

No. 17-558

**In The
Supreme Court of the United States**

—◆—
LINKGINE, INC.,

Petitioner,

v.

VIGLINK, INC., et al.,

Respondents.

—◆—
**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Federal Circuit**

—◆—
REPLY BRIEF FOR THE PETITIONER

—◆—
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ARGUMENT IN REPLY

I. Procedural History Before This Court

Petitioner Linkgine, Inc. filed its Petition for Writ of Certiorari with this Court on October 10, 2017. Petitioner Linkgine also filed a Motion to Defer or Hold Consideration of Petition for Writ of Certiorari simultaneously with its Petition. The Solicitor General timely requested an extension to respond to Linkgine's Petition, which the Court granted up to and including December 13, 2017. The Viglink Respondents filed a Notice of Waiver on December 12, 2017, confirming their decision not to respond to Linkgine's Petition. The Solicitor General then filed its Brief on December 13, 2017.

II. The Court Should Grant Review of the Question Presented in This Petition

In its Brief, the Solicitor General acknowledged that Petitioner Linkgine was correct when it moved this Court to defer or hold this Petition pending the outcome of *Oil States Energy Services, LLC v. Greene's Energy Group, LLC*, No. 16-712 (argued Nov. 27, 2017). The Solicitor General stated: "the Court should hold the petition in this case pending the decision in *Oil States* and then dispose of the petition as appropriate in light of that decision." (Solicitor General's Brief, p. 5). By taking this position, the Solicitor General also impliedly acknowledged that the question presented by Petitioner Linkgine should be considered by this Court. Linkgine's position is, as stated in its Motion

and Petition, that the Court should defer or hold its Petition pending the outcome of *Oil States* at a minimum, but that granting the Petition and allowing Linkgine to participate in the merits issue would add great value to the Court's consideration of the issues presented in *Oil States* because Linkgine's case involves covered business method review (CBM review); the statutory counterpart under the America Invents Act to *inter partes* review (IPR). (Petition, pp. 9-10, 18-21, 25-26; Solicitor General's Brief, pp. 3-5).¹ The Court's acceptance of the case would save judicial resources by allowing the Court to address these constitutional challenges to the America Invents Act in a more complete manner, resolving these issues in one (perhaps consolidated) decision. Linkgine respectfully asks the Court to take the latter of these proposed routes.



¹ Since *Oil States* involved *inter partes* review, the briefing in that case did not address CBM review. Similarly, CBM review was not discussed at the oral argument in *Oil States* held on November 27, 2017.

CONCLUSION

Petitioner Linkgine respectfully prays that its Petition be granted or, alternatively, that it be deferred or held pending this Court's decision in *Oil States Energy Services, LLC v. Greene's Energy Group, LLC*, No. 16-712.

Respectfully submitted,

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