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 15 APPLIED MATERIALS, INC.

16 UNITED STATES DISTRICT COURT  
 17 NORTHERN DISTRICT OF CALIFORNIA  
 18

19 APPLIED MATERIALS, INC.,

20 Plaintiff,

21 vs.

22 DEMARAY LLC,

23 Defendant.  
 24

CASE NO. 5:20-cv-09341-EJD

**APPLIED MATERIALS, INC.’S  
 MOTION TO SHORTEN TIME FOR  
 AN EARLIER HEARING OR FOR  
 DETERMINATION ON THE PAPERS  
 ON APPLIED MATERIALS, INC.’S  
 MOTION TO STRIKE (DKT. NO. 130)**

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1 Plaintiff Applied Materials, Inc. (“Applied”) respectfully moves the Court, pursuant to Civil  
2 Local Rule 6-3, for an order for an earlier hearing on Applied’s Motion to Strike (“Motion to  
3 Strike”), Dkt. No. 130, or in the alternative, pursuant to L.R. 7-1(b) for Applied’s Motion to Strike  
4 to be decided on the papers. Demaray has indicated that it does not oppose the Court hearing the  
5 Motion to Strike sooner if it is able to do so.

6 As explained in the Motion to Strike, Demaray has improperly sought leave from Magistrate  
7 Judge Cousins through a two-page letter brief to assert infringement claims against Applied nearly  
8 six months after it filed its Answer and decided not to file compulsory claims of infringement in  
9 this case. Demaray’s letter brief violates Local Rule 7-1(a), as leave must be sought through a  
10 noticed motion whereby Applied is entitled to file an opposition under Local Rule 7-3(a).  
11 Demaray’s letter brief is also procedurally improper as the issue has not been referred by the Court  
12 to Magistrate Judge Cousins to decide. Compounding the problem, pending before Magistrate  
13 Judge Cousins is a dispute regarding the case schedule where Demaray has proposed further  
14 delaying claim construction deadlines by proposing to “reset” those deadlines “if affirmative  
15 infringement claims are allowed.” The parties filed their Joint Claim Construction and Pre-Hearing  
16 Statement on February 1, 2022, Dkt. No. 126, and Applied is preparing to file its Opening Claim  
17 Construction Brief on or before March 18, 2022, the deadline under the Patent Local Rules (forty-  
18 five days after the filing of Joint Claim Construction and Pre-Hearing Statement). There is no  
19 reason to further delay claim construction from proceeding.

20 Currently the next available hearing date for Applied’s Motion to Strike is June 30, 2022  
21 (nearly four months from now). Delaying resolution on Applied’s Motion to Strike, which simply  
22 addresses whether Demaray’s letter brief is procedurally improper and prejudicial, until afterthat  
23 time is prejudicial to Applied as it would potentially allow Demaray to continue relying on the  
24 uncertainty as to whether it can bring infringement claims to delay this case from moving forward.  
25 Accordingly, Applied respectfully believes, pursuant to L.R. 7-1(b), that Applied’s Motion to Strike  
26 should be decided on the papers. To the extent the Court believes a hearing to decide Applied’s  
27 Motion is needed, Applied respectfully requests that the Court grant an expedited hearing at least  
28 14 days after Applied’s reply (due March 23, 2022), or as soon as the Court is available thereafter.

1 In consideration of judicial economy, conservation of the parties' resources, and allowing  
2 this case's deadlines to promptly proceed, Applied respectfully requests the Court grant this Motion  
3 and set the hearing date as soon as the Court is available thereafter or to rule on Applied's Motion  
4 to Strike on the papers.

5 DATED: March 2, 2022

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15 By: /s/ Philip Ou

16 PHILIP OU

17 Attorneys for Plaintiff  
18 APPLIED MATERIALS

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