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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LAM RESEARCH CORP.,

Petitioner

v.

DANIEL L. FLAMM,

Patent Owner

CASE IPR2016-0470
U.S. Patent No. RE40,264 E

**PATENT OWNER'S PRELIMINARY RESPONSE
UNDER 37 C.F.R. § 42.107
SIXTH PETITION**

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EXHIBIT LIST

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| Ex. 2001 | Lam Research Corp. v. Daniel L. Flamm, Case No. IPR2015-01764, DECISION Denying Institution of <i>Inter Partes</i> Review, Paper 7 (Feb. 24, 2016) |
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| Ex. 2003 | Lam Research Corp. v. Daniel L. Flamm, Case No. IPR2015-01759, DECISION Denying Institution of <i>Inter Partes</i> Review, Paper 7 (Feb. 24, 2016) |

Daniel L. Flamm, Sc.D., the sole inventor and owner of the U.S. Patent No. RE40,264 (“the ‘264 patent”), through his counsel, submits this preliminary response pursuant to 37 C.F.R. § 42.107 and asks that the Patent Trial and Appeals Board decline to institute *inter partes* review on the instant petition because the petition fails to show a reasonable likelihood that any challenged claim is unpatentable.

I. Introduction

This is Lam’s sixth of seven petitions for *inter partes* review on Dr. Flamm’s RE40,264 patent. Lam filed the first four petitions in August, 2015, and then filed three more in January, 2016. Trials were instituted on two of the first four petitions (Case Nos. IPR2015-01764 and IPR2015-01766) and denied on the other two (Case Nos. IPR2015-01759 and IPR2015-01766). A scorecard reflecting the rulings on the various patent claims is attached hereto as Appendix A.

The petitions in Case Nos. IPR2015-01764 and IPR2015-01766 variously correspond to the present petition addressing independent claims 27 and 37 and all their dependent claims, *i.e.*, claims 28-36, 38-50, and 66-67. The history of those prior petitions is somewhat tangled; both petitions addressed the two independent claims (27 and 37) but then each addressed different dependent claims. The petition in IPR2015-01764 was directed toward dependent claims 28-30, 33, 35-36, 38-39, 42-43, 45-46, 49, 66-67 and 69 (69 depended on claim 51), while the petition in Case

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