

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., APPLE INC.,  
and BLACK SWAMP IP, LLC,  
Petitioner,

v.

VIRNETX INC.,  
Patent Owner.

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Case IPR2015-01046 (Patent 6,502,135 B1)<sup>1</sup>  
Case IPR2015-01047 (Patent 7,490,151 B1)<sup>2</sup>

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

SIU, *Administrative Patent Judge*.

ORDER  
Trial Hearing  
37 C.F.R. § 42.70

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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.

<sup>2</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.

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As set forth in the Scheduling Order (Paper 12), oral argument, if requested, is scheduled for June 30, 2016, in connection with these proceedings. Both parties have requested oral argument. IPR2015-001046, Papers 57, 58; IPR2015-001047, Papers 63, 65. The requests are *granted*.

There is substantial overlap in the issues raised in the two cases. Accordingly, each party will have sixty (60) minutes total time to present arguments. The Petitioner in each matter includes multiple business entities.<sup>3</sup> The multiple business entities in each matter will determine the attorney(s), arguments, and allocation of arguments to present at the oral hearing in a consolidated argument subject to the sixty minute time limit as specified above.

Petitioner will proceed first to present its case with respect to the challenged claims and grounds for which the Board instituted trial in IPR2016-01046 and -01047. Thereafter, Patent Owner will respond to Petitioner's presentation. Both parties may reserve some of their argument time for rebuttal, and Patent Owner will be afforded an opportunity to provide a closing statement along with any rebuttal.

Oral argument will commence at 10:00 AM ET on June 30, 2016. The hearing will be conducted on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia 22314. The hearing will be open to the public for in-person attendance, which will be accommodated on a first-come-first-serve basis. The Board will provide a court reporter for the

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<sup>3</sup> The Petitioner in IPR2016-001046 includes The Mangrove Partners Masters Fund, Ltd. and Apple, Inc. The Petitioner in IPR2016-001047 includes The Mangrove Partners Masters Fund, Ltd., Apple, Inc., and Black Swamp IP, LLC.

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hearing, and the reporter's transcript will constitute the official record of the hearing.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served seven business days prior to the hearing. The parties are further directed to request a conference call with the Board no later than three business days prior to the hearing to resolve any dispute over the propriety of each party's demonstrative exhibits, and to file demonstrative exhibits no later than the date of the hearing. The parties are responsible for requesting such a conference sufficiently in advance of the hearing to accommodate this requirement. Any objection to demonstrative exhibits that is not presented timely will be considered waived. The parties may refer to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033 (PTAB October 23, 2013) (Paper 118), and *St. Jude Medical, Cardiology Div., Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65), regarding the appropriate content of demonstrative exhibits.

Questions regarding specific audio-visual equipment should be directed to the Board at (571) 272-9797. Requests for audio-visual equipment are to be made 5 days in advance of the hearing date. The request is to be sent to [Trials@uspto.gov](mailto:Trials@uspto.gov). If the request is not received timely, the equipment may not be available on the day of the hearing. The parties are reminded that the presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during the hearing to ensure the clarity and accuracy of the reporter's transcript.

The Board expects lead counsel for each party to be present in person at the oral hearing. Lead or backup counsel, however, may present the

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party's argument. If either party anticipates that its lead counsel will not be attending the oral argument, the parties should request a joint telephone conference with the Board no later than two business days prior to the oral hearing to discuss the matter.

It is

ORDERED that oral argument will commence at 10:00 AM ET on June 30, 2016.

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