No. 20-1057

In the Supreme Court of the United States

ORACLE AMERICA, INC.,
PETITIONER,

v.

UNITED STATES AND AMAZON WEB SERVICES, INC.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT*

SUPPLEMENTAL BRIEF FOR PETITIONER

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TABLE OF CONTENTS

Page

BACKGROUND 2
DISCUSSION 5
CONCLUSION 12

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TABLE OF AUTHORITIES

Cases Page(s)

Already, LLC v. *Nike, Inc.*,
568 U.S. 85 (2013) 1, 5, 6, 10

Amazon Web Services, Inc. v. *United States*,
147 Fed. Cl. 146 (2020) 3

Azar v. *Garza*,
138 S. Ct. 1790 (2018) 11

Kingdomware Techs., Inc. v. *United States*,
136 S. Ct. 1969 (2016) 9

Knox v. *Serv. Emps. Int'l Union, Loc. 1000*,
567 U.S. 298 (2012) 5

Ne. Fla. Chapter of Associated Gen. Contractors of Am. v. *City of Jacksonville*,
508 U.S. 656 (1993) 9

New York State Rifle & Pistol Ass'n, Inc. v. *City of New York*,
140 S. Ct. 1525 (2020) 10-11

Relyant Glob., LLC v. *United States*,
No. 20-1526, 2021 WL 831142 (Fed. Cir. Feb. 1, 2021) 11

United States v. *Mississippi Valley Generating Co.*,
364 U.S. 520 (1961) 2, 7

United States v. *Munsingwear, Inc.*,
340 U.S. 36 (1950) 11

Statutes

10 U.S.C. § 2304a 6

18 U.S.C. § 208 2

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C. Todd Lopez, DOD News, *DOD Aims for New Enterprise-Wide Cloud by 2022* (July 7, 2021) 4

Department of Defense, *Future of the Joint Enterprise Defense Infrastructure Cloud Contract* (July 6, 2021) 4

Department of Defense, *Required Capabilities* (July 6, 2021) 4

Letter from Sen. Charles E. Grassley, Ranking Member, Committee on the Judiciary, to Lloyd J. Austin III, Secretary of Defense (June 8, 2021)............ 7

Notice of Contract, *Joint Warfighting Cloud Capability (JWCC)* (July 6, 2021)........................... 3, 6, 8

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SUPPLEMENTAL BRIEF FOR THE PETITIONER

Cases do not become moot simply because a defendant issues a press release claiming to have ceased its misconduct. Instead, to deprive federal courts of Article III jurisdiction, a defendant bears the "formidable burden" of showing not only that it has ended the challenged conduct, but also that "it is absolutely clear the allegedly wrongful behavior could not reasonably be expected to recur." *Already, LLC* v. *Nike, Inc.*, 568 U.S. 85, 91 (2013) (citation omitted).

Here, the government asserts that the Department of Defense mooted this case by cancelling JEDI, the procurement contract that Oracle has challenged. But in the next breath, the Department states its intent to replace JEDI with another similar cloud-computing contract; to presumptively award the contract to Microsoft and respondent Amazon Web Services as the "only" eligible competitors; and to exclude other bidders based on infected research and requirements drawn directly from the challenged procurement. Far from making it "absolutely clear" that the challenged misconduct will not recur, the Department essentially admits the challenged misconduct *will* continue—and will continue to prejudice Oracle.

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