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14 UNITED STATES DISTRICT COURT  
 15 NORTHERN DISTRICT OF CALIFORNIA  
 16 SAN JOSE DIVISION

18	APPLIED MATERIALS, INC.,	)	Case No. 5:20-cv-09341-EJD
		)	
19	Plaintiff,	)	<b>DEFENDANT DEMARAY LLC'S</b>
		)	<b>AMENDED ANSWER, AFFIRMATIVE</b>
20	vs.	)	<b>DEFENSES, AND COUNTERCLAIMS TO</b>
		)	<b>COMPLAINT</b>
21	DEMARAY LLC,	)	
		)	
22	Defendant.	)	<b>DEMAND FOR JURY TRIAL</b>
23		)	

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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.

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

3 **THE PARTIES**

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

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

13 **SUBJECT MATTER JURISDICTION**

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

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

21 28. Admitted.

22 29. Admitted.

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

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