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RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

vs.

VIRNETX, INC.,
Patent Owner.

Case IPR2015-01046 (Patent 6,502,135 B1)

Case IPR2015-01047 (Patent 7,490,151 B1)

Technology Center 2100

Oral Hearing Held: Thursday, June 30, 2016

Before: MICHAEL P. TIERNEY, KARL D. EASTHOM, and
STEPHEN C. SIU, Administrative Patent Judges.

The above-entitled matter came on for hearing on Thursday,
June 30, 2016, at 9:00 a.m., Hearing Room A, taken at the U.S. Patent and
Trademark Office, 600 Dulany Street, Alexandria, Virginia.

REPORTED BY: RAYMOND G. BRYNTESON, RMR, CRR, RDR

Case IPR2015-01046 (Patent 6,502,135 B1)

Case IPR2015-01047 (Patent 7,490,151 B1)

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1 P R O C E E D I N G S

2 (9:00 a.m.)

3 JUDGE TIERNEY: Please be seated. Welcome,
4 everybody, for the hearings for Inter Partes Review on
5 IPR2015-01046 and 01047. My understanding is that each
6 side will have an hour today.

7 We have three parties on the Petitioner's side. It
8 was understood that the parties would agree on the Petitioner's
9 side as to how to allocate the time. Has there been an
10 agreement?

11 MR. KUSHAN: Yes, Your Honor. The allocation
12 will be I will be presenting arguments on patentability issues,
13 and Mr. Kasdan for the remainder will be presenting on RPI
14 issues, and our intention is to have the RPI issues addressed
15 during the rebuttal case.

16 JUDGE TIERNEY: Thank you. Today, just so we
17 understand, the parties would have time -- what we are
18 planning on is Petitioner, followed by Patent Owner, followed
19 by Petitioner. To the extent Patent Owner would like to have
20 a closing statement we will offer that today also.

21 But for Petitioner, is there a time you would like to
22 reserve for rebuttal today?

23 MR. KUSHAN: Yes, Your Honor, 30 minutes
24 approximately.

1 JUDGE TIERNEY: 30 minutes. So you are going
2 to use only 30 minutes for your opening?

3 MR. KUSHAN: I may use a little bit more, I will
4 reserve the balance, but I will aim for 30.

5 JUDGE TIERNEY: I will put 30 on the clock. And
6 before we begin, one last thing, are there any procedural
7 issues we should clarify today?

8 MR. PALYS: Yes, Your Honor. This is Joe Palys.
9 One issue that we just want to make sure the Board is aware
10 of, that when we get into RPI issues that we could be
11 discussing confidential information which is subject to the
12 protective order that the parties addressed. And we notice
13 that there are people in the boardroom today that may or may
14 not be subject to the protective order.

15 We have discussed this issue with Mangrove and we
16 just want to make sure that the Board was aware. Mangrove is
17 happy to address that issue with the Board directly.

18 JUDGE TIERNEY: Will we be discussing anything
19 that is under seal with this public forum?

20 MR. KASDAN: I don't believe so.

21 JUDGE TIERNEY: Okay. So let me just make it
22 clear. Do we need to clear the room when we discuss RPI
23 issues?

24 MR. KASDAN: Sorry?

1 JUDGE TIERNEY: Do we need to clear the room
2 and close the hearing at that point?

3 MR. KASDAN: No, no, no.

4 JUDGE TIERNEY: Okay. Should anything come
5 up where we need to address that issue, please alert us, but
6 otherwise the public will be present during the entirety of the
7 hearing today.

8 MR. PALYS: Your Honor, I just want to be clear.
9 Mangrove may not be going into it, but we probably will be
10 going into information that is sealed. So I just want to make
11 sure that he is aware of that so he can make that call.

12 JUDGE TIERNEY: Counsel for Mangrove,
13 understand, again, if this needs to be --

14 MR. KASDAN: Well, in that case I think we
15 should clear the room just to be on the safe side.

16 JUDGE TIERNEY: All right. We're going to
17 confer for just a moment. We have an option that we are
18 going to discuss and then we will get back to the parties
19 briefly.

20 (Pause)

21 JUDGE TIERNEY: Counsel, I would like to run the
22 following by you, because we may have to potentially close
23 the hearing, and we had not anticipated this.

24 Would it be possible to do bifurcated, where we
25 take up the patentability issues, finish the patentability issues,

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