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5 Attorneys for Plaintiff  
6 LAM RESEARCH CORP.

7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 LAM RESEARCH CORP., ) Case No. 5:15-cv-01277-BLF  
 )  
12 Plaintiff, ) LAM RESEARCH CORPORATION'S  
 ) SECOND AMENDED COMPLAINT  
13 vs. ) FOR DECLARATORY JUDGMENT  
 ) OF NON-INFRINGEMENT  
14 DANIEL L. FLAMM, ) AND UNENFORCEABILITY  
 )  
15 Defendant. ) DEMAND FOR JURY TRIAL  
 )  
16

17 Plaintiff Lam Research Corporation ("Lam"), for its Second Amended Complaint against  
18 Daniel L. Flamm ("Flamm"), to the best of its knowledge, information, and belief, and through its  
19 attorneys, alleges as follows:

20 **NATURE OF ACTION**

21 1. This is an action for declaratory judgment of non-infringement and  
22 unenforceability of U.S. Patent Nos. 5,711,849 ("the '849 patent"); 6,017,221 ("the '221 patent");  
23 and RE 40,264 ("the '264 patent").

24 **PARTIES**

25 **Lam Research Corporation**

26 2. Plaintiff Lam is a global supplier of innovative wafer fabrication equipment and  
27 services to the semiconductor industry. Lam designs, manufactures, markets, refurbishes, and  
28 services semiconductor processing tools (also referred to as "systems") that are used in the

1 fabrication of integrated circuits. A semiconductor processing tool includes many subsystems,  
2 including "reactors" or "chambers" in which semiconductor wafers are processed.

3 3. Lam's products are designed to help its customers build smaller, faster, and more  
4 power-efficient devices that are used in a variety of electronic products, including cell phones,  
5 tablets, computers, storage devices, and networking equipment. Lam continues to develop the  
6 new capabilities required by the industry by drawing on multiple areas of expertise, including  
7 engineering, research and development, manufacturing, and customer support.

8 4. Lam's products are used in several steps of the chip-making process and include  
9 products used for etching. Etching is a semiconductor fabrication process whereby material is  
10 selectively removed from the surface of the semiconductor device to create device features, such  
11 as the individual components that form an integrated circuit.

12 5. Certain Lam products at issue in this action, including Lam etch products such as  
13 the 2300 Kiyoo product family, are designed, manufactured, tested, marketed, and/or sold in this  
14 judicial district. Lam maintains documents in this judicial district relating to the Lam products at  
15 issue in this action. Lam has nearly 2,400 employees who maintain regular and established places  
16 of business in this judicial district, many of whom are involved in the research and development,  
17 design, manufacture, testing, marketing, and/or sale of the Lam products at issue in this action.

18 6. Lam is a corporation organized and existing under the laws of the State of  
19 Delaware and having its principal place of business at 4650 Cushing Parkway, Fremont, California  
20 94538.

21 7. In addition to Lam's headquarter campus in this judicial district at 4650 Cushing  
22 Parkway, Fremont, California 94538, Lam has multi-building campuses or facilities in this judicial  
23 district at the following locations:

- 24 • 1 Portola Avenue, Livermore, California 94550
- 25 • 4000 North First Street, San Jose, California 95134.

26 **Daniel L. Flamm**

27 8. Defendant Flamm is the purported inventor or co-inventor and, on information and  
28 belief, the assignee of the '849, '221, and '264 patents.

1           9.       On information and belief, Flamm graduated from the Golden Gate University  
2 School of Law in this judicial district and was admitted to the State Bar of California in December  
3 of 2005. On information and belief, Flamm is currently an active member of the State Bar of  
4 California and has practiced law in this judicial district since at least 2006.

5           10.      On information and belief, Flamm has been a registered patent attorney since 2006  
6 and a registered patent agent since 2003.

7           11.      On information and belief, Flamm is presently employed as a patent lawyer and  
8 CEO of Microtechnology Law & Analysis, a law firm in this judicial district.

9           12.      On information and belief, from 2008-2009, Flamm was employed as a senior  
10 counsel by IPxLaw Group LLP, a law firm in this judicial district. On information and belief,  
11 from 2007-2008, Flamm was employed as an associate attorney at Buchanan Ingersoll and  
12 Rooney LLC, a law firm in this judicial district during the 2007-2008 time period. On information  
13 and belief, in 2006, Flamm was employed as an associate attorney at Sughrue Mion PLLC, a law  
14 firm in this judicial district.

15           13.      On information and belief, from 1989 until 2007, Flamm was employed by  
16 Microtechnology Analysis Group. On information and belief, in connection with his employment  
17 at Microtechnology Analysis Group, Flamm provided legal consulting and expert witness services  
18 in patent cases, among other services.

19           14.      On information and belief, Flamm has been employed and/or self-employed in this  
20 judicial district since at least 1988.

21           15.      On information and belief, Defendant Flamm is an individual who resides in  
22 Walnut Creek, California.

### 23                                   **JURISDICTION AND VENUE**

24           16.      This action arises under the Patent Laws of the United States of America, 35 U.S.C.  
25 § 1 *et seq.* This Court has subject matter jurisdiction over the action under 28 U.S.C. §§ 1331 and  
26 1338, based on an actual controversy between Lam, on the one hand, and Flamm, on the other  
27 hand, for claims under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.*  
28 Lam is seeking relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.



## FACTUAL BACKGROUND

### Flamm's Accusations Against Lam's Products

1  
2  
3 28. The '849, '221, and '264 patents are expired. However, on information and belief,  
4 Flamm never sought to assert the '849, '221, and '264 patents, either through licensing or litigation,  
5 until September of 2014.

6 29. At that time, attorneys representing Flamm began sending Lam's customers  
7 unsolicited letters requesting that they take a license to the '849, '221, and '264 patents. On  
8 information and belief, Flamm has since sent such letters to the vast majority of Lam's key  
9 customers.

10 30. In these unsolicited letters, Flamm, through his attorneys, accused Lam's customers  
11 of infringing the '849, '221, and '264 patents through their use of Lam's products. Flamm  
12 explicitly and specifically accused Lam and its products by name. Indeed, Flamm, through his  
13 attorneys, even attached Lam product literature to these letters, stating that the 2300 Kiyoo product  
14 family described in the attached literature was one example of an allegedly infringing product.

15 31. As a result of these unsolicited letters, Lam has been contacted by its customers.  
16 As set forth in greater detail below, many of these customers have requested that Lam indemnify  
17 them against Flamm's patent infringement claims relating to their use of Lam's products.

18 32. In July of 2015, Flamm sent additional letters to Lam's customers, this time  
19 regarding the instant lawsuit. In those letters, Flamm again explicitly and specifically accused the  
20 use of Lam's products of infringement, stating that the instant lawsuit "would not exculpate other  
21 users of Lam's plasma etching devices from liability for using those machines in a manner that  
22 infringes Dr. Flamm's Patents . . . ."

### The '849 Patent

23  
24 33. In the unsolicited letters sent to Lam's customers, Flamm, through his attorneys, has  
25 explicitly and specifically accused Lam tools of at least **directly** infringing the '849 patent. For  
26 example, claim 10 of the '849 patent is directed towards a method of designing a reactor, or  
27 processing chamber, in a plasma etch tool. Other than a statement that "semiconductor  
28 manufacturers use a machine, or commonly called tools [sic], that was designed using the

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