

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF TEXAS  
3 TYLER DIVISION

4 VIRNETX, INC. )  
5 -vs- ) DOCKET NO. 6:10cv417  
6 APPLE, INC. ) Tyler, Texas  
7 ) 12:05 p.m.  
8 ) November 5, 2012

9 TRANSCRIPT OF TRIAL  
10 AFTERNOON SESSION  
11 BEFORE THE HONORABLE LEONARD DAVIS,  
12 UNITED STATES CHIEF DISTRICT JUDGE, AND A JURY

13  
14 A P P E A R A N C E S

15 FOR THE PLAINTIFFS:

16 MR. DOUGLAS CAWLEY  
17 MR. BRADLEY W. CALDWELL  
18 MR. JASON D. CASSADY  
19 MR. JOHN AUSTIN CURRY  
20 McKOOL SMITH  
21 300 Crescent Court, Ste. 1500  
22 Dallas, TX 75201

23 COURT REPORTERS: MS. JUDITH WERLINGER  
24 MS. SHEA SLOAN  
25 shea\_sloan@txed.uscourts.gov

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1 A. No, it's not.

2 Q. So what --

3 A. What we see here, the missing element is to  
4 store a plurality of domain names and corresponding  
5 network addresses. That's also not taught in Kiuchi.

6 Q. Okay. Again, Apple's lawyer claimed that you  
7 backpedaled from -- from this analysis from your expert  
8 report.

9 Is that accurate?

10 A. No, that's not true.

11 MR. CURRY: Mr. Moreno, can you show  
12 Dr. Jones' deposition testimony at Page 249, Lines 2  
13 through 7?

14 Q. (By Mr. Curry) This is the Q and A that was  
15 shown to the jury by Apple's lawyer.

16 Do you stand by this testimony?

17 A. Absolutely. I'm being asked to assume that  
18 the appendix accurately describes the system. And under  
19 that hypothetical situation, I give them an answer.

20 Q. And in your deposition testimony, didn't you  
21 explain how the appendix is inaccurate in Kiuchi?

22 A. Yes. I believe I did that more than once.

23 MR. CURRY: Mr. Moreno, can you go to  
24 Page 232, Lines 8 through 25?

25 Q. (By Mr. Curry) Can you explain what you're

1 talking about here?

2 A. So I'm being asked about what the discrepancy  
3 that I've identified between the body of Kiuchi, the  
4 explanation, the main body of his paper, and what is  
5 pointed to in Appendix 2.

6 And what I explain is that I certainly can  
7 reconcile it that what's being described in the way  
8 Kiuchi has to function, once one analyzes the system, is  
9 that it's the name of an origin server that's -- that  
10 should be there; and that the appendix, which indicates  
11 that it's a server-side proxy, is actually incorrect.

12 Q. And, in fact, didn't we hear earlier that Dr.  
13 Kiuchi fixed the error in his appendix?

14 A. Yes. We saw that on the slides earlier today.

15 Q. Would the Kiuchi system work if the  
16 client-side proxy requested a domain name for the  
17 server-side proxy from C-HTTP?

18 A. No. The way Kiuchi has to work is that what's  
19 being requested is the resource that's on the origin  
20 server. That's where the data is.

21 Q. Can you show us how you knew that?

22 A. Yes. We can look at the body of Kiuchi.

23 MR. CURRY: Would you go to Slide 10,  
24 please, Mr. Moreno?

25 A. This is -- this is from Kiuchi, and it's one

1 of the steps in the process of creating the connection,  
2 and this is talking about the lookup of the server-side  
3 proxy information.

4           And what's described here is that the  
5 client-side proxy, which is that device up there on the  
6 left with the red circle around it, is asking the C-HTTP  
7 name server, which is the device at the top, if it can  
8 communicate with the host specified in a given URL.

9           And URL stands for uniform resource locator.  
10 It's asking for a resource. As we heard earlier, the  
11 resources in Kiuchi, as they are in an HTTP system, are  
12 in the origin server on the far right. So it's  
13 asking -- the name it's asking for in the URL is the  
14 name for the origin server, that resource.

15       Q.    Would the C-HTTP name server in Kiuchi have  
16 any reason to store a domain name for the server-side  
17 proxy?

18       A.    No, because that's not what's going to be  
19 requested. It doesn't have the resource that's being  
20 requested.

21       Q.    Since Kiuchi doesn't teach secure  
22 communication links or storing domain names with  
23 corresponding network addresses, can it anticipate any  
24 claim of the '504/'211 patent?

25       A.    No, it can't. Those are both requirements of

1 COURT SECURITY OFFICER: All rise.  
2 (Court adjourned.)

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4 CERTIFICATION

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6 I HEREBY CERTIFY that the foregoing is a  
7 true and correct transcript from the stenographic notes  
8 of the proceedings in the above-entitled matter to the  
9 best of our abilities.

10

11

12 /s/ Shea Sloan  
SHEA SLOAN, CSR  
13 Official Court Reporter  
State of Texas No.: 3081  
14 Expiration Date: 12/31/12

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16

/s/ Judith Werlinger  
17 JUDITH WERLINGER, CSR  
Deputy Official Court Reporter  
18 State of Texas No.: 731  
Expiration Date 12/31/12

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