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APPLIED MATERIALS, INC.

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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA

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14 APPLIED MATERIALS, INC.,

CASE NO. 5:20-cv-05676

15 Plaintiff,

**FIRST AMENDED COMPLAINT FOR
DECLARATORY JUDGMENT**

16

vs.

17 DEMARAY LLC,

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Defendant.

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FIRST AMENDED COMPLAINT FOR
DECLARATORY JUDGMENT

NATURE OF THE ACTION

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2 1. This is an action for declaratory relief arising under the patent laws of the United States.
3 Applied Materials, Inc. (“Applied”) brings the instant action because Defendant Demaray LLC
4 (“Demaray”) has filed lawsuits alleging that certain of Applied’s customers infringe United States
5 Patent Nos. 7,544,276 and 7,381,657 (the “Asserted Patents”) by using “semiconductor
6 manufacturing equipment including reactive magnetron sputtering reactors” manufactured by
7 Applied. True and correct copies of these complaints against Applied’s customers are attached as
8 Exhibits A and B. Demaray’s lawsuits against Applied’s customers have placed a cloud over
9 Applied’s products; threatened Applied’s business and relationships with its customers and
10 partners, as well as the sales of its reactors; and created a justiciable controversy between Applied
11 and Demaray.
12

13 2. Therefore, Applied requests declaratory relief as follows: (1) a declaratory judgment that
14 Applied’s products do not infringe the Asserted Patents because they do not meet each and every
15 limitation of any asserted claim; (2) declaratory judgment that Applied’s products cannot infringe
16 the Asserted Patents because the rights of named inventor, Mukundan Narasimhan (“Narasimhan”),
17 in the Asserted Patents were assigned to Applied, making Applied at least a co-owner of the
18 Asserted Patents that has not joined and will not join Demaray in alleging infringement of the
19 Asserted Patents; and (3) declaratory judgment that Applied’s products cannot infringe because
20 Applied has a license to use the Asserted Patents by reason of a license granted to at least Applied
21 Komatsu Technology (“AKT”) and Applied Komatsu Technology America, Inc. (“AKTA”)
22 (collectively “Applied Komatsu”), affiliates of Applied, by Demaray’s predecessor company,
23 Symmorphix, Inc. (“Symmorphix”) covering the Asserted Patents; or alternatively, declaratory
24 judgment that Applied’s products cannot infringe the Asserted Patents because the rights of one or
25 more of the other named inventors of the Asserted Patents were assigned to AKTA, making AKTA
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1 at least a co-owner of the Asserted Patents that has not been joined and will not join Demaray in
2 alleging infringement of the Asserted Patents.

3 **THE PARTIES**

4 3. Plaintiff Applied Materials, Inc. (“Applied”) is a corporation organized and existing under
5 the laws of the state of Delaware, with its principal place of business at 3050 Bowers Avenue, Santa
6 Clara, CA 95054-3299. Applied is a leader in materials engineering solutions that creates
7 technology and products used for semiconductor fabrication, including but not limited to reactors
8 in the Endura product line.

9 4. Defendant Demaray LLC (“Demaray”) is a limited liability company organized and existing
10 under the laws of the state of Delaware. Dr. Richard Ernest Demaray is the founder of Demaray
11 LLC. Dr. Demaray is also one of the named inventors on the Asserted Patents. Dr. Demaray
12 describes Demaray LLC as a “Silicon Valley, CA” company which “[is] about the portfolio of my
13 patents.”¹

14 **JURISDICTIONAL STATEMENT**

15 5. This action arises under the Declaratory Judgment Act, 28 U.S.C. § 2201, and under the
16 patent laws of the United States, 35 U.S.C. §§ 1–390.

17 6. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331, 1338(a),
18 and 2201(a).

19 7. This Court has personal jurisdiction over Demaray. Among other things, Demaray has
20 continuous and systematic business contacts with Northern California. Demaray’s “founder and
21 president,” Dr. Demaray, describes Demaray as a “Silicon Valley, CA” company:²

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28 ¹ <https://www.edemaray.com/bios.html>

² <https://www.edemaray.com/bios.html>; <https://www.linkedin.com/in/ernestdemarayphd/>

1 Experience:

2 **Founder and President: Demaray LLC** March 2013 – Present Silicon Valley CA

3 Intellectual Property invention and development, including licensing for thin film energy conversion and storage technologies and devices, thin
4 film optics, solar energy, photo-chemistry, solid state Li+ ion films and devices, advanced thin film coatings and devices.



6 **Founder and President**

7 Demaray LLC

8 Jan 2006 – Present · 14 yrs 7 mos

9 Silicon Valley CA

10 Intellectual Property invention and development, including licensing for thin film energy conversion
11 and storage technologies and devices, thin film optics, solar energy, photo-chemistry, solid state
12 Li+ ion films and devices, advanced thin film coatings and devices.

13 On information and belief, according to Demaray’s website, several of the Board members and
14 employees of Demaray are from and/or based in Northern California.³ Under its “Partners” sub-
15 page, Demaray’s website lists the University of California at Santa Cruz as one of its primary
16 partners, and claims that “Professor Kobayashi of UCSC is working with Demaray LLC to further
17 develop the Sun2Fiber technology with a grant from ARPA-E.”⁴ Further, on information and belief,
18 the technology underlying the Asserted Patents was allegedly developed in Northern California.

19 8. In addition, this Court has personal jurisdiction over Demaray because Demaray has
20 purposefully directed into California its enforcement activities regarding the Asserted Patents. As
21 referenced above, Demaray has filed complaints against Intel (headquartered in Northern
22 California)⁵ and Samsung (conducts substantial business operations related to the allegedly
23 infringing technology in Northern California and holds a large US office in Northern California).⁶
24 Further, Demaray’s complaints against both Samsung and Intel accuse Applied technology, and
25 Applied is also headquartered in Northern California.⁷ And, at least against Samsung, Demaray

26 ³ <https://www.edemaray.com/bios.html>

27 ⁴ <https://www.edemaray.com/partners.html>

28 ⁵ <https://www.intel.com/content/www/us/en/support/articles/000015107/programs.html>

⁶ **Error! Hyperlink reference not valid.** <https://www.samsung.com/us/ssic/location/san-jose-ca/>

⁷ <http://www.appliedmaterials.com/company/contact/locations>

1 relies on meetings occurring in Northern California to establish alleged pre-suit notice and
2 knowledge of the Asserted Patents, and alleged willful infringement.⁸

3 9. Venue is proper in this District under 28 U.S.C. §§ 1391(b), (c), because a substantial part
4 of the events giving rise to Applied's claim occurred in this district, and because Demaray is subject
5 to personal jurisdiction here.

6
7 10. On information and belief, Dr. Demaray has filed over a hundred patents over the course of
8 his career, which has been spent almost entirely in Northern California.⁹ After receiving the entirety
9 of his education at schools located in Northern California (Cal State Hayward and the University
10 of California at Santa Cruz), Dr. Demaray has spent almost 40 years working at California-based
11 companies, including Applied Komatsu, Varian Semiconductor, Symmorphix, and Demaray.¹⁰

12
13 11. On information and belief, in addition to Dr. Demaray, Ravi Mullapudi, one of the other
14 named inventors of the Asserted Patents, also resides in Northern California. On information and
15 belief, Gary Edwards, the patent prosecution attorney for the Asserted Patents, resides in Northern
16 California.¹¹ Further, on information and belief, the research and development of the Asserted
17 Patents was performed in Northern California. On information and belief, the Sales and
18 Relationship Agreement between Applied Komatsu and Symmorphix, which granted Applied
19 Komatsu a license to the Asserted Patents, as detailed *infra*, was negotiated and executed in
20 Northern California.

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22 12. An immediate, real, and justiciable controversy exists between Applied and Demaray as to
23 whether Applied and/or Applied's products are infringing or have infringed the Asserted Patents.

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⁸ See Ex. B at 24–25.

27 ⁹ <https://www.linkedin.com/in/ernestdemarayphd/>

28 ¹⁰ *Id.*

¹¹ <https://www.haynesboone.com/people/e/edwards-gary>

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