

**United States Court of Appeals for the Federal Circuit**

01-1108, -1109

HAROLD L. BOWERS (doing business as HLB Technology),

Plaintiff-Cross Appellant,

v.

BAYSTATE TECHNOLOGIES, INC.,

Defendant-Appellant.

Frederic M. Meeker, Banner & Witcoff, LTD, of Washington, DC, filed a response for plaintiff-cross appellant. With him on the response were Steve S. Chang, Bradley C. Wright, and Charles W. Shifley.

Robert L. Kann, Bromberg & Sunstein LLP, of Boston, Massachusetts, filed a combined petition for panel rehearing and rehearing en banc for defendant-appellant. Of counsel were Judith R. S. Stern and Erik P. Belt.

Mark A. Lemley, Professor of Law, Boalt Hall School of Law, University of California at Berkeley, of Berkeley, California, filed an amici curiae brief.

Appealed from: United States District Court for the District of Massachusetts

Judge Nathaniel M. Gorton

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BAYSTATE TECHNOLOGIES, INC.,

Defendant-Appellant.

ON COMBINED PETITION FOR PANEL REHEARING

AND REHEARING EN BANC

ORDER

A combined petition for panel rehearing and rehearing en banc having been filed by the Appellant[1], a response thereto having been invited by the court and filed by the Cross-Appellant, and the petition for panel rehearing having been referred to the panel that heard the appeal, and thereafter the petition for rehearing en banc, response and amici curiae brief having been referred to the circuit judges who are in regular active service,

Upon consideration thereof,

IT IS ORDERED THAT:

(1) The petition for panel rehearing is granted.

(2) The petition for rehearing en banc is denied.

(3) In view of the panel's revised opinion, the court vacates the panel's judgment and original opinion entered August 20, 2002, Harold L. Bowers v. Baystate Technologies, Inc., 302 F.3d 1334 (Fed. Cir. 2002).

FOR THE COURT

January 29, 2003

Jan Horbaly

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Date

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Jan Horbaly

Clerk

cc: Frederic M. Meeker, Esq.

Robert L. Kann, Esq.

Mark A. Lemley, Esq.

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[1] Professor Mark A. Lemley filed an amici curiae brief in support of the petition.