

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LSI CORPORATION and AVAGO TECHNOLOGIES U.S., INC.
Petitioner,

v.

REGENTS OF THE UNIVERSITY OF MINNESOTA
Patent Owner.

Case IPR2017-01068
Patent 5,859,601

**PETITIONERS' OPPOSITION TO PATENT OWNER'S
MOTION TO STAY**

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INTRODUCTION

Congress intended *inter partes* review to be an efficient alternative to federal litigation. Further delaying these IPR proceedings will frustrate that Congressional intent. These proceedings already have been greatly delayed pending resolution of a motion to dismiss by UMN—a motion rejected unanimously by an expanded panel after extensive deliberation. In fact, by the time UMN files its notice of appeal, almost a full year will have passed since the Petition was filed. Any further delay of these proceedings as requested by UMN threatens to render the ultimate outcome in this IPR irrelevant to the district court litigation, given that the litigation continues at full speed due to UMN’s refusal to agree to a stay.

Any appeal of the expanded panel’s unanimous decision that UMN waived immunity would be frivolous, and the Board should certify any appeal as such and thereby retain jurisdiction. Doing so guarantees Congressional intent will be satisfied, and incentivizes UMN to proceed as expeditiously as possible with its appeal. Otherwise, UMN will succeed in using procedure—not substance—to render a nullity of the potential efficiency benefit of this IPR.

Finally, the Board lacks authority to stay these proceedings before UMN files its notice of appeal as UMN requests.

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