

RECORD OF ORAL HEARING
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.
Petitioner

v.

VIRNETX, INC.
Patent Owner

Case Nos. IPR2014-00237 and IPR2014-00238
U.S. Patent No. 8,504,697
Technology Center 2400

Oral Hearing Held on Monday, February 9, 2015

Before: MICHAEL P. TIERNEY, KARL D. EASTHOM, and
STEPHEN C. SIU, Administrative Patent Judges.

The above-entitled matter came on for hearing on Monday, February 9, 2015, at 2:00 p.m., in Hearing Room A, taken at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

APPEARANCES:

ON BEHALF OF THE PETITIONER:

JEFFREY P. KUSHAN, ESQ.

THOMAS A. BROUGHAN, III, ESQ.

SCOTT M. BORDER, ESQ.

Sidley Austin LLP

1501 K Street, N.W.

Washington, D.C. 20005

202-736-8000

ON BEHALF OF THE PATENT OWNER:

JOSEPH E. PALYS, ESQ.

NAVEEN MODI, ESQ.

Paul Hastings LLP

875 15th Street, N.W.

Washington, D.C. 20005

202-551-1700

JASON E. STACH, ESQ.

Finnegan, Henderson, Farabow,

Garrett & Dunner LLP

3500 Suntrust Plaza

303 Peachtree Street, NE

Atlanta, Georgia 30308

404-653-6400

1 P R O C E E D I N G S

2 (2:00 p.m.)

3 JUDGE TIERNEY: You may be seated. Welcome,
4 everyone, to the inter partes reviews, IPR2014-00237 and
5 00238.

6 Before we begin today, do the parties have any
7 questions or concerns that we need to address? Let's start with
8 Petitioner?

9 MR. KUSHAN: No, we are fine and ready to
10 proceed.

11 JUDGE TIERNEY: Patent Owner, any questions or
12 comments before we begin today?

13 MR. PALYS: No, Your Honor.

14 JUDGE TIERNEY: Thank you. Give me one
15 moment here and then we will be ready.

16 All right. Welcome, everyone, to today's hearing.
17 We have a combined hearing between the 00237 case and the
18 00238 cases. Today we scheduled one hour for each side, with
19 the Petitioner beginning, followed by the Patent Owner, and
20 then both parties are able to reserve time for what normally
21 would be rebuttal, but today we will call it closing arguments.

22 It is my understanding that we have no questions
23 from counsel before we begin today, so we will begin with the
24 question: Would each side like to reserve time for closing
25 arguments, starting with Petitioner?

1 MR. KUSHAN: Yes, Your Honor. I will reserve
2 approximately 20 minutes for closing, or whatever the balance
3 would be.

4 JUDGE TIERNEY: Okay. 40 minutes and then
5 you will have 20 minutes remaining.

6 MR. KUSHAN: Yes.

7 JUDGE TIERNEY: And Patent Owner?

8 MR. PALYS: Yes, Your Honor. We will reserve
9 10 minutes.

10 JUDGE TIERNEY: Thank you. Okay. With that,
11 Petitioner, are you ready? Go ahead.

12 MR. KUSHAN: I was a little bit unclear. Are they
13 entitled to a rebuttal after our --

14 JUDGE TIERNEY: We are calling it closing
15 arguments.

16 MR. KUSHAN: Closing arguments?

17 JUDGE TIERNEY: Yes. Basically what I would
18 like to have today is have the last word by the Patent Owner,
19 so they will be given that time. Should they bring up
20 something you object to, and need to object to, I am sure you
21 will let us know.

22 MR. KUSHAN: Okay. Thank you very much.

23 JUDGE TIERNEY: And I was wondering, do you
24 by any chance have demonstratives for the Panel?

1 MR. KUSHAN: Yes, Your Honor. May I
2 approach?

3 JUDGE TIERNEY: Yes, please. And I think I see
4 Patent Owner has demonstratives also. If so, could we have a
5 copy?

6 All right. Petitioner, when you are ready, would
7 you please begin.

8 MR. KUSHAN: Thank you very much, Your
9 Honors. As you noted, there are two proceedings and 237 and
10 238 are the terminus of each.

11 The 237 proceeding is based on the Beser reference
12 as a primary reference and the 238 proceeding is based on the
13 Wesinger reference, which is Exhibit 1010 -- I'm sorry, 1008.

14 Can you go to slide 4, please. The first thing I
15 would like to do is walk through the claims because it is
16 important to see what the claim language is. And once you
17 have seen the claim language and appreciate how broad the
18 claim language is, it becomes a little bit easier to navigate
19 how the claims read on the prior art.

20 There are three elements of each claim, three steps.
21 The claims are cast first in the form of a method claim, claim
22 1. There is a parallel claim. Go to slide 5. This is the system
23 claim which is a parallel claim to the method claim.

24 Go back to 4 for a minute. In each of these
25 embodiments you have three operative steps. The first step is

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