

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

**VMWARE, INC.**

Petitioner,

v.

**CIRBA IP INC.**

Patent Owner.

---

PGR2021-00098  
Patent 10,951,459

---

**PATENT OWNER'S ELECTION TO WAIVE ITS PRELIMINARY  
RESPONSE PURSUANT TO 37 C.F.R. § 42.207(b)**

Pursuant to 37 C.F.R. § 42.207(b), Patent Owner Cirba IP Inc. hereby elects to waive its Patent Owner Preliminary Response to Petitioner VMware, Inc.'s Petition for Post-Grant Review of U.S. Patent No. 10,951,459. No adverse inference should be taken by this election. *See* November 2019 Consolidated Trial Practice Guide Update, at 52 (Nov. 19, 2019).<sup>1</sup> This election should not be deemed a waiver or admission of any material presented in the Petition, and Patent Owner reserves all rights to submit a Patent Owner's Response and/or Amendment pursuant to 37 C.F.R. §§ 42.220, 42.221, should the Board institute a post-grant review.

Dated: September 14, 2021

By: /Khue Hoang/  
Khue V. Hoang  
PTO Reg. No. 44,767  
**Counsel for Patent Owner**

---

<sup>1</sup> Available at

<http://www.uspto.gov/sites/default/files/documents/tpgnov.pdf?MURL>.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing **PATENT OWNER'S ELECTION TO WAIVE ITS PRELIMINARY RESPONSE PURSUANT TO 37 C.F.R § 42.207(b)** was served on September 14, 2021, via electronic mail to VMware-Cirba-IPR@mofo.com, as agreed to by counsel, upon the following counsel for Petitioner:

Diek O. Van Nort  
dvannort@mofo.com

Richard S.J. Hung  
rhung@mofo.com

Matthew I. Kreeger  
mkreeger@mofo.com

MORRISON & FOERSTER LLP  
425 Market Street  
San Francisco, CA 94105-2482

Alex S. Yap  
ayap@mofo.com

Mehran Arjomand  
marjomand@mofo.com

MORRISON & FOERSTER LLP  
707 Wilshire Boulevard  
Los Angeles, CA 90017-3542

Andrea L. Scripa  
ascripa@mofo.com

MORRISON & FOERSTER LLP  
250 West 55<sup>th</sup> Street  
New York, NY 10019-9601

Stephen Liu  
sliu@mofo.com

MORRISON & FOERSTER LLP  
755 Page Mill Road  
Palo Alto, CA 94304-1018

Dated: September 14, 2021

/Philip J. Eklem/  
Philip J. Eklem  
PTO Reg. No. 76,490