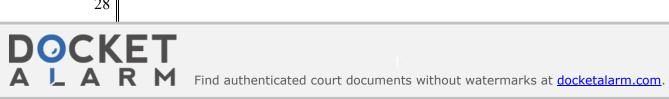
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19	APPLIED MATERIALS, INC.,)	Case No. 5:20-cv-09341-EJD						
20	Plaintiff,)							
	VS.)	DEMARAY LLC'S SUR-REPLY CLAIM CONSTRUCTION BRIEF						
21	DEMARAY LLC,)	CONSTRUCTION BRIEF						
22	Defendant.)							
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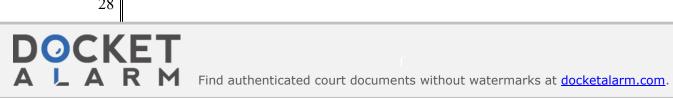


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I. INTRODUCTION

Applied's proposed "constructions" should be viewed for what they are: a thinly veiled attempt by an accused infringer to re-litigate claim construction positions that it has already lost in co-pending cases in the WDTX in the hopes of creating conflicting rulings and an avenue for appeal. Applied's arguments were previously rejected by the WDTX court because Applied's attorneys improperly sought to re-write claim terms having plain and ordinary meanings to add limitations unsupported by the intrinsic record. By way of example only, Applied now asks the Court here to adopt those rejected proposals and to issue conflicting constructions by:

- Re-writing "narrow band *rejection* filter" (which has a plain and ordinary meaning) to a "filter that *passes*...frequencies...," thereby eliminating the "rejection" requirement and adding an extraneous "passing" requirement;
- Re-writing the open "comprising" claim language that covers processing chambers
 with the claimed narrow band rejection filter and additional, unclaimed filter
 elements into a closed-ended "consisting" claim that would exclude the additional,
 unclaimed filter elements;
- Ignoring the patentee's explicit definition for "pulsed DC power" ("Applicants... explicitly defined pulsed DC power...") and importing a limitation that the term be limited to "square waves," even though the phrase "square wave" appears nowhere in the specification;
- Re-writing the claim term "insulating film" (which has a plain and ordinary meaning) to an "insulating film *comprising the oxide material*" where (i) the patent specification explicitly discloses insulating films other than oxide materials, (ii) there was no lexicography and no clear and unmistakable disavowal by the patentee of films other than oxide materials, and (iii) Applied's claim construction would exclude a dependent claim; and,
- Re-writing the claim term "insulating substrate" (which has a plain and ordinary meaning) in a manner that excludes preferred embodiments and the understandings



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