

# EXHIBIT A

**From:** [Wells, Maclain](#)  
**To:** [Ou, Philip](#); [Faasisila, Nikole](#); [Chu, Morgan](#); [Hattenbach, Ben](#); [Mueller, Mariandrea](#)  
**Cc:** [Demaray - AMAT](#); [LeGolvan, Andy](#); [Trevino, C. Daniel](#); [Lubarsky, Boris](#); [Faasisila, Nikole](#); [#Demaray Service \[Int\]](#)  
**Subject:** [EXT] RE: Applied Materials v. Demaray LLC - PI motion sur-reply / customer contentions  
**Date:** Thursday, October 15, 2020 2:46:53 PM

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Phil,

The seven fact declarations and the new evidence should have been included in Applied's opening filing to allow Demaray to respond. The declarations and evidence appear to relate to the issues of subject matter jurisdiction, Applied's license/ownership defenses, Applied's arguments regarding the customer suit exception, and issues of comparative convenience. Applied raises new arguments on each of these issues as well as the issues of comity and the applicable legal standard for a preliminary injunction.

Please let us know if Applied opposes our request for a sur-reply.

Regarding Demaray's infringement contentions in the Texas matters, please explain why Applied needs confidential materials from those cases.

Thanks,  
Maclain

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**From:** Ou, Philip <philipou@paulhastings.com>  
**Sent:** Wednesday, October 14, 2020 5:11 PM  
**To:** Wells, Maclain <MWells@irell.com>; Faasisila, Nikole <nikolefaasisila@paulhastings.com>; Chu, Morgan <MChu@irell.com>; Hattenbach, Ben <BHattenbach@irell.com>; Mueller, Mariandrea <MMueller@irell.com>  
**Cc:** Demaray - AMAT <Demaray-AMAT@paulhastings.com>; LeGolvan, Andy <andylegolvan@paulhastings.com>; Trevino, C. Daniel <cdanieltrevino@paulhastings.com>; Lubarsky, Boris <borislubarsky@paulhastings.com>; Faasisila, Nikole <nikolefaasisila@paulhastings.com>; #Demaray Service [Int] <Demaray-Service@irell.com>  
**Subject:** RE: Applied Materials v. Demaray LLC - PI motion sur-reply / customer contentions

Maclain,

Thanks for your e-mail. We disagree that Applied submitted new arguments in its reply brief. The arguments and supporting evidence (e.g., the declarations) were submitted in direct response to arguments made by Demaray in its opposition brief.

That said, as a matter of equity, we are willing to consider not opposing a limited sur-reply. Can you please identify what you specifically contend are "new arguments and supporting evidence" that you believe warrant a sur-reply? Is it limited to the declarations and exhibits, and the arguments they support?

Separately, we understand that Demaray has served infringement contentions on Intel and Samsung in the customer cases in WDTX. Applied believes that the scope of your infringement allegations in those cases is relevant to the pending injunction motion. Will you provide those contentions to us if we treat them as confidential? If not, can you explain why?

Happy to confer about both issues tomorrow or Friday at your convenience.

Thanks,  
Phil

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**From:** Wells, Maclain <[MWells@irell.com](mailto:MWells@irell.com)>  
**Sent:** Wednesday, October 14, 2020 1:03 PM  
**To:** Ou, Philip <[philipou@paulhastings.com](mailto:philipou@paulhastings.com)>; Faasisila, Nikole <[nikolefaasisila@paulhastings.com](mailto:nikolefaasisila@paulhastings.com)>; Chu, Morgan <[MChu@irell.com](mailto:MChu@irell.com)>; Hattenbach, Ben <[BHattenbach@irell.com](mailto:BHattenbach@irell.com)>; Mueller, Mariandrea <[MMueller@irell.com](mailto:MMueller@irell.com)>  
**Cc:** Demaray - AMAT <[Demaray-AMAT@paulhastings.com](mailto:Demaray-AMAT@paulhastings.com)>; LeGolvan, Andy <[andylegolvan@paulhastings.com](mailto:andylegolvan@paulhastings.com)>; Trevino, C. Daniel <[cdanieltrevino@paulhastings.com](mailto:cdanieltrevino@paulhastings.com)>; Lubarsky, Boris <[borislubarsky@paulhastings.com](mailto:borislubarsky@paulhastings.com)>; Faasisila, Nikole <[nikolefaasisila@paulhastings.com](mailto:nikolefaasisila@paulhastings.com)>; #Demaray Service [Int] <[Demaray-Service@irell.com](mailto:Demaray-Service@irell.com)>  
**Subject:** [EXT] RE: Applied Materials v. Demaray LLC - inadvertently omitted declarations to reply brief

Phil,

We do not believe that it is appropriate for Applied to submit new arguments and supporting evidence in a reply brief. Doing so is manifestly unfair as Demaray has no opportunity for a written response. Given the seven declarations and additional exhibits attached to Applied's reply, we intend to request permission from the Court to file a 10-page sur-reply. Please let us know if Applied will oppose this request.

In addition, we will file objections to submitted evidence as appropriate according to the local rules.

Thank you,  
Maclain

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**From:** Ou, Philip <[philipou@paulhastings.com](mailto:philipou@paulhastings.com)>  
**Sent:** Wednesday, October 14, 2020 11:57 AM  
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**Cc:** Demaray - AMAT <[Demaray-AMAT@paulhastings.com](mailto:Demaray-AMAT@paulhastings.com)>; LeGolvan, Andy <[andylegolvan@paulhastings.com](mailto:andylegolvan@paulhastings.com)>; Trevino, C. Daniel <[cdanieltrevino@paulhastings.com](mailto:cdanieltrevino@paulhastings.com)>; Lubarsky, Boris <[borislubarsky@paulhastings.com](mailto:borislubarsky@paulhastings.com)>; Faasisila, Nikole <[nikolefaasisila@paulhastings.com](mailto:nikolefaasisila@paulhastings.com)>; #Demaray Service [Int] <[Demaray-Service@irell.com](mailto:Demaray-Service@irell.com)>  
**Subject:** RE: Applied Materials v. Demaray LLC - inadvertently omitted declarations to reply brief

Maclain,

An inadvertent clerical omission from Friday's filing of our reply brief has come to our attention. In preparing and filing our administrative motion to seal certain declarations and exhibits, we inadvertently did not file the declarations that did not require redactions. Those are the Thomson, Dietz and Cross declarations (from certain Samsung entities) that are cited in the reply, *e.g.*, at page 9, which I've attached. As you'll see, they were executed either last Thursday or Friday.

We intend to submit these omitted items to the Court today. If you have any objections, please let us know before COB today.

I'm also available to discuss if needed.

Thanks,  
Phil

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**From:** Faasisila, Nikole <[nikolefaasisila@paulhastings.com](mailto:nikolefaasisila@paulhastings.com)>  
**Sent:** Friday, October 9, 2020 7:56 PM

**To:** [mchu@irell.com](mailto:mchu@irell.com); [bhattenbach@irell.com](mailto:bhattenbach@irell.com); [mwells@irell.com](mailto:mwells@irell.com); [mmueller@irell.com](mailto:mmueller@irell.com)  
**Cc:** Demaray - AMAT <[Demaray-AMAT@paulhastings.com](mailto:Demaray-AMAT@paulhastings.com)>; LeGolvan, Andy <[andylegolvan@paulhastings.com](mailto:andylegolvan@paulhastings.com)>;  
Trevino, C. Daniel <[cdanieltrevino@paulhastings.com](mailto:cdanieltrevino@paulhastings.com)>; Lubarsky, Boris <[borislubarsky@paulhastings.com](mailto:borislubarsky@paulhastings.com)>;  
Faasisila, Nikole <[nikolefaasisila@paulhastings.com](mailto:nikolefaasisila@paulhastings.com)>  
**Subject:** Applied Materials v. Demaray LLC, Case No. 5:20-cv-5676-EJD

Counsel,

Attached please find the documents filed under seal tonight with Docket No. 26.

Regards,  
Nikole

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Nikole Faasisila | Client Service Specialist  
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#### Files attached to this message

| Filename                                                                              | Size      | Checksum (SHA1)                                                  |
|---------------------------------------------------------------------------------------|-----------|------------------------------------------------------------------|
| 2020-10-09_26_10<br>Declaration<br>of Herrgott<br>SEALED.pdf                          | 755<br>KB | 11f68941668ea22f5e34cc701c064bfc2ec8d8d5bc62cd7aa67d490ef299fcfa |
| 2020-10-09_26_12<br>Declaration<br>of Kim<br>SEALED.pdf                               | 699<br>KB | 002844bb76b93049527cff111a2390e6a7c70ff90b0112c47527d9cf71b57713 |
| 2020-10-09_26_14<br>Declaration<br>of Miller<br>SEALED.pdf                            | 363<br>KB | 39527f8fa9cce6b3f58c80aed11f8e40249157728ecada746c23d3510b75e48f |
| 2020-10-09_26_4<br>Reply ISO<br>Motion for<br>Preliminary<br>Injunction<br>SEALED.pdf | 239<br>KB | 4227857b27f81cc24023b2c9b8b49724cb5dfb8be682db2a0fb36c08f7debdfb |
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