

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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THE MANGROVE PARTNERS MASTER FUND, LTD. and APPLE INC.,  
Petitioner,

v.

VIRNETX INC.,  
Patent Owner.  
Case IPR2015-01046  
Patent 6,502,135 B1

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THE MANGROVE PARTNERS MASTER FUND, LTD., APPLE INC.,  
and BLACK SWAMP IP, LLC,  
Petitioner,

v.

VIRNETX INC.,  
Patent Owner.  
Case IPR2015-01047  
Patent 7,490,151 B2

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Before SCOTT R. BOALICK, *Chief Administrative Patent Judge*.

BOALICK, *Chief Administrative Patent Judge*.

ORDER  
Authorizing Additional Briefing

IPR2015-01046 - Patent 6,502,135 B1  
IPR2015-01047 - Patent 7,490,151 B2

On May 1, 2020, the Chief Judge issued a General Order regarding treatment of certain cases under *Arthrex, Inc. v. Smith & Nephew, Inc.*, 941 F.3d 1320 (Fed. Cir. 2019). Paper 106.<sup>1</sup> The General Order states that it applies to the above-captioned cases and that the Board will hold the cases in administrative abeyance pending Supreme Court action. *Id.*

By email of May 4, 2020, Petitioner requested guidance and authorization “on making a written request to withdraw application of the General Order issued by the Chief Judge on May 1 to these proceedings.” Ex. 3003. Petitioner states that it believes “that these proceedings are not properly the subject of the order and should not be suspended, as any suspension will cause undue prejudice.” *Id.* Petitioner requests a ten-page brief to address the issue and does not object to Patent Owner filing a responsive brief. *Id.*

Patent Owner’s position, included in the email, is that Petitioner may not seek rehearing of the General Order, which was not a “decision” that may be heard pursuant to 37 C.F.R. § 42.71(d). *Id.* Patent Owner challenges Petitioner’s assertion of undue prejudice. Further, Patent Owner believes three-page briefs would allow the parties to adequately address the issue. *Id.*

Accordingly, it is hereby ORDERED that Petitioner may file, no later than May 14, 2020, a brief of no more than six pages, addressing whether the Board should withdraw application of the General Order to these cases; and

FURTHER ORDERED that Patent Owner may file, no later than May 21, 2020, a responsive brief of no more than six pages.

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<sup>1</sup> Citations are to the record of IPR2015-01046; similar papers appear in the record of IPR2015-01047.

IPR2015-01046 - Patent 6,502,135 B1  
IPR2015-01047 - Patent 7,490,151 B2

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