

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BLACK SWAMP IP, LLC,
Petitioner

v.

VIRNETX INC.,
Patent Owner

Case IPR2016-00693
Patent 7,418,504

PATENT OWNER VIRNETX INC.'S NOTICE OF APPEAL

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 June 12, 2017, (Paper 14) (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 July 24, 2017 (Paper 16). 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 authority to invalidate a granted patent through *inter partes* review proceedings, the Board’s determination of unpatentability of claims 1, 2, 5, 6, 15, 16, 27, 33, 36, 37, 39, 40, 51, 57, and 60 of U.S. Patent No. 7,418,504 under 35 U.S.C. § 102, and any findings 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 22nd day of September, 2017.

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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 September 22, 2017 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 September 22, 2017, 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 September 22, 2017 on counsel of record for Petitioner Black Swamp IP, LLC by electronic mail (by agreement of the parties) at the following address:

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