

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

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

2019-1671

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

ON PETITIONS FOR EN BANC REHEARING

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.

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

PER CURIAM.

O R D E R

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.

* Circuit Judge Stoll did not participate.

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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