

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner,

v.

VIRNETX INC.,
Patent Owner.

Patent No. 6,502,135

Issued: Dec. 31, 2002

Filed: Feb. 15, 2000

Inventors: Edmund C. Munger, *et al.*

Title: AGILE NETWORK PROTOCOL FOR SECURE COMMUNICATIONS
WITH ASSURED SYSTEM AVAILABILITY

Inter Partes Review No. IPR2016-00062

**Petition for *Inter Partes* Review of
U.S. Patent No. 6,502,135**

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I. Introduction

Apple Inc. (“Petitioner” or “Apple”) petitions for *inter partes* review of claims 1, 3, 4, 7, 8, 10, and 12 of U.S. Patent No. 6,502,135 (the “’135 patent”). As explained in the concurrently filed Motion for Joinder (Paper 2), Petitioner seeks to join as a party to IPR2015-01046, filed by Mangrove Partners Master Fund, Ltd (“Mangrove”), a proceeding instituted against the same patent on the basis of the same prior art. Apple presents patentability challenges that are substantively identical to those presented by Mangrove in IPR2015-01046, and Apple relies on the same exhibits and the same expert declaration. *See* §§ III-IV below. The sole difference is that with this petition, Apple is submitting several additional exhibits that further confirm that RFC 1034 is prior art to the ’135 patent. As explained in § V below, the additional information does not change the grounds asserted by Mangrove, but instead simply supplements the evidence regarding the public availability of RFC 1034.

A. Certification the ’135 Patent May Be Contested by Petitioner

Petitioner certifies that the ’135 patent is available for *inter partes* review and that it is not barred or estopped from requesting an *inter partes* review challenging the patent claims on the grounds identified in the petition.

Neither Petitioner, nor any party in privity with Petitioner, has filed a civil action challenging the validity of any claim of the ’135 patent. *See* 35 U.S.C.

§ 315(a)(1). While Petitioner was served with a complaint alleging infringement of the '135 patent more than one year before the date this petition is filed, the time limitation of 35 U.S.C. § 315(b) “shall not apply to a request for joinder under” 35 U.S.C. § 315(c). Because this petition is accompanied by a Motion for Joinder (Paper 2), it complies with 35 U.S.C. § 315(b). *See, e.g., Dell Inc. v. Network-1 Security Solutions, Inc.*, IPR2013-00385, Paper 17 at 4-5 (granting joinder beyond the one-year window).

B. Fee for Inter Partes Review (§ 42.15(a))

The Director is authorized to charge the fee specified by 37 CFR § 42.15(a) to Deposit Account No. 50-1597.

C. Mandatory Notices (37 CFR § 42.8(b))

1. Real Party in Interest (§ 42.8(b)(1))

The real party in interest of this petition pursuant to § 42.8(b)(1) is Apple Inc. located at One Infinite Loop, Cupertino, CA 95014.

2. Related Matters (§ 42.8(b)(2))

The '135 patent is a member of a family of patents issued to Munger et al. and assigned to VirnetX, Inc., each claiming priority to U.S. Provisional App. Nos. 60/106,261 and 60/137,704. That family includes the following patents: 6,502,135; 6,618,761; 6,826,616; 6,834,310; 6,839,759; 6,907,473; 7,010,604; 7,133,930; 7,188,180; 7,418,504; 7,490,151; 7,921,211; 7,933,990; 7,945,654; 7,987,274; 7,996,539; 8,051,181; 8,458,341; 8,504,696; 8,504,697; 8,516,117; 8,516,131;

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