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8 Attorneys for Defendants
GLOBALFOUNDRIES U.S., INC.

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13
14 DANIEL L. FLAMM,
15 Plaintiff,
16 v.
17 GLOBALFOUNDRIES U.S. INC.,
18 Defendant.

Case No. 5:16-cv-01578-BLF

**GLOBALFOUNDRIES U.S., INC.’S
ANSWER TO COMPLAINT AND
COUNTERCLAIMS**

DEMAND FOR JURY TRIAL

19
20 Defendant GLOBALFOUNDRIES U.S., Inc. (“GLOBALFOUNDRIES”) hereby submits
21 this Answer, Affirmative Defenses, and Counterclaims in response to Plaintiff Daniel L. Flamm’s
22 (“Flamm”) Complaint for Patent Infringement (“Complaint”), filed on April 22, 2016. To the
23 extent not specifically admitted herein, the allegations of the Complaint are denied.

24 **I. ANSWER**

25 1. GLOBALFOUNDRIES admits that U.S. Patent No. 5,711,849 (the “849 Patent”),
26 on its face, is entitled “Process Optimization in Gas Phase Dry Etching,” U.S. Patent No.
27 6,017,221 (the “221 Patent”), on its face, is entitled “Process Depending on Plasma Discharges
28 Sustained by Inductive Coupling,” and U.S. Reissue Patent No. RE40,264 (the “264 Patent”), on

1 its face, is entitled “Multi-Temperature Processing,” (collectively, the “Flamm Patents”).
2 GLOBALFOUNDRIES lacks knowledge or information sufficient to form a belief as to the truth
3 of the remaining allegations of Paragraph 1 of the Complaint, and therefore denies those
4 allegations.

5 **THE PARTIES**

6 2. GLOBALFOUNDRIES lacks knowledge or information sufficient to form a belief
7 as to the truth of the allegations of Paragraph 2 of the Complaint, and therefore denies those
8 allegations.

9 3. GLOBALFOUNDRIES admits that GLOBALFOUNDRIES U.S., Inc. is a
10 Delaware corporation with a principal place of business in the United States at 2600 Great
11 America Way, Santa Clara, CA 95054.

12 **JURISDICTION AND VENUE**

13 4. GLOBALFOUNDRIES admits that this Court has subject matter jurisdiction
14 under 28 U.S.C. § 1331 and 1338(a) over claims for patent infringement arising under the patent
15 laws of the United States, Title 35 of the United States Code. GLOBALFOUNDRIES denies
16 each and every remaining allegation of Paragraph 4 of the Complaint.

17 5. GLOBALFOUNDRIES consents to the personal jurisdiction of this Court for
18 purposes of this action only. GLOBALFOUNDRIES denies any alleged wrongdoing or
19 infringement. GLOBALFOUNDRIES lacks knowledge or information sufficient to form a belief
20 as to the truth of the remaining allegations of Paragraph 5 of the Complaint, and therefore denies
21 those allegations.

22 6. GLOBALFOUNDRIES admits that venue for GLOBALFOUNDRIES is proper in
23 this District under 28 U.S.C. §§ 1391 and 1400.

24 **FACTS**

25 7. GLOBALFOUNDRIES admits that Lam filed its Second Amended Complaint in
26 the action styled *Lam Research Corp. v. Daniel L. Flamm*, Case No. 4:15-cv-01277-BLF (Dkt.
27 No. 80) on or about January 15, 2016. GLOBALFOUNDRIES admits that in Lam’s Second
28 Amended Complaint, Lam seeks a declaration of non-infringement of each of the Flamm Patents.

1 GLOBALFOUNDRIES admits that in Lam’s Second Amended Complaint, Lam further seeks a
2 declaration that: “Lam and its customers do not design or use its products in an infringing
3 manner” for each of the Flamm Patents.

4 8. GLOBALFOUNDRIES denies that in Lam’s Second Amended Complaint, Lam
5 identified GLOBALFOUNDRIES as a customer on whose behalf it seeks relief in its Second
6 Amended Complaint. GLOBALFOUNDRIES lacks knowledge or information sufficient to form
7 a belief as to the truth of the remaining allegations of Paragraph 8 of the Complaint, and therefore
8 denies those allegations.

9 **COUNT I**

10 **Infringement of the ’849 Patent**

11 9. GLOBALFOUNDRIES incorporates its responses to Paragraphs 1-8 as if fully set
12 forth herein.

13 10. GLOBALFOUNDRIES admits that the ’849 Patent, on its face, is entitled
14 “Process Optimization in Gas Phase Dry Etching” and appears to have been issued on January 27,
15 1998. GLOBALFOUNDRIES also admits that a purported copy of the ’849 Patent appears to
16 have been attached to the Complaint as Exhibit A. GLOBALFOUNDRIES lacks knowledge or
17 information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 10
18 of the Complaint, and therefore denies those allegations.

19 11. To the extent that Paragraph 11 of the Complaint alleges that
20 GLOBALFOUNDRIES infringes the ’849 Patent-in-Suit, GLOBALFOUNDRIES denies the
21 allegations contained in Paragraph 11. For allegations pertaining to unidentified “third-party
22 defendants,” GLOBALFOUNDRIES lacks knowledge or information sufficient to form a belief
23 as to the truth of those allegations and therefore denies them. GLOBALFOUNDRIES denies
24 each and every remaining allegation contained in Paragraph 11.

25 12. Denied.

26 **COUNT II**

27 **Infringement of the ’221 Patent**

28 13. GLOBALFOUNDRIES incorporates its responses to Paragraphs 1-12 as if fully

1 set forth herein.

2 14. GLOBALFOUNDRIES admits that the '221 Patent, on its face, is entitled
3 "Process Depending on Plasma Discharges Sustained by Inductive Coupling" and appears to have
4 been issued on January 25, 2000. GLOBALFOUNDRIES also admits that a purported copy of
5 the '221 Patent appears to have been attached to the Complaint as Exhibit B.

6 GLOBALFOUNDRIES lacks knowledge or information sufficient to form a belief as to the truth
7 of the remaining allegations of Paragraph 14 of the Complaint, and therefore denies those
8 allegations.

9 15. To the extent that Paragraph 15 of the Complaint alleges that
10 GLOBALFOUNDRIES infringes the '221 Patent, GLOBALFOUNDRIES denies the allegations
11 contained in Paragraph 15. For allegations pertaining to unidentified "third-party defendants,"
12 GLOBALFOUNDRIES lacks knowledge or information sufficient to form a belief as to the truth
13 of those allegations and therefore denies them. GLOBALFOUNDRIES denies each and every
14 remaining allegation contained in Paragraph 15.

15 16. Denied.

16 **COUNT III**

17 **Infringement of the '264 Patent**

18 17. GLOBALFOUNDRIES incorporates its responses to Paragraphs 1-16 as if fully
19 set forth herein.

20 18. GLOBALFOUNDRIES admits that the '264 Patent, on its face, is entitled "Multi-
21 Temperature Processing" and appears to have been issued on April 29, 2008.
22 GLOBALFOUNDRIES also admits that a purported copy of the '264 Patent appears to have been
23 attached to the Complaint as Exhibit C. GLOBALFOUNDRIES lacks knowledge or information
24 sufficient to form a belief as to the truth of the remaining allegations of Paragraph 18 of the
25 Complaint, and therefore denies those allegations.

26 19. To the extent that Paragraph 19 of the Complaint alleges that
27 GLOBALFOUNDRIES infringes the '264 Patent, GLOBALFOUNDRIES denies the allegations
28 contained in Paragraph 19. For allegations pertaining to unidentified "third-party defendants,"

1 GLOBALFOUNDRIES lacks knowledge or information sufficient to form a belief as to the truth
2 of those allegations and therefore denies them. GLOBALFOUNDRIES denies each and every
3 remaining allegation contained in Paragraph 19.

4 20. Denied.

5 **PRAYER FOR RELIEF**

6 GLOBALFOUNDRIES denies that Flamm is entitled to any of the relief it seeks.
7 Flamm's prayer should, therefore, be denied in its entirety and with prejudice, and Flamm should
8 take nothing from GLOBALFOUNDRIES.

9 **DEMAND FOR JURY TRIAL**

10 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, GLOBALFOUNDRIES
11 hereby demands a trial by jury, separate from all other defendants pursuant to 35 U.S.C. § 299, on
12 all issues so triable.

13 **II. AFFIRMATIVE DEFENSES**

14 Without acknowledging that GLOBALFOUNDRIES bears the burden of proof or burden
15 of persuasion with respect thereto, GLOBALFOUNDRIES asserts the following affirmative
16 defenses to Flamm's Complaint.

17 **FIRST AFFIRMATIVE DEFENSE**

18 (Failure to State a Claim)

19 1. Flamm has failed to state a claim upon which relief can be granted.

20 **SECOND AFFIRMATIVE DEFENSE**

21 (Non-Infringement)

22 2. GLOBALFOUNDRIES is not infringing and has not infringed, directly or
23 indirectly, contributorily or by inducement, literally or under the doctrine of equivalents, any
24 valid, enforceable claim of any of the Flamm Patents.

25 **THIRD AFFIRMATIVE DEFENSE**

26 (Invalidity)

27 3. The claims of the Flamm Patents are invalid for failure to comply with one or
28 more of the provisions of 35 U.S.C. § 1 et seq., including, but not limited to, §§ 101, 102, 103,

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