

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.,  
Petitioner

v.

VIRNETX INC.,  
Patent Owner

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

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**PATENT OWNER VIRNETX INC.'S NOTICE OF APPEAL**

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<sup>1</sup> Apple Inc., which filed a petition in IPR2016-00062, has been joined as a Petitioner in the instant proceeding.

Director of the United States Patent and Trademark Office  
c/o Office of the General Counsel  
Madison Building East, 10B20  
600 Dulany Street  
Alexandria, VA 22314-5793

Notice is hereby given, pursuant to 37 C.F.R. § 90.2(a), that Patent Owner VirnetX Inc. (“VirnetX”) appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision entered on September 9, 2016, (Paper 71) (the “Final Written Decision”) by the United States Patent and Trademark Office, Patent Trial and Appeal Board (the “Board”), and from all underlying orders, decisions, rulings, and opinions, as well as the Board’s Decision on Request for Rehearing, entered on October 20, 2016 (Paper 74). A copy of the Final Written Decision and the Decision on Request for Rehearing is attached.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), VirnetX indicates that the issues on appeal include, but are not limited to, the Board’s interpretation and application of 35 U.S.C. § 315(b)-(c), the Board’s interpretation and application of 35 U.S.C. § 312(a)(2), the Board’s determination of unpatentability of claims 1, 3, 4, 7, 8, 10, and 12 of U.S. Patent No. 6,502,135 under 35 U.S.C. § 102, the Board’s determination of unpatentability of claim 8 of U.S. Patent No. 6,502,135 under 35 U.S.C. § 103, and any finding or determinations supporting or related to those rulings including, without limitation, the Board’s construction and application of

the claim language, the Board's interpretation of the references, and the Board's interpretation of expert evidence.

Simultaneous with this submission, a copy of this Notice of Appeal is being filed with the Board. In addition, the Notice of Appeal and the required fee are being filed electronically with the Clerk of Court for the United States Court of Appeals for the Federal Circuit.

Respectfully submitted this 16th day of December, 2016.

By: /Naveen Modi/  
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*Counsel for VirnetX Inc.*

## CERTIFICATE OF SERVICE

The undersigned certifies that, in addition to being filed electronically through Patent Trial and Appeal Board End to End (PTAB E2E), the original version of this Notice of Appeal was filed by hand on December 16, 2016 with the Director of the United States Patent and Trademark Office, at the following address:

Director of the United States Patent and Trademark Office  
c/o Office of the General Counsel  
Madison Building East, 10B20  
600 Dulany Street  
Alexandria, VA 22314-5793

The undersigned also certifies that a true and correct copy of this Notice of Appeal and the required fee were filed electronically via CM/ECF on December 16, 2016, with the Clerk of Court for the United States Court of Appeals for the Federal Circuit.

The undersigned also certifies that a true and correct copy of this Notice of Appeal was served on December 16, 2016 on counsel of record for Petitioner Apple Inc. by electronic mail (by agreement of the parties) at the following address:

Abraham Kasdan (akasdan@wiggin.com)  
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Date: December 16, 2016

By: /Naveen Modi/

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