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THE HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SRC LABS LLC and SAINT REGIS
MOHAWK TRIBE,

Plaintiffs,

v.

MICROSOFT CORPORATION,

Defendant.

Case No. 2:18-cv-00321-JLR

MICROSOFT CORPORATION'S
MOTION TO STAY PENDING
INTER PARTES REVIEW

**NOTED FOR:
FRIDAY, OCTOBER 26, 2018**

MICROSOFT CORP.'S MOTION TO STAY
(2:18-cv-00321-JLR)

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1 **I. INTRODUCTION**

2 SRC Labs, LLC (“SRC”) and the Saint Regis Mohawk Tribe (“SRMT”) (collectively,
3 “Plaintiffs”) allege that Microsoft Corporation (“Microsoft”) infringes six U.S. patents.
4 Microsoft recently filed ten petitions for *inter partes* review (“IPR”) to invalidate all asserted
5 claims of all six patents. Based on the time of filing, the Patent Trial and Appeal Board
6 (“PTAB”) will decide whether to institute those IPRs in March and April of 2019, and for any
7 IPRs instituted, final written decisions will follow within one year thereafter.

8 Microsoft’s pending IPR petitions warrant a stay of this litigation until they are
9 resolved. First, the PTAB’s rulings on Microsoft’s petitions are likely to simplify the issues in
10 question and the trial of this case by invalidating some or all of the asserted claims. Even a
11 partial reduction in the number of claims will significantly reduce the number of technical
12 expert reports, scale back related *Daubert* and summary judgment briefing, and eliminate the
13 need for trial on those claims. Second, this case is still in its early stages, with only written
14 discovery and document production, and a single deposition calendared to take place this
15 month. Third, a stay would not unduly prejudice Plaintiffs. Four of the six asserted patents
16 have already expired. Neither SRC Labs, LLC (a Texas LLC run by an investment manager in
17 Dallas) nor SRMT (a sovereign American Indian tribe located in upstate New York) is a
18 competitor of Microsoft, and any delay resulting from a stay could be remedied by monetary
19 damages (if any damages ultimately are due).

20 Plaintiffs’ opposition to Microsoft’s motion rests (at least in part) on the apparent
21 transfer of the patents to SRMT: Plaintiffs theorize that the patents are immune from challenge
22 in IPR proceedings based on SRMT’s status as a sovereign tribe, such that Microsoft’s petitions
23 cannot succeed. But the Federal Circuit has already rejected that theory, as applied to SRMT
24 itself. Although the Federal Circuit may yet hear that issue en banc, or SRMT may pursue it
25 further in the Supreme Court, that only counsels in favor of a stay at least until that threshold
26 issue is resolved.

27 Accordingly, Microsoft respectfully requests a stay of this case pending resolution of