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Paper 32
Date Entered: April 18, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

VIRNETX INC.,
Patent Owner.

Case IPR2015-00810 (Patent 8,868,705 B2)
Case IPR2015-00811 (Patent 8,868,705 B2)
Case IPR2015-00812 (Patent 8,850,009 B2) [1]

Before KARL D. EASTHOM, JENNIFER S. BISK, and GREGG I. ANDERSON, *Administrative Patent Judges.*

ANDERSON, *Administrative Patent Judge*.

ORDER
Conduct of the Proceedings
37 C.F.R. § 42.5(a)(1)

[1] This Order addresses issues that are identical in all cases. The parties are not authorized to use this style heading for any subsequent papers.

I. INTRODUCTION

In an email dated April 12, 2016, Petitioner, Apple Inc., asked that we change the final hearing date of June 8, 2016, set in the Scheduling Order (SO, Paper 9, 6)[2] to June 13 or 14, 2016. In our Order (Paper 32) dated April 13, 2016, we authorized Petitioner to file a motion to change the hearing date.

In an email dated April 16, 2016, Petitioner's counsel asked to withdraw the request to adjust the date of the oral hearing. Petitioner also requests authorization to proceed with the oral hearing without the presence of lead counsel at the hearing. Petitioner's counsel has contacted Patent Owner, and Patent Owner does not oppose Petitioner withdrawing its request to move the hearing date.

Patent Owner had previously agreed to have backup counsel argue at the hearing date.

II. DISCUSSION

At Petitioner's request, we vacate the Order authorizing the filing of a motion to change the hearing date.

Upon the agreement of Patent Owner, backup counsel may argue at the final hearing for Petitioner. Mr. Scott M. Border is admitted *pro hac vice* under 37 C.F.R. § 42.10(c) and is not a registered practitioner. *See*

[2] Unless otherwise noted, we refer to the papers in IPR2015-00811.

Paper 14. Mr. Thomas A. Broughan, III is a registered practitioner. *See* Paper 2. Both Mr. Border and Mr. Broughan are backup counsel.

Rule 42.10(c), cited above for *pro hac vice* admission, requires that lead counsel be a registered practitioner. In the absence of lead counsel, because Mr. Broughan is a registered practitioner, he must be present at the hearing. However, Mr. Border may make Petitioner's argument. If Mr. Broughan makes Petitioner's argument, Mr. Border need not be present.

III. ORDER

ORDERED that our Order (Paper 32) is vacated;

FURTHER ORDERED that backup counsel, Mr. Border or Mr. Broughan may argue on behalf of Petitioner at the final hearing on the condition that Mr. Border may argue only if Mr. Broughan is present; and

FURTHER ORDERED that a copy of this Order shall be filed in IPR2015-00810, IPR2015-00811, and IPR2015-00812.

IPR2015-00810 (Patent 8,868,705)
IPR2015-00811 (Patent 8,868,705)
IPR2015-00812 (Patent 8,850,009)

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