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IPR2015-00866, Paper No. 38

IPR2015-00868, Paper No. 38

IPR2015-00870, Paper No. 38

IPR2015-00871, Paper No. 38

July 19, 2016

571-272-7822

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

VIRNETX INC.,
Patent Owner.

IPR2015-00866 (Patent 8,458,341 B2)

IPR2015-00868 (Patent 8,516,131 B2)

IPR2015-00870 (Patent 8,560,705 B2)

IPR2015-00871 (Patent 8,560,705 B2)

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Held: June 27, 2016

BEFORE: KARL D. EASTHOM, JENNIFER S. BISK, and
GREGG I. ANDERSON, Administrative Patent Judges.

The above-entitled matter came on for hearing on Monday, June 27, 2016, commencing at 1:30 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

IPR2015-00866 (Patent 8,458,341 B2)
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IPR2015-00866 (Patent 8,458,341 B2)
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1 PROCEEDINGS

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3 JUDGE BISK: This is the oral hearing for IPRs
4 2015-00866, 00868, 00870 and 00871, Apple versus VirnetX.
5 Each side has 40 minutes. May I have the parties tell who's here
6 for counsel?

7 MR. KUSHAN: Good afternoon, Jeff Kushan, Tom
8 Broughan and Scott Border for Apple, we're from Sidley Austin.

9 JUDGE BISK: Patent Owner?

10 MR. PALYS: Good afternoon, Your Honor, Joseph
11 Palys joined by Naveen Modi, Daniel Zeilberger and Chetan
12 Bansal on behalf of VirnetX.

13 JUDGE BISK: Please begin when you're ready. Please
14 remember to speak into the microphone for Judge Anderson.

15 MR. BROUGHAN: Your Honor, I have copies of our
16 demonstratives, if I may approach?

17 MR. ZEILBERGER: Your Honor, may I approach, too,
18 to provide our demonstratives?

19 JUDGE BISK: Sure.

20 MR. BROUGHAN: If I could reserve 15 minutes for
21 rebuttal, please.

22 JUDGE BISK: Sure.

23 MR. BROUGHAN: Good afternoon, Your Honors, and
24 may it please the Board. We are here to discuss four proceedings

IPR2015-00866 (Patent 8,458,341 B2)
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1 involving three patents owned by VirnetX, the '341 patent, the
2 '131 patent and the '705 patent. The first three proceedings
3 involve the Beser reference, Exhibit 1007 and the RFC 2401
4 reference, Exhibit 1008. The final proceeding involves the
5 Aventail reference, which is Exhibit 1009, and also several other
6 references.

7 If you could go to slide 3, please. The three patents at
8 issue today have claims with very similar claim limits. Claim 15
9 of the '341 patent, shown here on the screen, is exemplary. Claim
10 15 specifies a method for creating a virtual private network
11 communication link between a first network device and a second
12 network device and the method is comprised of four steps. The
13 first step is sending the request to look up an IP address.

14 The second step has two parts within it, the first is
15 intercepting the request and then making a determination that the
16 second network device is available. In the second step, the first
17 network device receives an indication that the second network
18 device is available, it receives a requested IP address, as well as
19 provisioning information for a virtual private network
20 communication link.

21 In the third step, it specifies connecting to the second
22 network device, over the virtual private network communication
23 link, and in the fourth step, information is communicated between
24 the first device and second device over that.

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1 The basic steps of claim 15 of the '131 patent are nearly
2 identical, except they specify creating a secure communication
3 link instead of a VPN communication link. And the claim also
4 specifies that audio or video data are transmitted over the link.
5 Claim 1 of the '705 patent is similar to the '131 claims, although
6 it's structured a little bit differently.

7 Now, many of the claim elements that are at issue in the
8 patents here today are very similar to those claims that we
9 discussed several weeks in IPR2015-00810, 811 and 812. Those
10 claims similarly recited a request to look up an IP address based
11 on a domain name and the steps of intercepting the request and
12 making a determination that the second network device is
13 available.

14 For the claim elements in the -- for the claim elements
15 that the patents at issue today have in common with the patents
16 you considered last week, the parties' arguments are largely the
17 same, so today I want to focus on the unique aspects of the '341,
18 '131 and '705 claims, as well as the parties' arguments with
19 respect to them.

20 Slide 6, please. This is a summary of the main issues --
21 of the main disputes between the parties involving the Beser and
22 RFC 2401 references. Today, I would like to focus on the first
23 two, but first, before addressing the first disputed issue, I would
24 like to briefly recap the Beser system.

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