

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

THE MANGROVE PARTNERS MASTER FUND, LTD., APPLE INC.,  
and BLACK SWAMP IP, LLC,  
Petitioner,

v.  
VIRNETX INC.,  
Patent Owner.

---

Case No. IPR2015-01047  
U.S. Patent No. 7,490,151<sup>1</sup>

---

**PETITIONERS' MOTION TO SEAL**

---

<sup>1</sup> Apple Inc. and Black Swamp IP, LLC, who filed petitions in IPR2016-00063 and IPR2016-00167, respectively, have been joined as Petitioners in the instant proceeding.

**I. Introduction**

Petitioners The Mangrove Partners Master Fund, Ltd., Apple Inc., and Black Swamp IP, LLC (“Petitioners”) hereby move to seal the un-redacted version of Petitioners’ Consolidated Reply Brief (Paper 56), in accordance with the default protective order filed by Petitioner Mangrove Partners Master Fund, Ltd. (“Petitioner Mangrove”) on March 3, 2016 (Paper No. 43). *See* 37 C.F.R. §§ 42.14, 42.54. Good cause exists for granting the instant motion to seal because information in Petitioners’ Consolidated Reply Brief has been designated as confidential during discovery by Petitioner Mangrove.

**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.” *Garmin v. Cuozzo*, IPR2012-00001, Paper 36 (Apr. 5, 2013). 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.*

Exhibits 2042 and 2058 include information that Petitioner Mangrove has asserted as confidential during discovery. These exhibits are subject to Patent Owner’s pending motion to seal (Paper 47), and constitute 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). Petitioners’

Consolidated Reply Brief quotes and discusses the contents of these exhibits at several points, and those portions have been redacted in the public version of the Reply Brief (Paper 57). These redactions are appropriate under the same rationale described above. For the foregoing reasons, there is good cause for granting this motion to seal and protect this confidential information from disclosure.

### III. Proposed Protective Order

Petitioner Mangrove filed a Motion for Entry of the Default Protective Order on March 3, 2016. (Paper 43). Pursuant to Section 4(B) of the protective order, the un-redacted version of Petitioners' Consolidated Reply Brief has been clearly marked as "PROTECTIVE ORDER MATERIAL."

### IV. Conclusion

For the foregoing reasons, Petitioners respectfully request that the Board seal the un-redacted version of Petitioners' Consolidated Reply Brief.

Dated: May 9, 2016

/Jeffrey P. Kushan /  
Jeffrey P. Kushan  
Reg. No. 43,401  
SIDLEY AUSTIN LLP  
*Attorney for Petitioner Apple*

/Thomas H. Martin/  
Thomas H. Martin  
Reg. No. 34,383  
Martin & Ferraro, LLP  
*Attorney for Petitioner Black Swamp*

Respectfully Submitted,

/Abraham Kasdan/  
Abraham Kasdan  
Reg. No. 32, 997  
WIGGIN & DANA LLP

James T. Bailey  
Reg. No. 44,518  
THE LAW OFFICE OF JAMES. T. BAILEY  
*Attorneys for Petitioner Mangrove*

**CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on this 9th day of May, 2016, I caused to be served a true and correct copy of the foregoing and any accompanying exhibits by e-mail on the following counsel:

Joseph E. Palys  
josephpalys@paulhastings.com

Naveen Modi  
naveenmodi@paulhastings.com

Dated: May 9, 2016

Respectfully Submitted,

/Jeffrey P. Kushan /  
Jeffrey P. Kushan  
Reg. No. 43,401  
SIDLEY AUSTIN LLP  
*Attorney for Petitioner Apple*

/Abraham Kasdan/  
Abraham Kasdan  
Reg. No. 32, 997  
WIGGIN & DANA LLP

/Thomas H. Martin/  
Thomas H. Martin  
Reg. No. 34,383  
Martin & Ferraro, LLP  
*Attorney for Petitioner Black Swamp*

James T. Bailey  
Reg. No. 44,518  
THE LAW OFFICE OF JAMES. T. BAILEY  
*Attorneys for Petitioner Mangrove*