

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS CO., LTD.  
Petitioner,

v.

PROMOS TECHNOLOGIES, INC.  
Patent Owner

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Case IPR2017-00038  
Patent 6,195,302

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**PATENT OWNER PROMOS TECHNOLOGIES, INC.'S RESPONSE TO  
PETITION FOR *INTER PARTES* REVIEW OF  
UNITED STATES PATENT NO. 6,195,302**

Mail Stop PATENT BOARD  
Patent Trial and Appeal Board  
United States Patent and Trademark Office  
PO Box 1450  
Alexandria, Virginia 22313-1450

Case No. IPR2017-00038

Patent No. 6,195,302

Patent Owner ProMOS Technologies, Inc. hereby submits this brief reservation of rights.

The Federal Circuit has held IPRs are constitutional. *MCM Portfolio LLC v. Hewlett-Packard Co.*, 812 F.3d 1284, 1288-92 (Fed. Cir. 2015), cert. denied, 137 S. Ct. 292. However, on June 12, 2017, the Supreme Court granted *certiorari* in *Oil States Energy Servs., LLC v. Greene's Energy Grp., LLC*, No. 16-712, 2017 WL 2507340 (U.S. June 12, 2017), to consider the following question: “1. Whether *inter partes* review – an adversarial process used by the Patent and Trademark Office (PTO) to analyze the validity of existing patents – violates the Constitution by extinguishing private property rights through a non-Article II forum without a jury.” In the event that the Supreme Court concludes that *inter partes* review proceedings are unconstitutional, Patent Owner reserves its right to argue that this ruling is applicable in the present *inter partes* review, and that the *inter partes* review should be dismissed as unconstitutional.

Dated: July 10, 2017

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 10, 2017, a true and correct copy of the foregoing PATENT OWNER PROMOS TECHNOLOGIES, INC.'S RESPONSE TO PETITION FOR *INTER PARTES* REVIEW OF UNITED STATES PATENT NO. 6,195,302 and all supporting exhibits were served electronically via email to the Petitioner by serving the correspondence email addresses of record as follows:

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Patent No. 6,195,302

**CERTIFICATE OF COMPLIANCE WITH  
TYPE-VOLUME LIMITATION REQUIREMENTS**

The undersigned, an attorney of record, hereby certifies that:

This brief complies with the type-volume limitation of Code of Federal Regulations 42.24(d). The brief contains 157 words, excluding the parts of the brief exempted by Code of Federal Regulations 42.24(b).

Date: July 10, 2017

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