decision, the Board correctly found that it need not rely on the broadest reasonable construction of any of the disputed terms, noting that under any reasonable construction, Beser and RFC 2401 render the claims obvious.

Many of the terms Patent Owner construes in its Response are irrelevant to this proceeding because it does not dispute that Beser and RFC 2401 teach those terms. These include: "provisioning information" (Resp. at 5-7), "secure communication service" (*id.* at 20), "indication" (*id.* at 20-21), "domain name" (*id.* at 21), and "modulation" (*id.* at 21). The Board need not address the remaining

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