

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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

v.

VIRNETX INC.,  
Patent Owner.

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Case No. IPR2015-01046<sup>1</sup>  
U.S. Patent No. 6,502,135

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**PETITIONERS' UNOPPOSED MOTION TO SEAL THE BOARD'S  
OCTOBER 23, 2019 ORDER AND ACCEPT PROPOSED REDACTIONS**

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<sup>1</sup> 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 the Board's October 23, 2019 Order (Paper 88, "October 29 Order") in accordance with the default protective order filed by Petitioner Mangrove on March 3, 2016 (Paper 39). *See* 37 C.F.R. §§ 42.14, 42.54. Good cause exists for granting this motion to seal because the Board's October 23 Order quotes and characterizes Petitioner Mangrove's confidential commercial information from Exhibits 1049 and 1051 and Petitioners' Partial Opposition (Paper 82), which Petitioners moved to seal on October 4, 2019. As instructed by the Board's October 23 Order, the parties have conferred and jointly filed a proposed redacted public version of the October 23 Order (Paper 90). Patent Owner has indicated that it does not oppose the present motion.

## **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).

The Board's October 23, 2019 Order quotes and characterizes certain confidential commercial information from confidential Exhibits 1049 and 1051 and

Petitioners' Partial Opposition (Paper 82). As explained in Petitioners' prior motion to seal (Paper 85), 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). Ex. 1049 and Petitioners' Partial Opposition (Paper 82) quote from the contents of Exhibit 1051, and the Board's October 23 Order quotes from and characterizes confidential portions of the two exhibits and that paper. The proposed redactions (Paper 90) to the Board's October 23 Order are appropriate under the same rationale described above. For these reasons, there is good cause for (i) sealing the Board's October 23 Order (Paper 88) and (ii) accepting the redactions offered in the parties' joint proposed redacted public version of the October 23 Order (Paper 90).

### **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 the Board's October 23 Order (Paper 88) and (ii) accept the redactions offered in the parties' joint proposed redacted public version of the October 23 Order (Paper 90).

Dated: October 31, 2019

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**CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on this 31st 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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