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INTRODUCTION

The six patents-in-suit—U.S. Patent Nos. 6,502,135 (“the ’135 patent”) (Ex. 1); 7,418,504 (“the ’504 patent”) (Ex. 2); 7,490,151 (“the ’151 patent”) (Ex. 3); 7,921,211 (“the ’211 patent”) (Ex. 4); 8,051,181 (“the ’181 patent”) (Ex. 5); and 8,504,697 (“the ’697 patent”) (Ex. 6)—concern technology familiar to this Court. As VirnetX notes in its Opening Claim Construction Brief, this Court has conducted three *Markman* proceedings involving several of these patents, as well as other related patents.¹ Only two patents—the ’181 and ’697 patents—are patents that this Court has not previously addressed. Nevertheless, both of these “new” patents stem from the same family to which the remaining patents-in-suit belong and are based on similar disclosures.

Despite this Court’s three previous claim-construction orders, VirnetX urges the Court to reconsider those previous rulings and issue new constructions for key claim terms. The Court has consistently construed these terms—including the phrases “virtual private network” and “generating from the client computer . . .” addressed in VirnetX’s brief—in several cases involving the patents-in-suit. VirnetX does not—and cannot—point to any change in circumstances or in law that justifies reconsideration of these constructions. And VirnetX’s stated basis of alleged “misconduct” in the *Cisco* trial has already been rejected by the Court. On multiple occasions, this Court has refused to issue VirnetX’s proposed constructions for these terms, and it should refuse to do so once again.

In contrast to VirnetX’s approach, Apple largely focuses its proposed constructions on the two patents new to the Court. Although related to the other patents-in-suit, the ’181 and ’697

¹ See Ex. 7, *VirnetX Inc. v. Microsoft Corp.*, Case No. 07-cv-80, Dkt. No. 246 (hereinafter, “*Microsoft*”); Ex. 8, *VirnetX Inc. v. Cisco Sys. Inc.*, Case No. 10-cv-417, Dkt. No. 266 (hereinafter, “*Cisco*”); Ex. 9, *VirnetX Inc. v. Mitel Networks, Corp.*, Case No. 11-cv-18, Dkt. No. 307 (hereinafter, “*Mitel*”).

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