

**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,  
Petitioners,

v.

VIRNETX INC.,  
Patent Owner.

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

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**PETITIONERS' MOTION TO SEAL  
EXHIBIT 1051 AND RELATED DOCUMENTS**

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

**I. Introduction**

Petitioners hereby move to seal Exhibit 1051 and the confidential versions of Exhibit 1049 and Petitioners' Partial Opposition to Patent Owner's Motion for Additional Discovery (Paper 91) in accordance with the default protective order filed by Petitioner Mangrove on March 3, 2016 (Paper 43). *See* 37 C.F.R. §§ 42.14, 42.54. Good cause exists for granting this motion to seal because Exhibit 1051 contains Petitioner Mangrove's confidential commercial information and Exhibit 1049 and Petitioners' Partial Opposition (Paper 91) quote from Exhibit 1051. Petitioners have also filed redacted versions of Exhibit 1049 (Ex. 1050) and Petitioners' Partial Opposition (Paper 92).

**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." 37 C.F.R. § 42.54. 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." *Garmin Int'l, Inc. v. Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper 36 at 3–4 (PTAB Apr. 5, 2013).

Exhibit 1051 is a confidential letter from Mangrove to its investors that, among other things, summarizes Mangrove's motivations for purchasing RPX's publicly-traded stock for the period before October 7, 2015. This letter constitutes

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). Petitioner Mangrove's Responses to Patent Owner's Notice of Deposition (Ex. 1049) and Petitioners' Partial Opposition (Paper 91) quote from the contents of Exhibit 1051, and those portions have been redacted in the public versions of Mangrove's Responses (Ex. 1050) and Petitioners' Partial Opposition (Paper 92). These redactions are appropriate under the same rationale described above. For these reasons, there is good cause for (i) sealing Exhibit 1049, Exhibit 1051, and Paper 91, and (ii) accepting the redactions offered in Exhibit 1050 and Paper 92.

### **III. Proposed Protective Order**

Petitioner Mangrove filed a Motion for Entry of the Default Protective Order on March 3, 2016. *See* Paper 39. Pursuant to Section 4(B) of the protective order, Exhibit 1049, Exhibit 1051, and Paper 91 have been clearly marked as "PROTECTIVE ORDER MATERIAL."

### **IV. Conclusion**

For the foregoing reasons, Petitioners' motion to seal should be granted to (i) seal Exhibit 1049, Exhibit 1051, and Paper 91, and (ii) accept the redactions offered in Exhibit 1050 and Paper 92.

Dated: October 4, 2019

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on this 4th day of October, 2019, I caused to be served a true and correct copy of the foregoing and any accompanying exhibits by electronic mail on the following counsel:

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