

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**VIRNETX INC.,**  
*Appellant*

v.

**APPLE INC.,**  
*Appellee*

**KATHERINE K. VIDAL, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office,**  
*Intervenor*

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2022-1997

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Appeal from the United States Patent and Trademark Office, Patent Trial and Appeal Board in No. 95/001,697.

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**ON MOTION**

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Before TARANTO, *Circuit Judge*.

**ORDER**

VirnetX Inc. moves to vacate the decision of the Patent Trial and Appeal Board and remand this case with instructions that the agency accept VirnetX's request for Director

rehearing. Apple Inc. and intervenor oppose the motion. VirnetX replies.

The court deems it the better course to deny the motion in favor of VirnetX raising arguments for remand in its briefing.

Accordingly,

IT IS ORDERED THAT:

(1) The motion to remand is denied without prejudice to the parties raising their arguments in their merits briefs.

(2) VirnetX's opening brief is due within 30 days of the date of filing of this order.

FOR THE COURT

January 23, 2023

Date

/s/ Peter R. Marksteiner

Peter R. Marksteiner

Clerk of Court