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 DEMARAY LLC

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

APPLIED MATERIALS, INC.,

Plaintiff,

vs.

DEMARAY LLC,

Defendant.

) Case No. 5:20-cv-09341-EJD

)
) **DEFENDANT DEMARAY LLC'S**
) **AMENDED ANSWER, AFFIRMATIVE**
) **DEFENSES, AND COUNTERCLAIMS TO**
) **COMPLAINT**

) **DEMAND FOR JURY TRIAL**
)

1 Defendant Demaray LLC ("Demaray"), by its undersigned counsel, hereby submits its
2 Amended Answer and Counterclaims to plaintiff Applied Materials, Inc.'s ("Applied") Complaint
3 for Declaratory Judgment. Solely for convenience, the headings from the Complaint are
4 reproduced here. To the extent not specifically admitted herein, the allegations of the Complaint
5 are denied.

6 **NATURE OF THE ACTION**

7 1. Demaray admits that Applied has filed this lawsuit purporting to seek a declaratory
8 judgment. Demaray admits that it filed lawsuits against Intel and Samsung alleging infringement of
9 U.S. Patent Nos. 7,544,276 (the "'276 Patent") and 7,381,657 (the "'657 Patent") on July 14, 2020.
10 Demaray admits that what appears to be copies of its complaints against Intel and Samsung are
11 attached as Exhibit A and B to the Complaint. This paragraph contains legal conclusions to which
12 no response is required. Demaray denies any remaining allegations in this paragraph.

13 2. Demaray admits that the '276 and '657 Patents are titled "Biased Pulse DC Reactive
14 Sputtering of Oxide films" and share a common specification. Demaray admits that the '276 Patent
15 is directed toward apparatus claims and that the '657 Patent is directed toward method claims. This
16 paragraph contains legal conclusions to which no response is required. Demaray is without
17 knowledge sufficient to admit or deny the remaining allegations in this paragraph and therefore
18 denies them.

19 3. Demaray admits that John Forster purports to have been an Applied employee who
20 submitted a declaration in *Applied Materials, Inc. v. Demaray LLC*, Case No. 5:20-cv-05676-EJD
21 ("*Applied I*"), a copy of which appears to be attached as Exhibit Q to the Complaint. Demaray
22 affirmatively states that Exhibit Q speaks for itself. This paragraph contains legal conclusions to
23 which no response is required. Demaray denies any remaining allegations in this paragraph.

24 4. Demaray admits that Dr. Ernest Demaray is a former employee of Applied Komatsu
25 Technology, Inc. ("Applied Komatsu") and has decades of experience working with or in the
26 semiconductor industry. Demaray admits that a copy of Dr. Demaray's declaration submitted in
27 *Applied I* appears to be attached as Exhibit M to the Complaint. Demaray admits that Scot Griffin
28 works as a consultant to Demaray and "has extensive knowledge about the semiconductor industry."

1 Demaray affirmatively states that Exhibits M and R speak for themselves. Demaray denies any
2 remaining allegations in this paragraph.

3 5. Demaray admits that Applied filed a purported declaratory judgment action of non-
4 infringement in *Applied I* on August 13, 2020 and that Applied moved for a preliminary injunction
5 on September 4, 2020. This paragraph contains legal conclusions to which no response is required.
6 Demaray is without knowledge sufficient to admit or deny the remaining allegations in this
7 paragraph and therefore denies them.

8 6. Demaray admits that the excerpted text appears in its opposition to Applied's motion
9 for preliminary injunction in *Applied I*. Demaray admits that in the Texas complaints it "did not
10 accuse Applied PVD reactors standing alone of infringement in the Texas cases." This paragraph
11 contains legal conclusions to which no response is required. Demaray denies any remaining
12 allegations in this paragraph.

13 7. This paragraph contains legal conclusions to which no response is required. Demaray
14 denies any remaining allegations in this paragraph.

15 8. This paragraph contains legal conclusions to which no response is required. Demaray
16 denies any remaining allegations in this paragraph.

17 9. This paragraph contains legal conclusions to which no response is required. Demaray
18 denies any remaining allegations in this paragraph.

19 10. Demaray admits that it served infringement contentions on October 9, 2020 in the
20 Texas cases, copies of which appear to be attached as Exhibits C and D to the Complaint. This
21 paragraph contains legal conclusions to which no response is required. Demaray denies any
22 remaining allegations in this paragraph.

23 11. Demaray admits that Applied submitted declarations in *Applied I* in alleged support
24 of its motion for preliminary injunction. This paragraph contains legal conclusions to which no
25 response is required. Demaray denies any remaining allegations in this paragraph.

26 12. Demaray admits that it required, and still requires, discovery from Applied or other
27 sources such as Applied suppliers to ascertain whether it will file additional compulsory
28 counterclaims of infringement and that correspondence and conferences occurred regarding the

1 same. Demaray affirmatively states that Exhibit E of the Complaint speaks for itself. Demaray
2 denies any remaining allegations in this paragraph.

3 13. Demaray admits that the excerpted text appears in the Joint Case Management
4 Statement filed in *Applied I*. Demaray is without knowledge sufficient to admit or deny the
5 remaining allegations in this paragraph and therefore denies them.

6 14. Demaray admits that it served Applied with subpoenas in the Texas actions, copies
7 of which appear to be attached as Exhibits F and G to the Complaint. Demaray denies any remaining
8 allegations in this paragraph.

9 15. Demaray admits that the excerpted text appears in correspondence to the Court in the
10 Texas action, a copy of which appears to be attached as Exhibit H to the Complaint. Demaray denies
11 any remaining allegations in this paragraph.

12 16. This paragraph contains legal conclusions to which no response is required. Demaray
13 denies any remaining allegations in this paragraph.

14 17. This paragraph contains legal conclusions to which no response is required. Demaray
15 denies any remaining allegations in this paragraph.

16 18. Demaray admits that Dr. Demaray left Applied Komatsu and participated in forming
17 Symmorphix, Inc. ("Symmorphix"), and that Symmorphix entered a Sales and Relationship
18 Agreement ("SRA") with Applied Komatsu. Demaray affirmatively states that Exhibit I speaks for
19 itself. Demaray denies any remaining allegations in this paragraph.

20 19. Demaray affirmatively states that Exhibit J speaks for itself. Demaray denies any
21 remaining allegations in this paragraph.

22 20. Demaray affirmatively states that Exhibit K speaks for itself. Demaray denies any
23 remaining allegations in this paragraph.

24 21. Denied.

25 22. Demaray admits that Mukundan Narasimhan is one of the four named inventors on
26 the '276 and '657 Patents and joined Symmorphix on April 16, 2001. Demaray denies any remaining
27 allegations in this paragraph.
28

23. Demaray admits that Applied purports to request declaratory relief as described in this paragraph.

THE PARTIES

24. Demaray admits that Applied asserts that it is a Delaware corporation with its principal place of business at 3050 Bowers Avenue, Santa Clara, CA 95054-3299. Demaray is without knowledge sufficient to admit or deny the remaining allegations in this paragraph and therefore denies them.

25. Demaray admits that Demaray is a Delaware LLC. Demaray admits that Dr. Demaray is the founder of Demaray and that Dr. Demaray is one of the named inventors on the '276 and '657 Patents. Demaray admits that the excerpted text in this paragraph appears on the hyperlinked website. Demaray admits that Dr. Demaray has over 50 years of experience working with or in the semiconductor industry.

SUBJECT MATTER JURISDICTION

26. Demaray admits that Applied purports to bring this action for a declaration under the Declaratory Judgment Act, 28 U.S.C. § 2201. Demaray denies any remaining allegations in this paragraph.

27. Demaray admits that it filed lawsuits against Intel and Samsung alleging infringement of the '276 Patent and '657 Patent on July 14, 2020. This paragraph contains legal conclusions to which no response is required. Demaray denies any remaining allegations in this paragraph.

28. Admitted.

29. Admitted.

30. Demaray admits that its complaints in the Texas cases identified the Endura product line from Applied that can be configured for deposition of TaN layers (*e.g.*, CuBS RFX PVD with the Encore II Ta(N) barrier chamber) and TiN layers (*e.g.*, Cirrus ionized PVD chamber). Demaray denies any remaining allegations in this paragraph.

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