

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.,  
Petitioner,

v.

VIRNETX INC.,  
Patent Owner.

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Case IPR2015-01046  
Patent 6,502,135 B1

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

SIU, *Administrative Patent Judge.*

ORDER  
Conduct of the Proceeding  
*37 C.F.R. § 42.5*

A conference call in the above proceeding was held on November 10, 2015, among respective counsel for The Mangrove Partners Master Fund, Ltd. (“Petitioner”) and VirnetX Inc. (“Patent Owner”), and Judges Siu and Easthom. Petitioner requested the conference call for authorization to file a reply to Patent

Owner's Request for Rehearing and to amend the real parties in interest, if determined to be necessary. Patent Owner also requested the conference call to request authorization to file a motion for additional discovery with respect to the real parties in interest. Paper 16. As we explained during the conference call, we deny Petitioner's motion to file a reply to Patent Owner's Request for Rehearing because the record contains sufficient information to render a decision and we defer Petitioner's contingent motion to amend the real parties in interest pending our decision on Patent Owner's request for rehearing.

Patent Owner requested authorization to file a motion for additional discovery under 37 C.F.R. § 42.51(b)(2) regarding whether or not Petitioner failed to identify RPX as a real parties in interest. We deny Patent Owner's request because Patent Owner's request amounts to no more than a mere allegation of some kind of general association between Petitioner and RPX. For example, Patent Owner argues that Petitioner has an equity stake in RPX, that counsel for Petitioner allegedly represents RPX, and that publicly available documents supposedly imply a connection between Petitioner and RPX. The alleged facts presented by Patent Owner during the conference call do not show more than a mere possibility that something useful will be discovered and are therefore insufficient to show beyond mere speculation that discovery would be in the interests of justice. *See Garmin Int'l, Inc. v. Cuozzo Speed Techs. LLC*, IPR 2012-00001, Paper 26 (Mar. 5, 2013).

ORDERED that Petitioner's request to file a reply to Patent Owner's Request for Rehearing is denied;

FURTHER ORDERED that Petitioner's request to amend the real parties in interest is deferred; and

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FURTHER ORDERED that Patent Owner's request for authorization to file a motion for additional discovery is denied.

PETITIONER:

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