YAR R. CHAIKOVSKY (SB# 175421)
yarchaikovsky@paulhastings.com
PHILIP OU (SB# 259896)
philipou@paulhastings.com
JOSEPH J. RUMPLER, II (SB# 296941)
josephrumpler@paulhastings.com
DAVID OKANO (SB# 278485)
davidokano@paulhastings.com
ANDY LEGOLVAN (SB# 292520)
andylegolvan@paulhastings.com
BORIS LUBARSKY (SB# 324896)
borislubarsky@paulhastings.com
PAUL HASTINGS LLP
1117 S. California Avenue
Palo Alto, California 94304-1106
Telephone: 1(650) 320-1800
Facsimile: 1(650) 320-1900

MATTHIAS KAMBER (SB#232147)
matthiaskamber@paulhastings.com
PAUL HASTINGS LLP
101 California Street, 48th Floor
San Francisco, California 94111
Telephone: 1(415) 856-7000
Facsimile: 1(415) 856-7100

Attorneys for Plaintiff
APPLIED MATERIALS, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

APPLIED MATERIALS, INC.,

Plaintiff,

vs.

DEMARAY LLC,

Defendant.

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

PLAINTIFF APPLIED MATERIALS, INC.'S OPPOSITION TO DEMARAY LLC'S MOTION TO AMEND ITS ANSWER

Hearing Date: September 29, 2022
Hearing Time: 9:00 a.m.

UNREDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

*Unless otherwise noted, internal citations and subsequent history are omitted, and emphasis is added.

I. INTRODUCTION

Demaray LLC's ("Demaray") motion to bring infringement claims against Applied Materials, Inc.'s ("Applied") Cirrus chambers ***twenty months*** after Demaray first accused Applied's customers of infringing the same patents in Texas based on their use of the ***same Cirrus chambers*** is the latest maneuver in a series of dilatory tactics to delay this case from proceeding in favor of the customer suits. Demaray cannot justify its undue delay, mask the bad faith behind its tactics, or mitigate the clear prejudice to Applied.

In an attempt to do so, Demaray falsely accuses Applied of withholding discovery and making misrepresentations to the Texas Court regarding the DC filter in its Cirrus chamber. Demaray has twice told ***this*** Court that the purported lack of information prevented Demaray from formulating a Rule 11 basis to accuse the Cirrus chamber of infringement in this case. Yet at the same time, Demaray continued to press forward with its infringement claims in Texas against the same Cirrus chamber, including based on (1) a Cirrus chamber manual and (2) a technical specification for the component in Cirrus that Demaray alleges contains the claimed "narrow band-rejection filter"—two documents it has had since January 2021, ***fourteen months*** ago. Demaray's motion ignores its reliance on these documents through ***five*** rounds of supplemental infringement contentions to accuse the Cirrus chambers in Texas, the first which occurred ***thirteen months*** ago.

Despite Demaray's repeated reliance on these Cirrus documents to prosecute its infringement claims in Texas, Demaray now incredibly claims that only after recent third party discovery from a component supplier (Comet) and an inspection, it formed a "good faith reasonable basis for bringing infringement claims here." Mot. at 3:26. In other words, Demaray claims that up until the Comet inspection, it lacked a good faith basis to bring infringement claims in this Court against the same Cirrus chamber it has been accusing of infringement since July 2020 in Texas. Whether an about-face between two tribunals or an apparent double-standard for its Rule 11 obligations in California versus Texas, Demaray's explanation is simply not credible and cannot excuse its undue delay in bringing infringement claims.

What is worse, the recent discovery from Comet, including testing and inspection of the component, did not reveal any new evidence supporting a claim of infringement. Rather, both the

documents and Demaray's inspection corroborated what Demaray already knew from Applied's Cirrus manual and component specification produced in January 2021—that the Cirrus chamber does not infringe. That was reinforced by Applied's corporate testimony provided in February 2021 and measurements of the component provided by Comet and produced in September 2021. Furthermore, the alleged "new" evidence relied upon by Demaray to support its motion to amend is irrelevant to infringement because it either relates to protecting the RF (and not DC) power supply in the Cirrus chamber or is duplicative of the information Demaray has had since last January. The recent discovery and inspection are nothing more than a smokescreen for Demaray's latest attempt to delay the parties and this Court from moving forward with claim construction.[1]

Demaray's proposed Amended Answer raises even greater concerns regarding its claim that it only now has a "good faith reasonable basis for bringing infringement claims." As explained, *infra*, the Amended Answer accuses the Cirrus chambers of infringing **both** the '276 and '657 patent, specifically identifying the deposition of titanium nitride (TiN) for the '657 patent, which requires reactive sputtering. But five days before its motion, Demaray supplemented its contentions in Texas to **withdraw its claims against the Cirrus chamber for the '657 patent** in the Intel case. Ex. J. On the same day of Demaray's motion, it did the same in the Samsung case, another inexplicable contradiction between its Texas and California positions. How can Demaray ***now*** have a Rule 11 basis to accuse Cirrus of infringing the '657 patent in this Court, but no longer have one in Texas? There is no credible explanation.

---

[1] Demaray has not shied away from its motive behind seeking to add infringement claims ***twenty*** months after originally accusing the same Cirrus chamber in Texas. Three days after the instant motion, Demaray submitted a letter brief requesting to either (1) "hold in abeyance the Patent Local Rule deadlines" or (2) enter a schedule ***assuming*** Demaray is permitted to add infringement claims such that *Markman* is further delayed by several months. Dkt. No. 135. Just hours ago, Demaray doubled down on its delay efforts, seeking to indefinitely enlarge its time to file its responsive claim construction brief due on April 1, 2022 under the Patent Local Rules. Dkt. No. 140.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.