

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
U.S. Patent No. 6,502,135

**PETITIONERS' MOTION TO SEAL
EXHIBIT 1051 AND RELATED DOCUMENTS**

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

I. Introduction

Petitioners hereby move to seal Exhibit 1051 and the confidential versions of Exhibit 1049 and Petitioners' Partial Opposition to Patent Owner's Motion for Additional Discovery (Paper 82) in accordance with the default protective order filed by Petitioner Mangrove on March 3, 2016 (Paper 43). *See* 37 C.F.R. §§ 42.14, 42.54. Good cause exists for granting this motion to seal because Exhibit 1051 contains Petitioner Mangrove's confidential commercial information and Exhibit 1049 and Petitioners' Partial Opposition (Paper 82) quote from Exhibit 1051. Petitioners have also filed redacted versions of Exhibit 1049 (Ex. 1050) and Petitioners' Partial Opposition (Paper 83).

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." 37 C.F.R. § 42.54. 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." *Garmin Int'l, Inc. v. Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper 36 at 3–4 (PTAB Apr. 5, 2013).

Exhibit 1051 is a confidential letter from Mangrove to its investors that, among other things, summarizes Mangrove's motivations for purchasing RPX's publicly-traded stock for the period before October 7, 2015. This letter 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). Petitioner Mangrove's Responses to Patent Owner's Notice of Deposition (Ex. 1049) and Petitioners' Partial Opposition (Paper 82) quote from the contents of Exhibit 1051, and those portions have been redacted in the public versions of Mangrove's Responses (Ex. 1050) and Petitioners' Partial Opposition (Paper 83). These redactions are appropriate under the same rationale described above. For these reasons, there is good cause for (i) sealing Exhibit 1049, Exhibit 1051, and Paper 82, and (ii) accepting the redactions offered in Exhibit 1050 and Paper 83.

III. Proposed Protective Order

Petitioner Mangrove filed a Motion for Entry of the Default Protective Order on March 3, 2016. *See* Paper 39. Pursuant to Section 4(B) of the protective order, Exhibit 1049, Exhibit 1051, and Paper 82 have been clearly marked as "PROTECTIVE ORDER MATERIAL."

IV. Conclusion

For the foregoing reasons, Petitioners' motion to seal should be granted to (i) seal Exhibit 1049, Exhibit 1051, and Paper 82, and (ii) accept the redactions offered in Exhibit 1050 and Paper 83.

Dated: October 4, 2019

Respectfully Submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on this 4th day of October, 2019, I caused to be served a true and correct copy of the foregoing and any accompanying exhibits by electronic mail on the following counsel:

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