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Filed on behalf of: VirnetX Inc.

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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

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**Patent Owner's Requests for Production**

Patent Owner requests that Petitioner respond and produce the following documents and things.

### **INSTRUCTIONS**

In responding to and producing documents and things responsive to these requests, please comply with the instructions in the Office Patent Trial Practice Guide.

1. Please timely amend your responses if you learn that your response is incomplete or additional responsive information is found.
2. All documents must be produced as they are kept in the usual course of business, in the files or containers in which the responsive documents are maintained, and in the order within each file or container in which such documents are maintained; or all documents shall be organized and labeled to correspond with the requests below.
3. Identify any responsive documents and things you are aware of but cannot produce because they have been lost or destroyed or are no longer in your possession and the reason you cannot produce them.
4. If, in answering these requests, you encounter any ambiguities when construing a request, instruction, or definition, your response shall set forth the matter deemed ambiguous and the construction used in responding.
5. For any document or thing withheld based upon a claim of privilege, please

identify the ground of the asserted privilege and provide a privilege log according to the requirements of Federal Rule of Civil Procedure 26.

### **DEFINITIONS**

1. The terms “document” and “thing” have the broadest meaning prescribed in Federal Rule of Civil Procedure 34, including ESI and any physical specimen or tangible item, in your possession, custody, or control.
2. “Communications” shall mean the transmission or receipt of information of any kind through any means (e.g., email, voicemail, audio, computer readable media, or orally).
3. The term “Mangrove Entities” includes The Mangrove Partners Master Fund, Ltd., Mangrove Partners, The Mangrove Partners Fund, L.P., The Mangrove Partners Fund (Cayman), Ltd., Mangrove Capital, any of their present and former investors, and any of their present and former employees, representatives, consultants, contractors, attorneys, agents, and all other persons or entities acting or purporting to act on behalf of any of the foregoing, such as Nathaniel August, Ward Dietrich, Jeffrey Kalicka, Brian Steck, Philp Lee, David Bree, and Kevin Phillip.
4. “Mangrove IPRs” refers to *inter partes* review Case Nos. IPR2015-01046 and IPR2015-01047.
5. “VirnetX Patents” refers to U.S. Patent No. 6,502,135 and U.S. Patent No.

7,490,151.

**DOCUMENTS AND THINGS REQUESTED**

**REQUEST FOR PRODUCTION NO. 1**

Communications and documents or things related to challenging VirnetX Patents at the United States Patent and Trademark Office, including assistance with identification of prior art, filing, funding, compensation, and/or preparation of any papers related to the Mangrove IPRs, between (a) one of the Mangrove Entities, and (b) any other persons or entities not covered by (a), including another of the Mangrove Entities.

**REQUEST FOR PRODUCTION NO. 2**

Communications and documents or things sufficient to show the Mangrove Entities that received or provided funds, stock, stock options, or other consideration for the Mangrove IPRs.

**REQUEST FOR PRODUCTION NO. 3**

Engagement agreements or retainer agreements and corresponding termination agreements relating to the Mangrove IPRs, including (1) between any of the Mangrove Entities and Wiggin and Dana LLP, or any of its agents, representatives, privies, or others authorized to act on Wiggin and Dana LLP's behalf, including Abraham Kasdan and Michael Kasdan and (2) between any of the Mangrove Entities and The Law Office of James T. Bailey, or any of its agents,

representatives, privies, or others authorized to act on The Law Office of James T. Bailey's behalf, including James T. Bailey.

**REQUEST FOR PRODUCTION NO. 4**

Invoices related to the Mangrove IPRs, including those issued by Wiggin and Dana LLP, or any of its agents, representatives, privies, or others authorized to act on Wiggin and Dana LLP's behalf, including Abraham Kasdan and Michael Kasdan, or The Law Office of James T. Bailey, or any of its agents, representatives, privies, or others authorized to act on The Law Office of James T. Bailey's behalf, including James T. Bailey.