

Subst. for form 1449/PTO				Complete if Known			
INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Use as many sheets as necessary)</i>				Application Number	13/339,257		
				Filing Date	12-28-2011		
				First Named Inventor	Victor Larson		
				Art Unit	2453		
				Examiner Name	Krisna Lim		
				Docket Number	77580-154(VR NK-0001CP3CNFT4)		
U.S. PATENTS							
EXAMINER'S INITIALS	CITE NO.	Patent Number	Publication Date	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear		
U.S. PATENT APPLICATION PUBLICATIONS							
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FOREIGN PATENT DOCUMENTS							
EXAMINER'S INITIALS	CITE NO.	Foreign Patent Document Country Codes - Number 4 - Kind Codes (if known)	Publication Date	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines Where Relevant Figures Appear	Translation	
						Yes	No
OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)							
EXAMINER'S INITIALS	CITE NO.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.					
	A1119	Hopen Transcript dated April 11, 2012					
	A1120	VirnetX Claim Construction Opinion					
EXAMINER				DATE CONSIDERED			

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached.

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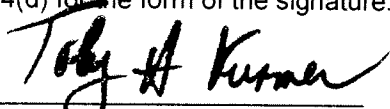
CERTIFICATION STATEMENT

Please See 37 CFR 1.97 and 1.98 to make the appropriate selection(s)

- Information Disclosure Statement is being filed with the filing of the application or before the receipt of a first office action.
- That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or
- That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement.
- The Commissioner is hereby authorized to charge the fee pursuant to 37 CFR 1.17(P) in the amount of \$180.00, or further fees which may be due, to Deposit Account 50-1133.
- Information Disclosure Statement is being filed with the Request for Continued Examination. The Commissioner is hereby authorized to charge the fee pursuant to 37 CFR 1.17(P) in the amount of \$810.00, or further fees which may be due, to Deposit Account 50-1133.
- None

SIGNATURE

A signature of the applicant or representative is required in accordance with CFR 1.33, 10.18. Please see CFR 1.4(d) for the form of the signature.



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Date: *May 3, 2012*

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D1119

Chris Hopfen
April 11, 2012

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BE IT REMEMBERED that on Wednesday, April 11, 2012, at Time , at the offices of Likkel & Associates, 1700 Seventh Avenue, Suite 2100, Seattle, Washington, appeared the aforementioned witness before Emily K Niles, CCR, residing in Seattle WHEREUPON, the following proceedings were had, to wit:

Chris Hopfen, having been called as a witness by Apple Inc., was duly sworn and testified as follows:

ROUGH DRAFT
MONTH DATE , 20th
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COMBINATIONS)

All such entries will be corrected on the final certified transcript, which will be delivered to you in accordance with standard delivery terms or on an expedited basis, should you desire faster delivery

THE VIDEOGRAPHER: We are now on the record at 9:07 a.m. This is the videotape deposition of Chris Hopfen in the matter of VirnetX incorporated versus Cisco systems incorporated et al in the United States District Court for the Eastern district of Texas, Tyler division Case No is 6:10-CV-417 This deposition is being held at 1700 Seventh Avenue, Seattle, Washington, on April 11th, 2012 My name is Mike Elderkin and I am the videographer I'm present on behalf of stratus legal The court reporter is

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1 Emily Niles, also present on behalf of stratus legal.
2 Counsel will now state their appearance and firm
3 affiliation for the record.
4 MR. CRAVEY: Chris Cravey from Williams Morgan and
5 Amerson on behalf of Apple, Inc.
6 MR. BLACK: Bradford Black from Black change and
7 a.m. Amillmil LLP for Cisco systems.
8 MR. CURRY: John Ace stun Curry at the law firm of
9 mic cool Smith the I'm here behalf of the plaintiff VirnetX.
10 THE VIDEOGRAPHER: Will the court reporter please
11 swear in the witness.
12 Thereupon--
13 CHRIS HOPEN,
14 was called as a witness, and having been first duly sworn,
15 was examined and testified as follows:
16 EXAMINATION
17 BY MR. CRAVEY:
18 Q. Good morning Mr. Hopfen?
19 A. Good morning.
20 Q. Could you please state your full name for the
21 record.
22 A. Chris ^Allen Hopfen.
23 Q. Now, do you understand that you're here today and
24 your testimony is being taken in connection with a patent
25 lawsuit?

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1 A. Yes.
2 Q. And that -- do you understand that the plaintiff
3 in this case is VirnetX Inc. and they have alleged patent
4 infringement against a number of defendants including Apple,
5 Inc.?
6 A. Yes.
7 Q. And, in fact, some of the defendants have a
8 representative here today; is that correct?
9 A. Yes.
10 Q. You've had your deposition taken before; is that
11 right?
12 A. Yes.
13 Q. And, in fact, that was in connection with another
14 case that VirnetX Inc. was the plaintiff; is that right?
15 A. Yes.
16 Q. You understand that the testimony that you're
17 giving here today is under oath?
18 A. Yes.
19 Q. And that testimony is being given just as it would
20 be in open court?
21 A. Yes.
22 Q. I'd like to make sure that we get the best answers
23 from you today as we can. If for some reason you don't
24 understand my question, please ask for me to rephrase or to
25 give additional clarification?

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1 A. Okay.
2 Q. Is there any reason that you can't give truthful
3 and accurate testimony here today?
4 A. No.
5 Q. I'd like to go a little bit into your background.
6 Where do you currently reside?
7 A. About 10 miles north in Shoreline, Washington.
8 Used to be a part of Seattle.
9 Q. And what's your address?
10 A. 19805 15th Avenue Northwest, Shoreline, Washington
11 98177.
12 Q. How long have you lived in Shoreline, Washington?
13 A. Oh, 16 years. Same house.
14 Q. Do you have a family?
15 A. Yes: Wife and three kids.
16 Q. How long have you been married?
17 A. Twenty-two years this Friday.
18 Q. Oh, congratulations.
19 A. Thank you.
20 Q. What are the ages of your children?
21 A. One is 18 in college in California. One's a
22 sophomore in high school. Both those boys. And then a
23 daughter who's 13, eighth grade, middle school.
24 Q. What college is your oldest going to?
25 A. He goes -- he's on swim scholarship at Cal Poly in

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<p>1 San Luis Obispo. 2 Q. Oh, all right. 3 A. So.... 4 Q. What does he plan on studying? 5 A. Materials engineering. 6 Q. Where are you currently employed? 7 A. I'm currently president of ^TappIn, Inc., which 8 is a wholly-owned subsidiary of a company called 9 ^GlobalSCAPE out of San Antonio, Texas. TappIn was a 10 company I started in 2009. It was recently required -- 11 acquired in December, early December of 2011. 12 Q. What kind of business is TappIn in? 13 A. We develop mobile and Web apps used to access and 14 share content. So music, photos, videos privately. So some 15 people look at it as an alternative to cloud storage. What 16 it really is is a location -- storage location independent 17 access and sharing service that we sell to professional 18 consumers. 19 Q. So you -- TappIn currently has products on the 20 market? 21 A. Yes. Yes. 22 Q. Who are some of TappIn's customers? 23 A. Most of them are independent purchasers. So you 24 can buy the service -- the TappIn service like through the 25 apple app store through what's called an In-App purchase.</p>	<p>1 A. Yes. 2 Q. So when TappIn was founded, you started in that 3 role as president? 4 A. Yeah. Yeah. 5 Q. So I understand, is it fair to say that the time 6 you're spending here today is taking away from your ordinary 7 business activities at TappIn? 8 MR. CURRY: Objection. Leading. 9 BY MR. CRAVEY: 10 Q. You can answer. 11 A. Yes. 12 Q. Are you being compensated for your time here 13 today? 14 A. Yes. 15 Q. How are you being compensated? 16 A. On an hourly basis. 17 Redacted 20 Q. Does this compensation in any way affect your 21 ability to give honest and truthful answers? 22 A. No. 23 Q. Do you have any stake in the outcome of this 24 litigation? 25 A. No.</p>
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<p>1 You can buy over the Web. 2 So there aren't typically sort of brand name 3 customers because we don't sell straight to businesses 4 today. We are moving more in that direction, but most of 5 those business-oriented sales or enterprise sales will go 6 through the parent company, GlobalSCAPE. They have -- we 7 built an access module specifically that layers onto their 8 enterprise solution, and so they've already sold to some 9 Texas -- a couple Texas banks, but they're just getting 10 going. You know, the acquisition was done in December 2nd 11 of 2011. So we're really barely sort of three, four months 12 into it 13 Q. I understand you guys were recently acquired by 14 GlobalSCAPE, but what was the size of TappIn, or is the size 15 of TappIn now? 16 A. TappIn when it was acquired, we were eight people. 17 Most -- you know, it's pretty typical. We had sale -- you 18 know, one salesperson, marketing person, three engineers, 19 office manager, that sort of thing. So, you know, it was 20 small but we had hundreds of thousands of users already and 21 it was growing pretty fast and, you know, we're on Apple's 22 platform, Google's platform, Microsoft Windows platforms, 23 Linux. 24 Q. You mentioned that you were the president of -- or 25 you are the president of TappIn. Are you also a cofounder?</p>	<p>1 Q. So I'd like to talk a little bit about your work 2 that you engaged in prior to starting TappIn. Was that at 3 Aventail corporation? 4 A. So I was Aventail from 1996 as a cofounder. 5 I was the CTO for the lifetime of that business, 6 which was acquired in 2007 by SonicWALL, which was public at 7 the time: I stayed with SonicWALL for roughly a year so it 8 was acquired, I believe, in July of 2007. I stayed with 9 SonicWALL through June of 2008. 10 Q. And then after your time at SonicWALL, is that 11 when you started TappIn? 12 A. Yeah. I roughly started working on quite a bit of 13 the research fall of 2008, is the rough time frame. We 14 incorporated TappIn in spring of 2009. 15 Q. Okay. I'd like to spend some time talking about 16 the formation of Aventail. You mentioned that it was 17 started in 1996; is that correct? 18 A. Yes. 19 Q. What were the circumstances that led to that 20 company's formation? 21 A. We had had -- so prior to that I was at a company 22 called spry, which is created a company called Internet in a 23 box. We had worked with Hewlett-Packard as a customer. 24 Hewlett-Packard pulled us -- because of their IT needs, they 25 started pushing some features towards that you say nobody</p>

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<p>1 really understand. So I engaged with the customer while we 2 were still at spry and got pulled into what was called at 3 the time the SOCKS, IETF working group, and SOCKS V4 was 4 what Hewlett-Packard was pushing on in terms of features 5 that they wanted added to spry's networking products. 6 SOCKS V4 was an NEC standard that they had 7 promoted but wasn't yet part of the IETF formal 8 standardization process. 9 There was another revision, SOCKS V5, which was 10 part of the IETF and so that's how that standards group got 11 pulled into the IETF. Hewlett-Packard was asking us to put 12 SOCKS V4 features into our products that because of where 13 they fit in the networking stack they -- that work got 14 assigned to me. I started working with HP and that's how I 15 sort of -- you know, initially got involved in sort of the 16 working group, in the standards process and that sort of 17 thing. So.... 18 Q. You mentioned that -- the name IETF. What does 19 that stand? 20 A. IETF, the Internet Engineering Task Force. So 21 it's a large standards body which really produces all of the 22 Internet standards that -- applications and networking 23 products use to communicate and interact. So the way we got 24 going with Aventail was out of that work with HP -- well, 25 taking a step back.</p>	<p>1 published with many iterations and edits, but the first 2 formal document published around standardizing SOCKS 3 protocol. 4 Q. What kind of role did you have in working with the 5 Internet Engineering Task Force on this RFC1928. It was? 6 A. It was I would say fairly extensive I mean there 7 was a lot of e-mail dialogues between myself and Marcus 8 ^Leach, who was at Nortel at the time. We would -- you 9 know, part of the standards process is to get everybody's 10 technical ideas to converge into a standard document that, 11 you know, the working sort of technical community can live 12 with and interoperate and work together. So there tends to 13 be a lot of dialogue in those working group settings. 14 Myself and another individual have I had went to one of the 15 primary IETF working group sessions in Memphis, Tennessee, 16 early on, specifically for 1928, RFC1928 discussions and 17 dialogue. So.... 18 Q. Was this -- when you were in Memphis was this 19 prior to March 1996? 20 A. It would probably have been just of a that. I 21 would say it was in -- it would have been '96, maybe the 22 summer of '96, late summer of '96. 23 Q. Do you recall reviewing this document when you 24 were at Spry? 25 A. This document didn't exist at Spry, but at</p>
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<p>1 So spry was purchased by a company called comp pew 2 serve, large Internet service provider. When I left that 3 company, there were some other people working on SOCKS based 4 libraries. One of them being NEC, and I was approached by 5 my other cofounder to start Aventail in the '96 time frame 6 specifically geared around technology related to SOCKS: 7 So.... 8 Q. Well, let's pause on the formation of Aventail for 9 a second to talk about your work at -- on the SOCKS five 10 standard for the IETF. 11 (EXHIBIT I MARKED.) 12 BY MR. CRAVEY: 13 Q. Now, you just mentioned while you were working at 14 Spry you did some work with engineering -- the Internet -- 15 A. Acronyms. 16 Q. The IETF, the Internet Engineering Task Force? 17 A. Correct. 18 Q. I've handed you what's been marked Hopen two, 19 Exhibit I, and it bears Bates No. APP underscore VX0019029 20 through 37. 21 Do you recognize this document? 22 A. Yes., very much so. 23 Q. Is this the RFC you just mentioned you were 24 working on when you were at spry? 25 A. Yes. This would have been the first document</p>	<p>1 Aventail, certainly. 2 Q. When do you recall first seeing this document? 3 A. Probably in that transition period between -- it's 4 hard to say exactly, but it probably was in that transition 5 period. Because at Spry they were really talking about 6 Version four, which wasn't standardized. There were 7 standard -- there were documents that NEC put out in and 8 made publicly available about Version four that a lot of 9 people implemented, and you'd find them in browsers and 10 other things, FTP clients, things like that. So Version 11 four was very pervasive. 12 Verse five, it was a lesser-known working group, I 13 guess, and so there wasn't a lot of fan fair about sort of 14 Version five. It was a fairly tight working group, you 15 know, whereas you can get things -- protocols, routing and 16 switching protocols that have literally hundreds and 17 hundreds of people sort of working on it and the press get 18 behind it and they publicize it and, you know, things like 19 that, and so this was a pretty normal working group that got 20 together, you know, at IETF meetings, annual IETF meetings, 21 and most of the discussions were either -- they were public. 22 They would go through a -- you know, sort of a message board 23 that people would respond to, you know, publicly and so 24 there was record of basically all of the changes and edits 25 and things like that.</p>

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