

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMAZON.COM, INC.,
Petitioner,

v.

VIRTAMOVE, CORP.,
Patent Owner.

Case No. IPR2025-000566
Patent No. 7,519,814

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

The Board has indicated that “Parties are encouraged to address any factor or circumstance they believe bears on whether the Office should or should not institute trial, including reasons not discussed in current Board precedent or the Process Memorandum.” FAQs for Interim Processes for PTAB Workload Management, <https://www.uspto.gov/patents/ptab/faqs>, at numbered item 20. Patent Owner respectfully requests that institution be denied on the basis of numerous pending parallel petitions challenging validity of the ’814 patent.

Amazon has itself filed two IPRs challenging the validity of the ’814 patent: the instant Petition, as well as the petition in IPR2025-00563. And the prejudice of parallel petitions is particularly severe here, where fellow tech giant Google has *also* filed two IPRs challenging validity of the ’814 patent (IPR2025-00487 and IPR2025-00488). Between all four filed IPRs, petitioners Amazon and Google have submitted over 750 pages of expert testimony. There is no need for multiple of these four IPRs to be granted, and to the extent the Board is inclined to institute *any* of the four petitions Amazon and Google have filed challenging the validity of the ’814 patent, Patent Owner respectfully requests that discretion be exercised to grant only one.

Here, the Board should exercise its discretion because of the extraordinary power imbalance between tech giants Amazon and Google one the one hand, and

relatively small Patent Owner VirtaMove on the other hand.¹ Given that both Amazon and Google have *each* filed *two* IPR Petitions (with the combined length of expert declarations approaching 750 pages), there appears to be a coordinated attempt by technology giants with a combined several trillion dollars of market capitalization to overwhelm VirtaMove in litigation expenses, separate and aside from the typical costs of litigating a patent case in a district court proceeding.

Given the nature of the seemingly coordinated attack on the validity of the '814 patent, the Board should exercise its discretion to avoid institution of the four parallel petitions filed by Amazon and Google. If any are instituted, Patent Owner respectfully requests that institution be limited to at most one petition so that Board and party resources may be saved, furthering the purpose of the *inter partes* review proceeding as a streamlined and efficient alternative to district court litigation.

Denial of *this* particular Petition is *especially* appropriate because this Petition challenges claims not asserted against Petitioner Amazon. *See generally* Pet. 66-67 (“This second petition challenges different *claims that are not currently asserted in the Litigation.*”).²

¹ See <https://getlatka.com/companies/virtamove> (describing “[h]ow VirtaMove hit \$4.3M revenue with a 9 person team in 2024”).

² All emphases herein are added unless otherwise specified.

Amazon’s sole rationale as to why it this parallel petition is proper is that Patent Owner should be “prevent[ed]... from continuing to target users of... open-source software.” Pet. 67. But the Consolidated Trial Practice Guide (“CTPG”)³ makes clear that the appropriate inquiry is not whether Amazon has *some plausible* articulated reason to file parallel petitions, but instead whether “more than one petition [is] *necessary*.” CTPG at 59–60 (emphasis added); *id.* (noting that a statement regarding parallel petitions is helpful “[t]o aid the Board in determining whether more than one petition is *necessary*”); *id.* at 59 (“In [certain] cases two petitions by a petitioners may be *needed, although this should be rare*.”). Amazon does not even *allege* it was necessary for Amazon to file two separate Petitions, and this second Petition challenging claims that are not even asserted in the related litigation⁴ should be denied for this additional reason.

³ Available at [https://www.uspto.gov/sites/default/files/documents/tpgnov.pdf?](https://www.uspto.gov/sites/default/files/documents/tpgnov.pdf?MURL=TrialPracticeGuideConsolidated)

[MURL=TrialPracticeGuideConsolidated](https://www.uspto.gov/sites/default/files/documents/tpgnov.pdf?MURL=TrialPracticeGuideConsolidated).

⁴ See CTPG at 59 (noting that the particular claims asserted by a patent owner in litigation is relevant to the need for parallel petitions).

Date: May 20, 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 607 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 May 20, 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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