

Filed on behalf of: VirnetX Inc.

By:

Joseph E. Palys
Paul Hastings LLP
875 15th Street NW
Washington, DC 20005
Telephone: (202) 551-1996
Facsimile: (202) 551-0496
E-mail: josephpalys@paulhastings.com

Naveen Modi
Paul Hastings LLP
875 15th Street NW
Washington, DC 20005
Telephone: (202) 551-1990
Facsimile: (202) 551-0490
E-mail: naveenmodi@paulhastings.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner

v.

VIRNETX INC.
Patent Owner

Case IPR2014-00237
Patent 8,504,697

Declaration of Fabian Monrose, Ph.D.

Table of Contents

I. Introduction	4
II. Resources Consulted.....	4
III. Background and Qualifications	5
IV. Level of Ordinary Skill	10
V. Claim Terms	11
A. “Secure Communication Link” (Claims 1-3, 11-13, 16-17, and 24-27)	11
B. “Virtual Private Network (VPN) Communication Link” (Claims 3 and 17).....	14
C. “Intercept[ing] . . . a request to look up an internet protocol (IP) address” (Claims 1 and 16)	15
D. “Determining, in response to the request, whether the second network device is available for a secure communications service” (Claims 1 and 16).....	18
VI. <i>Beser</i>	20
A. <i>Beser</i> ’s Disclosure.....	20
B. Claims 1 and 16.....	24
1. Intercepting a Request to Look Up an IP Address of the Second Network Device	24
2. Determining, in Response to the Request, Whether the Second Network Device Is Available for a Secure Communications Service	27
3. Secure Communication Link	33
C. Dependent Claims.....	35
1. Dependent Claims 2 and 24—Encryption of Video or Audio Data	35

2. Dependent Claims 3 and 17—Virtual Private Network Communication Link	36
VII. <i>Beser</i> in View of RFC 2401	37
VIII. Conclusion	38

I, FABIAN MONROSE, declare as follows:

I. Introduction

1. I have been retained by VirnetX Inc. (“VirnetX”) for this *inter partes* review proceeding. I understand that this proceeding involves U.S. Patent No. 8,504,697 (“the ’697 patent”). I understand the ’697 patent is assigned to VirnetX and that it is part of a family of patents that stems from U.S. provisional application nos. 60/106,261 (“the ’261 application”), filed on October 30, 1998, and 60/137,704 (“the ’704 application”), filed on June 7, 1999. I understand that the ’697 patent has a continuation relationship through several applications to U.S. application no. 09/558,210 filed April 26, 2000 (“the ’210 application,” abandoned). And I understand the ’210 application is a continuation-in-part of U.S. application no. 09/504,783 filed February 15, 2000 (now U.S. Patent 6,502,135, “the ’135 patent”), and that the ’135 patent is a continuation-in-part of U.S. application no. 09/429,643 (now U.S. Patent No. 7,010,604) filed October 29, 1999, which claims priority to the ’261 and ’704 applications.

II. Resources Consulted

2. I have reviewed the ’697 patent, including claims 1-30. I have also reviewed the Petition for *Inter Partes* Review (Paper No. 1, the “Petition”) filed with the U.S. Patent and Trademark Office (“Office”) by Apple Inc. on December 6, 2013. I have also reviewed the Patent Trial and Appeal Board’s (“Board”)

decision to institute *inter partes* review (Paper No. 15, the “Decision”) of May 14, 2014. I understand that in this proceeding the Board instituted review of the ’697 patent on two grounds: (1) anticipation of claims 1-11, 14-25, and 28-30 by *Beser*; and (2) obviousness of claims 1-11, 14-25, and 28-30 over *Beser* in view of RFC 2401. I have reviewed the exhibits and other documentation supporting the Petition that are relevant to the Decision and the instituted grounds.

III. Background and Qualifications

3. I have a great deal of experience and familiarity with computer and network security, and have been working in this field since 1993 when I entered the Ph.D. program at New York University.

4. I am currently a Professor of Computer Science at the University of North Carolina at Chapel Hill. I also hold an appointment as the Director of Computer and Information Security at the Renaissance Computing Institute (RENCI). RENCi develops and deploys advanced technologies to facilitate research discoveries and practical innovations. To that end, RENCi partners with researchers, policy makers, and technology leaders to solve the challenging problems that affect North Carolina and our nation as a whole. In my capacity as Director of Computer and Information Security, I lead the design and implementation of new platforms for enabling access to, and analysis of, large and sensitive biomedical data sets while ensuring security, privacy, and compliance

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.