

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.
VIRNETX INC.,
Patent Owner.

Case No. IPR2015-01046
U.S. Patent No. 6,502,135¹

PETITIONERS' MOTION TO SEAL

¹ Apple Inc., who filed a petition in IPR2016-00062, has been joined as a Petitioner in the instant proceeding.

I. Introduction

Petitioners The Mangrove Partners Master Fund, Ltd., and Apple Inc. (“Petitioners”) hereby move to seal the un-redacted version of Petitioners’ Consolidated Reply Brief (Paper 50), in accordance with the default protective order filed by Petitioner Mangrove Partners Master Fund, Ltd. (“Petitioner Mangrove”) on March 3, 2016 (Paper No. 43). *See* 37 C.F.R. §§ 42.14, 42.54. Good cause exists for granting the instant motion to seal because information in Petitioners’ Consolidated Reply Brief has been designated as confidential during discovery by Petitioner Mangrove.

II. Good Cause Exists for Sealing Certain Information Designated as Confidential

The standard governing the Board’s determination of whether to grant a motion to seal is “good cause.” *Garmin v. Cuozzo*, IPR2012-00001, Paper 36 (Apr. 5, 2013). The Board must “strike a balance between the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly sensitive information.” *Id.*

Exhibit 2049 includes information that Petitioner Mangrove has asserted as confidential during discovery. This exhibit is subject to Patent Owner’s pending motion to seal (Paper 43), and constitutes confidential commercial information under the Board’s rules. *See* 37 C.F.R. § 42.54; Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,760 (Aug. 14, 2012). Petitioners’ Consolidated Reply

Brief quotes and discusses the contents of this exhibit at several points, and those portions have been redacted in the public version of the Reply Brief (Paper 51).

These redactions are appropriate under the same rationale described above. For the foregoing reasons, there is good cause for granting this motion to seal and protect this confidential information from disclosure.

III. Proposed Protective Order

Petitioner Mangrove filed a Motion for Entry of the Default Protective Order on March 3, 2016. (Paper 39). Pursuant to Section 4(B) of the protective order, the un-redacted version of Petitioners' Consolidated Reply Brief has been clearly marked as "PROTECTIVE ORDER MATERIAL."

IV. Conclusion

For the foregoing reasons, Petitioners respectfully request that the Board seal the un-redacted version of Petitioners' Consolidated Reply Brief.

Dated: May 9, 2016

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on this 9th day of May, 2016, I caused to be served a true and correct copy of the foregoing and any accompanying exhibits by e-mail on the following counsel:

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