

1 IRELL & MANELLA LLP
Morgan Chu (70446)
2 MChu@irell.com
Benjamin W. Hattenbach (186455)
3 BHattenbach@irell.com
C. Maclain Wells (221609)
4 MWells@irell.com
1800 Avenue of the Stars, Suite 900
5 Los Angeles, California 90067-4276
6 Telephone: (310) 277-1010
Facsimile: (310) 203-7199

7 Attorneys for Defendant
8 DEMARAY LLC

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

13 APPLIED MATERIALS, INC.,) Case No. 5:20-cv-05676-EJD
)
14 Plaintiff,) **DECLARATION OF C. MACLAIN**
) **WELLS IN SUPPORT OF DEMARAY**
15 vs.) **LLC’S MOTION FOR LEAVE TO FILE**
) **SUR-REPLY TO APPLIED MATERIALS’**
16 DEMARAY LLC,) **MOTION FOR PRELIMINARY**
) **INJUNCTION**
17 Defendant.)
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DECLARATION OF C. MACLAIN WELLS

I, C. Maclain Wells, hereby declare as follows:

1. I am counsel at the law firm of Irell & Manella LLP, counsel for Defendant Demaray LLC (“Demaray”). I am a member in good standing of the State Bar of California and have been duly licensed to practice law before all of the courts of the State of California. I submit this declaration in support of Demaray’s motion to file sur-reply to Applied Materials, Inc.’s (“Applied”) motion for preliminary injunction. I have personal knowledge of the matters set forth in this declaration and, if called as a witness, could testify to its contents.

2. On October 14, 2020, I emailed Applied’s counsel expressing Demaray’s intent to request permission from the Court to file a 10-page sur-reply to Applied’s motion for preliminary injunction. I asked whether Applied would oppose this request.

3. Later that day, counsel for Applied asked for further information about the arguments warranting a sur-reply. I provided a response to Applied’s counsel the next day on October 15, 2020, and again asked whether Applied would oppose Demaray’s request for a sur-reply.

4. On October 19, 2020, Applied responded demanding unreasonable limitations on Demaray’s sur-reply, including (1) that Demaray only address the new evidence and not address new arguments relating to “comity, subject matter jurisdiction, *Katz/eBay* standard, and the customer suits,” (2) limiting the sur-reply to five pages, and (3) demanding the “opportunity to review the proposed sur-reply” before filing.

Executed on October 19, 2020 in Sebastopol, California. I declare under penalty of perjury that the foregoing is true and correct.

By: /s/ C. Maclain Wells
C. Maclain Wells
Attorneys for Defendant DEMARAY LLC