

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

APPLIED MATERIALS, INC.,
Plaintiff,
vs.
DEMARAY LLC,
Defendant.

CASE NO. 5:20-cv-05676-EJD
**DECLARATION OF THOMAS
HERRGOTT IN SUPPORT OF
APPLIED MATERIALS, INC.’S
REPLY IN SUPPORT OF MOTION
FOR PRELIMINARY INJUNCTION**

I, Thomas Herrgott, hereby declare as follows:

1. I am a Controller in the Corporate Financial Planning and Analysis Group at Intel Corporation (“Intel”). In this role, I am responsible for financial forecasting and reporting of Intel’s Legal, HR, Finance, and Executive Office budgets. Previously, I have served in a number of manufacturing-focused roles at Intel, most recently as Fab/Sort Manufacturing Roadmap Specialist, where I was responsible for long-range capacity and capital investment strategy for all of Intel’s fab manufacturing facilities. In total, I have worked at Intel for 22 years.

2. I submit this declaration in support of Applied Materials, Inc.’s (“Applied”) Reply in Support of Its Motion for a Preliminary Injunction.

3. The facts set forth in this declaration are based on my own knowledge and on research conducted under my supervision and direction. If sworn as a witness to testify in this matter, I would testify to the facts as set forth herein.

4. I understand that Demaray LLC (“Demaray”) filed a lawsuit alleging Intel infringes U.S. Patent Nos. 7,544,276 and 7,381,657 in the Western District of Texas. I further understand that in that lawsuit, Demaray alleges that Intel infringes via Intel’s use of reactive magnetron sputtering (“RMS”) reactors, including the reactors in the Endura product line from Applied, purportedly using pulsed DC power for physical vapor deposition (“PVD”) of layers, identifying titanium

HERRGOTT DECL. IN SUPPORT OF



1 nitride and tantalum nitride, in Intel’s semiconductor products. I understand that Demaray alleges
2 that Intel uses infringing RMS reactors in the fabrication of its processors, including Intel’s
3 Broadwell processors.

4 5. I also understand that Applied filed a lawsuit seeking a declaratory judgment of
5 non-infringement against Demaray in the Northern District of California. I further understand that
6 Applied filed a motion for preliminary injunction in this case to enjoin Demaray from proceeding
7 with its lawsuit against Intel during the pendency of the declaratory judgment action in the Northern
8 District of California. I understand that Applied has requested that Intel provide certain information
9 to assist the Court in considering the motion.

10 6. Founded in 1968, Intel is a technology company that specializes in the design and
11 development of semiconductor and microprocessor products. Intel has facilities worldwide.

12 7. Intel’s worldwide headquarters are in Santa Clara, California.

13 8. In addition to its Santa Clara campus, Intel has numerous facilities in the United States.
14 One of those facilities is located in Austin, Texas.

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 10. Intel does not have a fabrication facility (i.e., “Fab”) in Texas.

20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

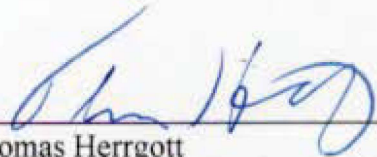
25 13. I understand that Demaray has raised questions as to whether Intel would agree to be bound
26 by Applied’s declaratory judgment action. I have authority to confirm that, if Applied’s Motion
27 for a Preliminary Injunction is granted, Intel agrees to be bound by the results in this action
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(including appeals) regarding the declaratory judgment causes of action asserted in Applied's First Amended Complaint, and the results of the specific invalidity grounds adjudicated in Applied's declaratory judgment action to the extent that any patent invalidity causes of action are asserted in the future.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

DATED: October 9, 2020

By: 
Thomas Herrgott
Controller, General and Administrative
Intel Corporation

HERRGOTT DECL. IN SUPPORT OF