

Insights: Perspectives

Kilpatrick Townsend Wins Landmark Case for Broadcom

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KT Client Success

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On June 14, 2019 the Federal Circuit issued a precedential opinion in *Regents of the University of Minnesota v. LSI Corporation*, holding that sovereign immunity does not apply in inter partes review proceedings before the USPTO. Kilpatrick Townsend Partners [Kris Reed](#) and [David Sipiora](#) and Associate [Ted Mayle](#) represented the prevailing appellees LSI and Avago — both subsidiaries of longtime client Broadcom.

This was a closely watched case with broad potential implications, extending well beyond the immediate appeal. Had the University of Minnesota prevailed, state universities and other state entities would have enjoyed full immunity from IPR and other post-grant challenges to their patents, giving them significant advantages over defendants in enforcement actions. Also, such a decision likely would have led to other plaintiff entities “renting” IPR immunity from state entities, undermining the centerpiece of Congress’s America Invents Act.

Given the decision’s importance, amicus briefs were filed by a host of state, industry, academic, and federal government entities, including the DOJ, attorneys general from a dozen states, numerous state universities, a variety of industry consortiums, and a contingent of law school professors led by Stanford’s Mark Lemley. Kris Reed’s arguments at the oral hearing for LSI/Avago and the other appellees ultimately shaped the Federal Circuit’s opinion, including an unusual “Additional Views” segment following the precedential opinion. Here, the same panel articulated why a separate argument made by KT represents an independent ground on which the court could have affirmed.

Law360 recently named this decision as one of the [Top Patent Cases of 2019](#) in its Midyear Report.

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