

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner,

v.

VIRTAMOVE, CORP.,
Patent Owner.

Case No. IPR2025-000489
Patent No. 7,784,058

**PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL OF
INSTITUTION**

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PATENT OWNER'S EXHIBIT LIST

No.	Description
2001	May 7, 2025 Transfer Order in <i>VirtaMove v. Google</i> , 24-CV-00033 (W.D. Tex.)
2002	DocketNavigator Median Time-to-Trial Statistics
2003	National Judicial Caseload Profile, <i>available at</i> https://www.uscourts.gov/sites/default/files/2025-02/fcms_na_distprofile1231.2024.pdf
2004	Petitioner Google's October 17, 2024 Invalidity Contentions
2005	Declaration of Erik de la Iglesia in Support of Patent Owner's Preliminary Response to Petition
2006	<i>Curriculum vitae</i> of Erik de la Iglesia

I. INTRODUCTION

The sole independent claim of the '058 patent (and thus all challenged claims) recites that a claimed shared library critical system element (or “SLCSE”) be provided *simultaneously* to two different applications. The Petition relies on a theory wherein applications can carry out operations (which the Petition contends are the claimed SLCSEs) by way of a shared DLL, and on that basis contends that the operations are provided to both applications “simultaneously.”

However, while the *DLLs* may be simultaneously provided to the applications, the specific operations that the Petition relies on as constituting the claimed SLCSEs in Callendar are *not* simultaneously accessible to the applications. Specifically, the Petition relies on the operations of sending and receiving data via a host channel adapter (“HCA adapter”) as being the claimed SLCSEs. But an HCA adapter can only send or receive on behalf of *one* application at a time, such that the operations alleged to be the claimed SLCSEs are not provided to two applications *simultaneously* as the Petition alleges.

Because the Petition fails to establish a reasonable likelihood of prevailing with respect to any challenged claim, Patent Owner respectfully requests that institution be denied.

II. ARGUMENT

Claim 1 of the '058 patent requires a claimed shared library critical system element (or “SLCSE”) be provided to a first application “for running a first instance of the SLCSE,” and that a SLCSE be provided to a second application “for running a second instance of the SLCSE *simultaneously*.” See Ex. 1001, Claim 1 (“wherein a SLCSE related to a predetermined function is provided to the first of the plurality of software applications for running a first instance of the SLCSE, and wherein a SLCSE for performing a same function is provided to the second of the plurality of software applications for running a second instance of the SLCSE simultaneously”).

For purposes of this limitation, the Petition alleges that “Callendar’s SLCSEs are operations provided by a DLL” (Pet. 49), such as operations for “sending and receiving information” (Pet. 47) via an HCA adapter. See Pet. 37 (“Furthermore, each Callendar SLCSE replicates the function of the corresponding OSCSE: the user-mode sending function performs the same ‘operation’ (sending data via the HCA adapter) as the kernel-mode counterpart operation, and the user-mode receiving function likewise performs the same ‘operation’ (receiving data via the HCA adapter) as the kernel-mode counterpart operation.”). In other words, the SLCSEs the Petition relies on are operations of sending and receiving data via an HCA adapter.

However, while *some* operations may be performed simultaneously, the Petition cannot explain how *Callendar's operations* of “sending and receiving data” via an HCA adapter could be performed simultaneously by two different applications. *See generally* Pet. (discussing only how two DLLs may be simultaneously be accessible to two applications, but not explaining how the *sending and receiving* operations [i.e., the alleged “SLCSEs”] would be simultaneously available).

Nor *could* operations of “sending” or “receiving” data via an HCA adapter be provided to two applications simultaneously. *See* Ex. 2005 ¶¶31-32. As explained by Patent Owner’s expert, a POSITA would understand that an HCA adapter would only have a single driver available to carry out the operations of sending and receiving data. Thus, at any given time, only *one* application would be able to send and receive data via the HCA adapter, such that two applications could not *simultaneously* have access to the sending and receiving operations relied on by the Petition. Ex. 2005, ¶31.

While two applications may be able to *queue* data to the HCA adapter (*see* Ex. 1005 4:67-5:5, discussing queues for the HCA adapter), the actual operations of *sending* and *receiving* data via the HCA adapter would only be available to one application at a time. *Id.* In other words, the Petition’s theory that operations of sending and receiving data via an HCA adapter would be *simultaneously* accessible

to two different applications is not possible, because only a *single* send or receive operation can be carried out at any given time using an HCA adapter. Ex. 2005, ¶31.

Accordingly, under the Petition's theory where the SLCSEs are operations for sending and receiving data via an HCA adapter, Callendar does not disclose or render obvious claim 1.

III. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that institution be denied.

Date: June 10, 2025

Respectfully submitted,

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CERTIFICATION REGARDING WORD COUNT

Pursuant to 37 C.F.R. §42.24(d), Patent Owner certifies that there are 712 words in the paper excluding the portions exempted under 37 C.F.R. §42.24(a)(1).

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

The undersigned hereby certifies that the above document was served on April June 10, 2025 by filing this document through the Patent Trial and Appeal Case Tracking System (PTACTS) as well as delivering a copy via electronic mail upon the following attorneys of record for Petitioner:

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