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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91167340
Party	Defendant NVIDIA Corporation NVIDIA Corporation 2701 San Tomas Expressway Santa Clara, CA 95050
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 78458545  
For the Trademark SLI  
Published in the Official Gazette on June 28, 2005

**Opposition No. 91167340**

**ANSWER TO NOTICE OF OPPOSITION**

NVIDIA Corporation (“Applicant”), for its answer to the Notice of Opposition (“Notice of Opposition”) filed by Emulex Design & Manufacturing Corporation (“Opposer”) against application for registration of Applicant’s trademark SLI, Serial No. 78/458,545, filed July 29, 2004, and published in the Official Gazette of June 28, 2005 (“Applicant’s Mark”), hereby answers as follows.

Answering the preamble to the Notice of Opposition, Applicant is without information or belief sufficient to admit or deny Opposer’s incorporation and location, and on that basis denies such allegations. Applicant further denies that Opposer will be damaged by registration of Applicant’s Mark.

1. Answering Paragraph 1 of the Notice of Opposition, Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Notice of Opposition, and on that basis denies same

2. Answering Paragraph 2 of the Notice of Opposition, Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 2 of the Notice of Opposition, and on that basis denies same.

3. Answering Paragraph 3 of the Notice of Opposition, Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3 of the Notice of Opposition, and on that basis denies same.

4. Answering Paragraph 4 of the Notice of Opposition, Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4 of the Notice of Opposition, and on that basis denies same.

5. Answering Paragraph 5 of the Notice of Opposition, Applicant admits that it has applied to register, under Serial No. 78/458,545, the mark SLI for the following goods: “computer hardware, namely, integrated circuits, semiconductors and chipsets, and associated computer software and hardware for operating the same.” Except as so expressly admitted, Applicant denies the allegations in Paragraph 5 of the Notice of Opposition.

6. Answering Paragraph 6 of the Notice of Opposition, Applicant admits that it filed its application to register its SLI mark as a trademark as an intent-to-use application on July 29, 2004.

7. Answering Paragraph 7 of the Notice of Opposition, Applicant admits that its SLI mark is identical in sight to Opposer’s SLI designation. Except as so expressly admitted, Applicant denies the allegations in Paragraph 7 of the Notice of Opposition.

8. Answering Paragraph 8 of the Notice of Opposition, Applicant admits that its SLI trademark is used on integrated circuits and chipsets, and associated computer software and hardware for operating semiconductors, chipsets and integrated circuits. Except as so expressly admitted, Applicant denies the allegations in Paragraph 8 of the Notice of Opposition.

9. Answering Paragraph 9 of the Notice of Opposition, Applicant denies that “[t]he channels of trade and customer base for Applicant’s goods and Opposer’s goods and services overlap significantly.” Applicant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 9 of the Notice of Opposition, and on that basis denies same.

10. Answering Paragraph 10 of the Notice of Opposition, on information and belief, Applicant avers that Opposer’s marketing and sales materials regularly define the SLI term as a short-form acronym referring to “Service Level Interface” and for such reason denies that Opposer’s SLI mark does not have a well-known meaning to Opposer’s consumers. Applicant has attached to this Answer as Exhibit A an exemplar of Opposer’s marketing and sales materials in which Opposer defines SLI as “Service Level Interface.” Due to this meaning provided to Opposer’s relevant consumers by Opposer, Applicant further denies that Applicant’s SLI mark will convey the same commercial impression to consumers as Opposer’s mark. On this basis, Applicant further denies that consumers are likely to believe that there is an association between Opposer and Applicant. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 10 of the Notice of Opposition, and on that basis denies same.

11. Answering the allegations of Paragraph 11, Applicant denies the allegations of Paragraph 11.

### **AFFIRMATIVE DEFENSES**

Applicant asserts the following affirmative defenses without conceding that it has the burden of proof or burden of producing evidence with respect to any of these issues.

1. To the extent Opposer had any trademark rights in the term SLI that could have given rise to a likelihood of confusion with Applicant's mark, it has abandoned such rights.

2. Applicant has priority of usage of its mark over Opposer with respect to the competitive market for the services covered by Applicant's application, namely, "computer hardware, namely, integrated circuits, semiconductors and chipsets, and associated computer software and hardware for operating the same."

3. There is no likelihood of confusion because the goods covered by Applicant's application are unrelated to Opposer's goods.

4. Opposer's opposition to Applicant's registration of its mark is barred by the doctrines of waiver, laches, acquiescence, and/or estoppel.

5. Opposer lacks standing to oppose the Application in that Opposer's alleged use of the SLI mark does not give Opposer rights, superior or otherwise, sufficient to support an opposition to Applicant's Mark.

6. Opposer lacks standing to oppose the Application because Opposer is not likely to be damaged or injured by Applicant's use and registration of Applicant's Mark.

7. There is no likelihood of confusion, mistake, or deception between the parties' respective marks because Opposer's mark is merely descriptive with regard to Opposer's goods and/or services.

8. There is no likelihood of confusion, mistake, or deception between the parties' respective marks because the marks, as used or intended to be used by the parties, are not confusingly similar.

9. There is no likelihood of confusion, mistake or deception between the parties' respective uses of their marks because the goods intended to be provided by Applicant under the Applicant's Mark are distinctive from those goods which Opposer designates with its mark.

10. There is no likelihood of confusion, mistake or deception between the parties' respective uses of their marks because the class of prospective purchasers of the parties' respective products and/or services is sophisticated with respect to purchasing decisions and specifically with respect to the source of such products and/or services.

11. There is no likelihood of confusion, mistake, or deception between the parties' respective uses of their marks because the channels of trade for the parties' respective products and/or services are separate and distinct.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed in its entirety and that a registration issue to Applicant for its mark, SLI.

## EXHIBIT A

# SLI

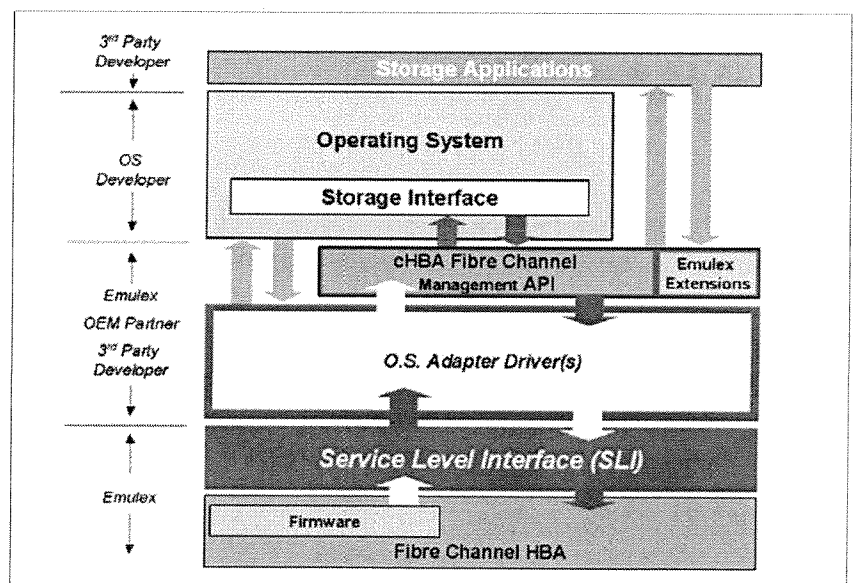
## Emulex SLI Architecture Simplifies Storage Management

Emulex and Intel announced in April 2003, a plan to develop next-generation storage processors that integrate Serial Attached SCSI (SAS), Serial ATA (SATA) and Fibre Channel interfaces within a single chip architecture, based on Intel's newest 90nm semiconductor fabrication technology. A key part of this joint development agreement is the use of Emulex's device driver architectural interface known as the Emulex Service Level Interface or SLI. SLI is a key ingredient in this potent technology partnership, allowing the wide use of common software and firmware between the various transports, and providing a high degree of investment protection to both OEM customers and end users.

### What is SLI?

Recognizing the benefits of flexibility and stability that result from a common consistent architecture, Emulex established a standard interface between the host based software components of its Fibre Channel architecture and the hardware and firmware elements resident in its ASIC based hardware solutions. This interfaced, dubbed the Service Level Interface (SLI), was the basis of Emulex's first Fibre Channel Host Bus Adapter (HBA), the LP6000, introduced in 1995, and has been carried forward through all successive generations of Emulex devices and HBAs.

All HBAs require some key components in order to work in a given operating environment. In short these include the hardware and associated firmware, the device driver, which provides the bridge to the host operating system, and a diagnostic and configuration interface, which allows the user to configure and troubleshoot. The diagram below details the structure of these components for Emulex Fibre Channel HBAs.



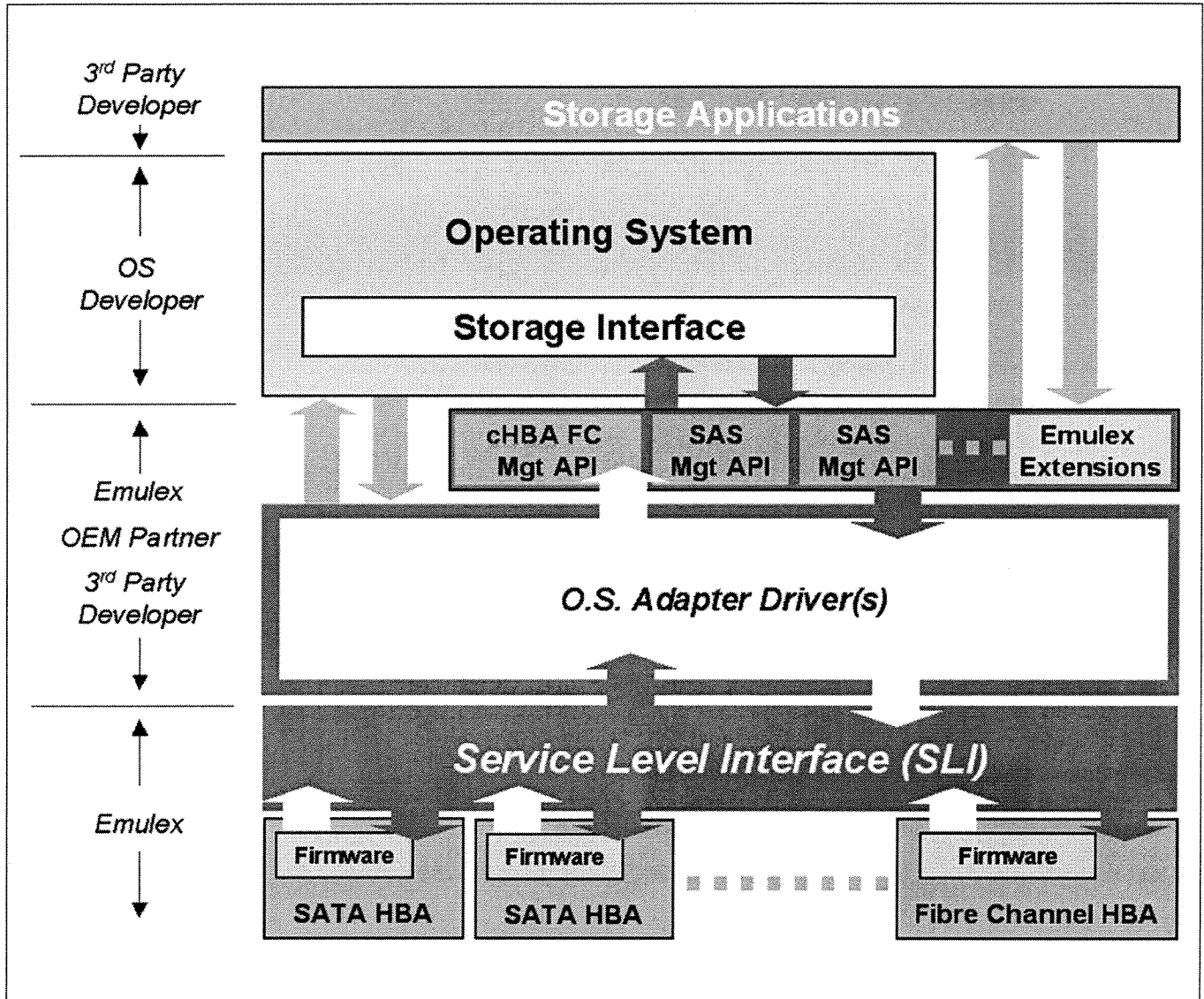
As can be seen in the diagram, the SLI provides a defined architecture between the Device Driver software and the Firmware and Hardware associated with the HBA. By abstracting the software driver from the hardware/firmware components, the Emulex SLI allows either software or firmware/hardware to be upgraded independently of each other. Using the SLI, any generation of Emulex hardware can operate with any Emulex or third party driver. Multiple generations of Emulex hardware can be run in the same SAN or even server without the need to manage different versions of software drivers.

As a part of this joint development, Emulex will add support for new transport technologies under the same SLI architecture. Initially these will include SAS and SATA, however other transports will likely be added based on future market developments. In addition, Emulex has already incorporated support for iSCSI in the SLI architecture allowing Emulex iSCSI products to take advantage of many of the same features developed in our Fibre Channel products, and providing a consistent architecture for future product development. The extended SLI will appear as in the diagram below, allowing development of additional transport interfaces, while maintaining the same backward and forward compatibility with existing and future Fibre Channel products.

#### **What are the Benefits?**

Numerous benefits from the use of the Emulex SLI accrue to end users, third party developers, and OEM and Channel partners. The most obvious, is leverage of invested resources. Once end-users, third party developers, or OEMs have invested time and resources into developing, qualifying, and training staff on solutions, there is little value in repeating this task as newer hardware becomes available. Utilizing the Emulex SLI, investment in one generation of hardware is leverageable to new generations of Emulex hardware at minimal cost. As a result OEMs and end users can obtain the benefit, of new features, denser formats, and lower costs while optimizing the use of valuable resources.

This agreement also brings a new dimension of leverage to this interface. OEMs and channel partners wishing to support a range of interfaces can now do so without investing time and resources into an entirely new interface. For example, an OEM or third party developer who has already developed a device driver for Emulex Fibre Channel products, can now use that work as the basis for a SAS or SATA driver, minimizing the efforts to address a new market space. They may also use this interface to develop multiple interface versions of the same basic hardware architecture, addressing multiple market price-points with a single platform development.



End users benefit greatly from reduced SAN management costs as a result of the Emulex SLI. Especially in large SANs, managing many separate HBA device drivers for multiple generations of HBAs can be a time-consuming task. Using Emulex hardware based on the SLI, a single device driver binary can be deployed for all generations of HBAs within a given Operating System environment. As a result, end users can take advantage of new generations of hardware, supporting new features, without risking their current hardware investment. In many cases, new features will be available on existing hardware as well with a simple driver or firmware upgrade across the entire SAN. The use of the Emulex HBAAnyware tool makes this task simple as well.

### Conclusion

The Emulex Service Level Interface provides end users, OEMs, channel partners, and third party developers with leverage across multiple transport technologies and among multiple generations of hardware architecture within those transports. The Emulex SLI reduces required investment of time and resources, increases investment protection, ensures future upgradeability, and eases SAN management. Emulex customers, partners, and end users can now expand this experience across an even greater array of products and technologies.

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