

Filed on behalf of: VirnetX Inc.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

VIRNETX INC.,
Patent Owner

Case IPR2015-01046¹
Patent 6,502,135

Patent Owner's 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

Patent Owner VirnetX Inc. (“Patent Owner”) hereby moves to seal Patent Owner’s Request for Rehearing, in accordance with the default protective order filed by Petitioner Mangrove Partners Master Fund, Ltd. (“Petitioner Mangrove”) on March 3, 2016 (Paper No. 39). *See* 37 C.F.R. § 42.14, 42.54. Good cause exists for granting the instant motion to seal because Patent Owner’s Request for Rehearing contains information that has been designated as confidential during discovery by Petitioner Mangrove and that the Board has found to contain “confidential business information.” Paper No. 71 at 34.

Patent Owner intends to ask Petitioner Mangrove what material it believes should be redacted from a public version of the Patent Owner’s Request for Rehearing. Once so indicated, Patent Owner will promptly file such paper after such filing has been authorized by the Board.

II. Argument

The standard governing the Board’s determination of whether to grant a motion to seal is “good cause.” *Garmin v. Cuozzo*, IPR2012-00001, Paper No. 36 (Apr. 5, 2013). In that regard, 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.*

Patent Owner’s Request for Rehearing includes information that Petitioner

Mangrove has asserted as confidential during discovery and that the Board has found to contain “confidential business information.” Paper No. 71 at 34.

Because the relevant information has been designated as confidential by Petitioner Mangrove, Patent Owner intends to ask Petitioner Mangrove what material it believes should be redacted from a public version of the Patent Owner’s Request for Rehearing. Once so indicated, Patent Owner will promptly file such paper after such filing has been authorized by the Board.

III. Proposed Protective Order

Petitioner Mangrove filed a Motion for Entry of the Default Protective Order on March 3, 2016. (Paper No. 39). Pursuant to Section 4(B) of the protective order, Patent Owner’s Request for Rehearing has been clearly marked as “PROTECTIVE ORDER MATERIAL.”

IV. Conclusion

For the foregoing reasons, Patent Owner respectfully requests that the Board seal Patent Owner’s Request for Rehearing.

Respectfully submitted,

Dated: October 11, 2016

By: /Joseph E. Palys/

Joseph E. Palys
Registration No. 46,508

Counsel for VirnetX Inc.

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that I caused to be served on the counsel for Petitioners a true and correct copy of the foregoing Patent Owner's Motion to Seal by electronic means on the date below at the following address of record:

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Dated: October 11, 2016

Respectfully submitted,

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