

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).¹ 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

¹ 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 55th 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