

Apple loses patent case appeal, owes VirnetX \$440M in FaceTime dispute

Group Facetime for up to 32 simultaneous participants, coming to iOS 12.1.

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A federal appeals court has upheld a landmark patent judgment brought by VirnetX against Apple, affirming a \$440 million judgment in a years-long patent dispute.

On Tuesday, the US Court of Appeals for the Federal Circuit denied Apple's efforts to overturn a 2016 verdict that imposed \$302 million in damages. That figure has since risen to encompass enhanced damages, interest, and more. Many would dub the Nevada-based VirnetX a "patent troll," as it has no meaningful source of income outside of patent litigation.

Previously, a jury found that Apple's VPN on Demand and FaceTime features infringed VirnetX patents. But the Patent Trial and Appeal Board has already invalidated VirnetX's patents, which VirnetX is appealing.

Reuters noted Tuesday that Apple has vowed to appeal.

As Ars has previously reported, VirnetX had won three separate jury trials against Apple, all in the Eastern District of Texas, a longtime hotspot for patent-holding companies seeking

to sue tech companies. The first was in 2012, when a jury awarded \$368 million in damages and the judge granted an ongoing royalty of one percent. Both holdings were overturned on appeal, however.

In February 2016, the jury in a second trial sided with VirnetX in a \$625 million verdict against Apple. But that verdict was thrown out by the trial's judge, who didn't approve of VirnetX lawyers' references to the 2012 trial. A third trial was held in September 2016, and it resulted in a \$302 million verdict, which is what the judge added to in his October 2017 judgment.

The case began way back in 2012 with four of VirnetX's patents (1, 2, 3, 4), all of which originated at a company called Science Applications International Corporation, or SAIC.

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