

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VIPTELA, INC.,

Petitioner,

v.

FATPIPE NETWORKS PRIVATE LIMITED,

Patent Owner.

Case IPR2017-01126

U.S. Patent No. 7,406,048

PATENT OWNER'S PRELIMINARY RESPONSE

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35 U.S.C. 103.....2, 3
35 U.S.C. 325(d).....1, 2, 6

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TABLE OF EXHIBITS

Exhibit	Description
2001	Petition for <i>Inter Partes</i> Review in IPR 2017-00680
2002	Decision Declining Institution of <i>Inter Partes</i> Review in IPR2014-00628

I. Introduction

This is the third petition for *inter partes* review filed against the subject patent, and the second petition filed by petitioner Viptela, Inc. Such serial filings should be discouraged. Patent Owner requests that the Board exercise its discretion under 35 U.S.C. § 325(d) to deny the instant Petition because it presents substantially the same prior art and substantially the same arguments as those already being considered by the Board in Petitioner's first challenge of the subject patent, IPR 2017-00680 ("the 680 Petition").

II. Background

Viptela filed its Petition for *Inter Partes* Review of U.S. Patent No. 7,406,048 ("the '048 Patent") on March 21, 2017 (Paper 1, "the Petition"). The Board mailed a Notice of Filing Date Accorded to Petition on April 12, 2017 (Paper 6). Pursuant to 37 C.F.R. § 42.107, Patent Owner FatPipe Networks Private Limited and exclusive licensee FatPipe, Inc. (collectively, "Patent Owner" or "FatPipe") timely submit this preliminary response.

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