

# EXHIBIT B

**I R E L L & M A N E L L A L L P**

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October 2, 2020

**VIA E-MAIL**

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Re: *Demaray v. Samsung*, Case 6:20-cv-00636

Dear Brian:

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

Samsung'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 Samsung's Fourth Affirmative Defense (Prosecution History Estoppel And Disclaimer) and Tenth Affirmative Defense (Unenforceability).

In addition, Samsung's Thirteenth Affirmative Defense (No Double Compensation) lacks any supporting factual allegations in Samsung's Answer. Is there a basis for asserting this defense?

Finally, Samsung's Sixth Affirmative Defense (License and/or Exhaustion) and Seventh Affirmative Defense (Lack of Standing/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 Samsung's affirmative defenses. If Samsung has other support for these defenses, please provide it.

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Please confirm that Samsung will withdraw the above-listed defenses or provide additional details supporting such defenses in an amended pleading forthwith. If Samsung 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