

EXHIBIT A

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October 2, 2020

VIA E-MAIL

Steve Ravel, Esq.
Kelly Hart LLP
303 Colorado Street, Suite 2000
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steve.ravel@kellyhart.com

Re: *Demaray Inc. v. Intel Corporation*, Case 6:20-cv-00634

Dear Steve:

I write regarding Intel's failure to provide adequate factual support for its affirmative defenses in its Answer to Demaray's Complaint.

Intel's approach of simply listing of equitable defenses falls well short of the minimum particulars needed to identify the affirmative defenses in question. This includes both Intel's Fourth Affirmative Defense (Prosecution History Estoppel / Prosecution Disclaimer) and Tenth Affirmative Defense (Unenforceability).

In addition, Intel's Twelfth Affirmative Defense (Government Sale) and Thirteenth Affirmative Defense (No Double Compensation) lack any supporting factual allegations in Intel's Answer. Is there a basis for asserting these defenses?

Finally, Intel's Sixth Affirmative Defense (Plaintiff's License and/or Exhaustion of Rights) and Eighth Affirmative Defense (Lack of Standing and Failure to Join Co-Owner) appear to be based upon assignment obligations in employee agreements between Applied Materials, Inc. and/or Applied Komatsu Technology and the inventors on the Demaray patents that Applied Materials has raised in a declaratory judgment action against Demaray in the Northern District of California. As detailed in Demaray's opposition to Applied Materials' motion for preliminary injunction in that case, Judge Ware already ruled that the assignment provisions underlying the each of Applied Materials' licensing/ownership claims are "unlawful non-compete provisions" and void as a matter of public policy. *See Applied Materials, Inc. v. Advanced Micro-Fabrication Equip., Inc.*, 630 F. Supp. 2d 1084, 1090 (N.D. Cal. May 20, 2009). Provisions already adjudicated against Applied Materials to be unlawful do not support Intel's affirmative defenses. If Intel has other support for these defenses, please provide it.

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Steve Ravel, Esq.
October 2, 2020
Page 2

Please confirm that Intel will withdraw the above-listed defenses or provide additional details supporting such defenses in an amended pleading forthwith. If Intel will not do so, please be prepared to meet and confer regarding a motion to strike when we discuss the case schedule and CMC issues.

Sincerely,

/s/ C. Maclain Wells

C. Maclain Wells