	Case 5:20-cv-05676-EJD E	Ocument 26-3	Filed 10/09/20	Page 1 of 21			
	REDACTED VERSI	ON OF DOCUM	IENT SOUGHT	TO BE SEALED			
1	YAR R. CHAIKOVSKY (SB# 1						
2	yarchaikovsky@paulhastings.com PHILIP OU (SB# 259896)						
3	philipou@paulhastings.com ANDY LEGOLVAN (SB# 292520)						
4	andylegolvan@paulhastings.com JOSEPH J. RUMPLER, II (SB#	n 296941)					
5	josephrumpler@paulhastings.com BERKELEY FIFE (SB# 325293	m )					
6	berkeleyfife@paulhastings.com BORIS LUBARSKY (SB# 3248	96)					
7	borislubarsky@paulhastings.con PAUL HASTINGS LLP	1					
8	1117 S. California Avenue Palo Alto, California 94304-110						
9	Telephone: 1(650) 320-1800 Facsimile: 1(650) 320-1900						
10	Attorneys for Plaintiff APPLIED MATERIALS, INC.						
11	,,,						
12	UNITED STATES DISTRICT COURT						
13	NORTHERN DISTRICT OF CALIFORNIA						
14							
15	APPLIED MATERIALS, INC.,		CASE NO. 5:20	)-cv-05676-EJD			
16	Plaintiff,			TERIALS, INC.'S PPORT OF MOTION			
17	VS.		FOR PRELIM	INARY INJUNCTION DEMARAY LLC FROM			
18	DEMARAY LLC,		PROCEEDIN SUITS DURIN	G WITH CUSTOMER			
19	Defendant.		THIS ACTION				
20			Hearing Date: Hearing Time:	November 12, 2020 9:00 a.m.			
21							
22							
23							
24							
25							
26							
27							
28							
<b>DOCKET</b> <b>A L A R M</b> Find authenticated court documents without watermarks at <u>docketalarm.com</u> .							

1			TABLE OF CONTENTS
2			Pa
3	I.	INTI	RODUCTION
4	II.	ARC	GUMENT
5		А.	The Court Has Subject Matter Jurisdiction Over Applied's Claims
6			1. Demaray's Allegations Establish a Reasonable Potential It Could Bring Direct Infringement Claims Against Applied
7 8			2. Demaray's Allegations Establish a Reasonable Potential It Could Bring Inducement and Contributory Claims Against Applied
8 9		В.	The <i>Katz</i> Framework Applies to the Question of Whether to Issue a Preliminary Injunction—not <i>eBay's</i> Traditional Four-Part Test
10		C.	Applied's Noninfringement Claims of the Asserted Patents Will Be Dispositive of the Major Issues in the Customer Suits
11 12		D.	Applied's License and Assignment-Based Noninfringement Claims Will Resolve the Customer Suits
13			1. The License Grant in the SRA Is Valid and Enforceable
			2. The Employee Assignment Provisions Are Valid and Enforceable
14		E.	Demaray's Remaining Arguments Are Unavailing, but Rather Confirm the Customer Suits Should Be Enjoined Under <i>Katz</i>
15	III.	CON	VCLUSION
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
20			
28			

I	Case 5:20-cv-05676-EJD Document 26-3 Filed 10/09/20 Page 3 of 21
1	TABLE OF AUTHORITIES
2	Page(s)
3	Cases
4	Amazon.com, Inc. v. Corydoras Techs., LLC,
5	No. 1:19-cv-1095, 2020 U.S. Dist. LEXIS 57969 (W.D. Tex. Apr. 2, 2020)
6	Applied Materials, Inc. v. Advanced Micro-Fabrication Equip. (Shanghai) Co., 630 F. Supp. 2d 1084 (N.D. Cal. 2009)
7 8	Arris Group, Inc. v. British Telecomm. PLC, 639 F.3d 1368 (Fed. Cir. 2011)
9	Bal Seal Eng'g, Inc. v. Nelson Prods.,
10	2016 U.S. Dist. LEXIS 195915 (C.D. Cal. Sep. 8, 2016)
11	<i>Bd. of Trs. v. Roche Molecular Sys.</i> , 583 F.3d 832 (Fed. Cir. 2009)
12	
13	Berkeley*IEOR v. Teradata Operations, Inc., No. 17 C 7472, 2019 U.S. Dist. LEXIS 36563 (N.D. Ill. Mar. 7, 2019)9, 10
14	Cadence Design Sys. v. OEA Int'l, Inc.,
15	No. CV11-0713, 2011 U.S. Dist. LEXIS 106739 (N.D. Cal. Sep. 19, 2011)
16	<i>Codex Corp. v. Milgo Elec. Corp.</i> , 553 F.2d 735 (1st Cir. 1977)
17 18	<i>DermaFocus LLC v. Ulthera, Inc.,</i> 201 F. Supp. 3d 465 (D. Del. 2016)
19	Dolby Labs., Inc. v. Intertrust Techs. Corp.,
20	No. 19-cv-03371-EMC, 2019 U.S. Dist. LEXIS 194022 (N.D. Cal. Nov. 6, 2019)
21	eBay Inc. v. MercExchange, LLC,
22	547 U.S. 388 (2006)
23	In re Google Inc.,
24	588 F. App'x 988 (Fed. Cir. 2014)14
25	<i>Google Inc. v. Rockstar Consortium U.S. LP</i> , No. C 13-5933 CW, 2014 U.S. Dist. LEXIS 53757 (N.D. Cal. Apr. 17, 2014)13
26	Gray Mfg. Co. v. Ashburn Volunteer Fire & Rescue Dep't,
27	No. 3:19-cv-801, 2020 U.S. Dist. LEXIS 145886 (E.D. Va. Aug. 12, 2020)
28	-ii-

**DOCKET A L A R M** Find authenticated court documents without watermarks at <u>docketalarm.com</u>.

I	Case 5:20-cv-05676-EJD Document 26-3 Filed 10/09/20 Page 4 of 21			
1	Hoffmann-La Roche Inc. v. Promega Corp.,			
2	No. C-93-1748, 1994 U.S. Dist. LEXIS 10174 (N.D. Cal. June 13, 1994)			
3	<i>Kahn v. GMC</i> , 889 F.2d 1078 (Fed. Cir. 1989)13, 14			
4				
5	Katz v. Lear Siegler, Inc., 909 F.2d 1459 (Fed. Cir. 1990) passim			
6	Mantissa Corp. v. Old Second Bancorp, Inc.,			
7	2018 U.S. Dist. LEXIS 103365 (N.D. Ill. June 20, 2018)			
8	Mass Eng. Des., Inc. v. Planar Sys., 426 F. Supp. 3d 680 (D. Or. 2019)			
9	MedImmune, Inc. v. Genentech, Inc.,			
10	549 U.S. 118 (2007)2			
11	Microsoft Corp. v. DataTern, Inc., 755 E 24 800 (Ead. Cir. 2014)			
12	755 F.3d 899 (Fed. Cir. 2014)2, 4, 6			
13	<i>In re Nintendo of Am., Inc.,</i> 756 F.3d 1343 (Fed. Cir. 2014)1, 8, 9, 13			
14	Ours Tech., Inc. v. Data Drive Thru, Inc.,			
15	645 F. Supp. 2d 830 (N.D. Cal. 2009)2			
16	Pacesetter Sys. v. Medtronic, Inc., 678 F.2d 93 (9th Cir. 1982)			
17				
18	ProBatter Sports, LLC v. Joyner Techs., Inc., 463 F. Supp. 2d 949 (N.D. Iowa 2006)			
19	RegenLab USA LLC v. Estar Techs. Ltd.,			
20	No. 16-cv-8771, 2017 U.S. Dist. LEXIS 131495 (S.D.N.Y. Aug. 17, 2017)7			
21	Spread Spectrum Screening LLC v. Eastman Kodak Co.,			
22	657 F.3d 1349 (Fed. Cir. 2011)			
23	Tegic Communs. Corp. v. Bd. of Regents,458 F.3d 1335 (Fed. Cir. 2006)			
24	TransCore v. Elec. Trans. Consult. Corp.,			
25	563 F.3d 1271 (Fed. Cir. 2011)			
26	USGA v. Arroyo Software Corp., 69 Cal. App. 4th 607 (1999)			
27	Valley View Health Care, Inc. v. Chapman,			
28	992 F. Supp. 2d 1016 (E.D. Cal. 2014)			

**DOCKET A L A R M** Find authenticated court documents without watermarks at <u>docketalarm.com</u>.

	Case 5:20-cv-05676-EJD Document 26-3 Filed 10/09/20 Page 5 of 21
1	<i>Whitewater W. Indus., Ltd. v. Alleshouse,</i> No. 17-cv-00501, 2019 U.S. Dist. LEXIS 163168 (S.D. Cal. Mar. 26, 2019)
2	Statutes
3	
4	Bus. & Prof. Code § 1660012
5	Lab. Code § 2870
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
DOCK	
	<b>R M</b> Find authenticated court documents without watermarks at <u>docketalarm.com</u> .

## DOCKET A L A R M



# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## **Real-Time Litigation Alerts**



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

### **Advanced Docket Research**



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## **Analytics At Your Fingertips**



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

#### API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

#### LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

#### FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

#### E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.