

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

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**VIRNETX INC.,**  
*Appellant*

v.

**CISCO SYSTEMS, INC.,**  
*Appellee*

**ANDREI IANCU, UNDER SECRETARY OF  
COMMERCE FOR INTELLECTUAL PROPERTY  
AND DIRECTOR OF THE UNITED STATES  
PATENT AND TRADEMARK OFFICE,**  
*Intervenor*

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2019-1671

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Appeal from the United States Patent and Trademark  
Office, Patent Trial and Appeal Board in No. 95/001,679.

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**ON PETITIONS FOR EN BANC REHEARING**

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NAVEEN MODI, Paul Hastings LLP, Washington, DC,  
for appellant. Also represented by STEPHEN BLAKE  
KINNAIRD, JOSEPH PALYS, IGOR VICTOR TIMOFEYEV,  
MICHAEL WOLFE, DANIEL ZEILBERGER.

DAVID L. MCCOMBS, Haynes & Boone, LLP, Dallas, TX,  
filed a combined petition for panel rehearing and rehearing

en banc for appellee. Also represented by THEODORE M. FOSTER, DEBRA JANECE MCCOMAS.

MELISSA N. PATTERSON, Appellate Staff, Civil Division, United States Department of Justice, Washington, DC, filed a combined petition for panel rehearing and rehearing en banc for intervenor. Also represented by COURTNEY DIXON, SCOTT R. MCINTOSH; THOMAS W. KRAUSE, JOSEPH MATAL, BRIAN RACILLA, FARHEENA YASMEEN RASHEED, Office of the Solicitor, United States Patent and Trademark Office, Alexandria, VA.

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Before PROST, *Chief Judge*, NEWMAN, LOURIE, DYK, MOORE, O'MALLEY, REYNA, WALLACH, TARANTO, CHEN, and HUGHES, *Circuit Judges*.\*

PER CURIAM.

## ORDER

Combined petitions for panel rehearing and rehearing en banc were separately filed by the Director of the United States Patent and Trademark Office and Cisco Systems, Inc. The petitions were first referred to the panel that heard the appeal and were denied by the panel by separate order. The petitions for rehearing en banc were referred to the circuit judges who are in regular active service. A poll was requested, taken, and failed.

Upon consideration thereof,

IT IS ORDERED THAT:

The petitions for rehearing en banc are denied.

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\* Circuit Judge Stoll did not participate.

VIRNETX INC. v. CISCO SYSTEMS, INC.

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The mandate of the court will issue on May 20, 2020.

FOR THE COURT

May 13, 2020  
Date

/s/ Peter R. Marksteiner  
Peter R. Marksteiner  
Clerk of Court