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 APPLIED MATERIALS, INC.

11
 12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14

15 APPLIED MATERIALS, INC.,
 16 Plaintiff,
 17 vs.
 18 DEMARAY LLC,
 19 Defendant.

CASE NO. 5:20-cv-05676-EJD

**DECLARATION OF BORIS
 LUBARSKY IN SUPPORT OF
 APPLIED MATERIALS, INC.'S
 OPPOSITION TO DEMARAY LLC'S
 MOTION TO DISMISS**

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LUBARSKY DECL. IN SUPPORT OF

1 I, Boris Lubarsky, hereby declare as follows:

2 1. I am an associate with the law firm Paul Hastings LLP, counsel for the Plaintiff Applied
3 Materials, Inc. (“Applied”). I have personal knowledge of the facts contained in the declaration
4 and, if called upon to do so, I could and would testify competently to the matters set forth herein.

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6 2. Attached hereto as **Exhibit A** is a true and correct copy of an October 2, 2020 letter from
7 Maclain Wells, counsel for Demaray, to Steve Ravel, Counsel for Intel.

8 3. Attached hereto as **Exhibit B** is a true and correct copy of an October 2, 2020 letter from
9 Maclain Wells, counsel for Demaray, to Brian Nash, Counsel for Samsung.

10 4. Attached hereto as **Exhibit C** is a true and correct copy of Intel’s First Amended Answer
11 in *Demaray LLC v. Intel Corp.*, 6:20-cv-00634-ADA, Dkt No. 22.

12 5. Attached hereto as **Exhibit D** is a true and correct copy of Samsung’s First Amended
13 Answer in *Demaray LLC v. Samsung Electronics Co. et. al.*, 6:20-cv-00636-ADA, Dkt No. 29.

14 6. Attached hereto as **Exhibit E** is a true and correct public copy of Demaray LLC’s
15 Preliminary Infringement Contentions in *Demaray LLC v. Intel Corp.*, 6:20-cv-00634-ADA.

16 7. Attached hereto as **Exhibit F** is a true and correct public copy of Demaray LLC’s
17 Preliminary Infringement Contentions in *Demaray LLC v. Samsung Electronics Co. et. al.*, 6:20-
18 cv-00636-ADA.
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20 8. Attached hereto as **Exhibit G** is a true and correct copy of the Sales and Relationship
21 Agreement between Symmorphix and Applied Komatsu. The exhibit has been redacted to remove
22 confidential financial information and to remove hand-written notes from the copy of the
23 agreement maintained by Applied in its business records.

24 9. Attached hereto as **Exhibit H** is a true and correct copy of a January 11, 1999 Interoffice
25 Memorandum from Bob Conner, from Symmorphix, to Dave Sponseller, from Applied Komatsu.
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LUBARSKY DECL. IN SUPPORT OF

1 10. Attached hereto as **Exhibit H** is a true and correct copy of a January 11, 1999 Interoffice
2 Memorandum from Bob Conner, from Symmorphix, to Dave Sponseller, from Applied Komatsu.

3 11. Attached hereto as **Exhibit I** is a true and correct copy of an e-mail chain between counsel
4 for Demaray and counsel for Intel and Samsung in Demaray's customer suits in the Western
5 District of Texas, *Demaray LLC v. Intel Corp.*, 6:20-cv-00634-ADA and *Demaray LLC v.*
6 *Samsung Electronics Co. et. al.*, 6:20-cv-00636-ADA regarding the scope of the accused RMS-
7 PVD reactors for venue discovery and technical document production as required by Local Rules,
8 and specifically limiting the original request of "each RMS PVD reactor used by Intel/Samsung
9 for the production of semiconductor devices" to RMS PVD reactors "that provide, or have the
10 option of providing, (1) pulsed DC to the target and (2) RF bias to the substrate".

11 12. Attached hereto as **Exhibit J** is a true and correct copy of a Demaray's Transfer-Related
12 Interrogatories to Intel in *Demaray LLC v. Intel Corp.*, 6:20-cv-00634-ADA, served today,
13 December 7, 2020, which seeks discovery on "Intel RMS PVD chamber[s]" defined as "any
14 reactor chamber used for physical vapor deposition ("PVD") of a thin film using reactive
15 magnetron sputtering ("RMS") used in the production of Intel semiconductor products, or
16 research related thereto, in the last six years from the filing of Demaray's Complaint."

17 13. Attached hereto as **Exhibit K** is a true and correct copy of a Demaray's Transfer-Related
18 Interrogatories to Samsung in *Demaray LLC v. Samsung Electronics Co. et. al.*, 6:20-cv-00636-
19 ADA, served today, December 7, 2020, which seeks discovery on "Samsung RMS PVD
20 chamber[s]" defined as "any reactor chamber used for physical vapor deposition ("PVD") of a
21 thin film using reactive magnetron sputtering ("RMS") used in the production of Samsung
22 semiconductor products, or research related thereto, in the last six years from the filing of
23 Demaray's Complaint."
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I declare under penalty of perjury that the foregoing is true and correct.

DATED: December 7, 2020

By: /s/ Boris Lubarsky

Boris Lubarsky

LUBARSKY DECL. IN SUPPORT OF