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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

REGENTS OF THE UNIVERSITY OF MINNESOTA, Plaintiff, v. LSI CORPORATION and AVAGO TECHNOLOGIES U.S. INC., Defendants.	Case No.: 5:18-cv-00821-EJD-NMC **PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO MOTION FOR JUDGMENT ON THE PLEADINGS UNDER 35 U.S.C. § 101** Date: May 31, 2018 Time: 9:00 am Place: Courtroom 4 – 5th Floor Hon. Edward J. Davila

1   *Second*, Defendants misconstrue the University's allegations regarding infringing simulators.

2   At the outset, it should be noted that the Amended Complaint does not even use the word

3   "simulations," which word is the basis for Defendants' argument. Instead, the Amended Complaint

4   refers to infringing "simula*tors*," which are for "***reading*** MTR-encoded recorded ***waveforms***." Dkt.

5   40 at ¶ 75; *see id*. at ¶¶ 20; 95-98; 118-119; 122. In other words, the "waveforms" used by the

6   simulators are actual "waveforms," *e.g.*, the ***readback signal waveforms*** from an actual disk (or

7   other magnetic recording medium) that has MTR-encoded data recorded to it. Defendants'

8   arguments are factually incorrect, are inconsistent with the University's allegations, and should be

9   disregarded.

10   *Finally,* even if it were not factually disputed, Defendants' extensive reliance on their "pen

11   and paper" assertion not only ignores that the claimed invention requires imposing physical

12   constraints on a waveform (*i.e.,* is not directed to writing down 0s and 1s on a piece of paper), but

13   also exemplifies an analytical approach that has been soundly rejected in a similar context by a sister

14   court: the "[p]encil-and-paper analysis can mislead courts into ignoring a key fact: although a

15   computer performs the same math as a human, a human cannot always achieve the same results as a

16   computer." *Hughes,* 59 F.Supp.3d at 976. Indeed, in *Hughes*, the court rejected the defendant's

17   pen-and-paper analysis on the basis that it "oversimplifies § 101 and ignores the fact that the

18   [asserted] patent creates an ***algorithmic solution*** for a ***computing problem***—the corruption of data

19   during transmission." *Id.* (emphasis added). *See also Paone v. Broadcom Corp*., No. 15 CIV. 0596

20   BMC GRB, 2015 WL 4988279, at *9 (E.D.N.Y. Aug. 19, 2015) (citing *Hughes* with approval and

21   rejecting pen-and-paper analogy).

22   The same is true here: Defendants have devoted a significant portion of their motion,

23   comprising several tables, color highlighting, and several pages of text, to try to describe the core of

24   the disclosed invention. Dkt. 190 at 4-8. Yet, in all of those pages, Defendants fail to explain how

25   writing down 0s and 1s on a piece of paper equates to the ***waveform*** with limits on transitions and

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