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17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 SAN JOSE DIVISION

20 DANIEL L. FLAMM,

21 Plaintiff,

22 v.

23 INTEL CORPORATION,

24 Defendant.

Case No. 5:16-cv-001579-BLF

INTEL'S RESPONSE TO MOTION TO LIFT
STAY FOR PURPOSE OF ENTERING
VOLUNTARY DISMISSAL OF CERTAIN
ASPECTS OF PLAINTIFF'S CLAIMS

25 Plaintiff Flamm has moved to have the stay of this case lifted for the limited purpose of
26 entering an order dismissing (with prejudice) the portion of Plaintiff's claims that are based on
27 Intel's use of tools supplied by Tokyo Electron Ltd. ("TEL"). Intel Corp. ("Intel") does not
28 oppose partially lifting the stay for that limited purpose. In all other respects, however, the stay
should remain in place because all claims across all asserted patents remain subject to IPR
petitions filed jointly by Intel, GLOBALFOUNDRIES and Micron. Those petitions have been

1 instituted for trial at the USPTO Patent Trial and Appeal Board (“PTAB”), fully briefed and
2 argued. On June 22, 2018, the PTAB issued a final written decision finding that all seven
3 claims in U.S. Patent No. 6,017,221 are unpatentable over the prior art. The parties are now
4 waiting for the final written decisions on the petitions challenging U.S. Patent Nos. RE40,264
5 and 5,711,849. The remaining final written decisions are expected to issue sometime within the
6 next three months.

7 Plaintiff’s motion to lift the stay incorrectly suggests that the recent settlement between
8 Plaintiff and TEL “resulted in [a] joint motion for termination of the pending *inter partes*
9 reviews that are the basis for the stay of the instant action.” Dkt. 41 at 2:11-13. To the contrary,
10 the settlement between Plaintiff and TEL did not lead to a joint motion to dismiss any of the
11 instituted IPR petitions on the asserted patents in this case. And as noted above, IPRs
12 challenging all claims across all asserted patents have been instituted and remain pending before
13 the PTAB.

14 Because Plaintiff’s motion does not seek to lift the stay entirely, and given the ongoing
15 validity challenges at the PTAB, Intel respectfully requests that the Court leave the stay in place
16 after dismissing the portion of Plaintiff’s claims related to Intel’s use of tools supplied by TEL.

17 DATED: June 26, 2018

PERKINS COIE LLP

18
19 By: /s/ Chad S. Campbell

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CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2018, I caused copies of the foregoing document to be served via the court's CM/ECF system to counsel of record.

/s/ Chad S. Campbell
Chad S. Campbell

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