

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. IPR2015-01046¹
Patent No. 6,502,135

PETITIONERS' CONSOLIDATED REPLY BRIEF (REDACTED)

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

Table of Contents

I.	Introduction.....	1
II.	Claim Construction.....	1
III.	Prior Proceedings Involving VirnetX's Patents	1
	A. Federal Circuit Decision.....	1
	B. Prior Board Decisions Involving Related Patents.....	3
IV.	Kiuchi Anticipates Claims 1, 3-4, 7-8, 10, and 12	3
	A. Kiuchi Anticipates Claim 1	3
	1. Kiuchi Discloses a "DNS Request" Generated from the Client Computer	4
	2. Kiuchi Discloses a Request for "an IP Address Corresponding to a Domain Name Associated with a Target Computer"	5
	3. Kiuchi Discloses a "Client" and "Target Computer"	8
	4. Kiuchi Discloses a VPN.....	11
	B. Kiuchi Anticipates Independent Claim 10	17
	1. DNS Feature.....	17
	2. DNS Proxy Server that Generates a Request to Create a VPN.....	17
	3. DNS Proxy Server that Returns an IP Address	17
	C. Kiuchi Anticipates Claims 3, 4, 7, 8, and 12.....	18
V.	Kiuchi and RFC 1034 Render Claim 8 Obvious	19
VI.	Dr. Guerin's Testimony Is Probative and Entitled to Substantial Weight.....	19
	A. Dr. Guerin's Testimony Will Assist the Board.....	19

B. Dr. Guerin's Testimony Was Proper.....20

VII. RFC 1034 Is Prior Art21

VIII. Petitioner Mangrove's RPI Identification Was Correct21

A. Mangrove Partners and Nathaniel August21

B. Mangrove's Investors23

C. RPX Corporation24

D. Any Misidentification of RPI Does Not Prohibit Review25

IX. Conclusion26

TABLE OF AUTHORITIES

Cases	Page(s)
<i>Achates Reference Publishing, Inc. v. Apple Inc.</i> , 803 F.3d 652 (Fed. Cir. 2015)	25
<i>Arkwright-Boston Mfgs. Mut. Ins. Co. v. Truck Ins. Exch.</i> , 173 F.3d 843 (2d Cir. 1999)	22
<i>In re Baxter Intern., Inc.</i> , 678 F.3d 1357 (Fed. Cir. 2012)	2
<i>Belden Inc. v. Berk-Tek LLC</i> , 805 F.3d 1064 (Fed. Cir. 2015)	20
<i>Mercer v. Theriot</i> , 377 U.S. 152 (1964) (per curiam).....	2
<i>Microsoft Corp. v. i4i Limited Partnership</i> , 131 S.Ct. 2238 (2011).....	2
<i>Price v. Crestar Sec. Corp.</i> , 44 F. Supp. 2d 351 (D.D.C. 1999).....	22
<i>Sundance, Inc. v. Demonte Fabricating Ltd.</i> , 550 F.3d 1356 (Fed. Cir. 2008)	19
<i>Taylor v. Sturgell</i> , 553 U.S. 880 (2008).....	22
<i>Titanium Metals Corp. of America v. Banner</i> , 778 F.2d 775 (Fed. Cir. 1985)	20
<i>United States v. Bestfoods</i> , 524 U.S. 51 (1998).....	23
<i>VirnetX, Inc. v. Cisco Sys., Inc.</i> , 767 F.3d 1308 (Fed. Cir. 2014)	1, 2, 12
Post-Grant Proceeding Decisions	
<i>Apple Inc. v. VirnetX Inc.</i> , IPR2014-00404, Paper 42 (7/29/15).....	<i>passim</i>

<i>Apple Inc. v. VirnetX Inc.</i> , IPR2014-00482, Paper 34 (Aug. 24, 2015)	3
<i>Cisco Systems, Inc. v. VirnetX Inc.</i> , Appeal No. 2014-000591 (Apr. 1, 2014).....	3
<i>Cisco Systems, Inc. v. VirnetX Inc.</i> , Appeal No. 2015-007843 (Feb., 11, 2016).....	3
<i>Coalition for Affordable Drugs v. NPS Pharmaceuticals, Inc.</i> , IPR2015-01093, Paper 26, 27-28 (Oct. 23, 2015).....	23
<i>Denso Corporation v. Beacon Navigation GmbH</i> , IPR2013-00026, Paper, 34, 10-11 (March 14, 2014)	24
<i>Elekta, Inc., v. Varian Medical Sys., Inc.</i> , IPR2015-01401, Paper 19 (Dec. 31, 2015)	25
<i>Jiawei Tech. (HK) Ltd. v. Simon Nicholas Richmond</i> , IPR2014-00935, Paper 52, 10.....	24
<i>Mexichem Amanco Holdings S.A. de C.V. v. Honeywell International, Inc.</i> , IPR2015-01309, Paper 25, 4-5 (Apr. 7, 2016)	25
<i>Synopsis, Inc. v. Mentor Graphics Corporation</i> , IPR2012-00042, Paper 16, 15-18	24
Statutes	
35 U.S.C. §312.....	23
35 U.S.C. §315(e)	2
35 U.S.C. §316(e)	2
Other Authorities	
37 C.F.R. §42.5	25
Office Trial and Practice Guide, 77 Fed. Reg. 157, 48759 (Aug. 14, 2012)	22
Fed. R. Evid. 702	19, 20

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.