

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

DEMARAY LLC,

Plaintiff,

v.

INTEL CORPORATION

Defendant.

Case No. 6:20-CV-00634-ADA

**JURY TRIAL DEMANDED**

DEMARAY LLC,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD,  
SAMSUNG ELECTRONICS AMERICA, INC.,  
SAMSUNG SEMICONDUCTOR, INC., and  
SAMSUNG AUSTIN SEMICONDUCTOR, LLC

Defendants.

Case No. 6:20-CV-00636-ADA

**JURY TRIAL DEMANDED**

**DEFENDANTS' REPLY CLAIM CONSTRUCTION BRIEF REGARDING  
ADDITIONAL TERMS FOR CLAIM 2 OF U.S. PATENT NO. 7,381,657**

I. “A METHOD OF DEPOSITING AN INSULATING FILM ON A SUBSTRATE, COMPRISING:” (’657 PATENT, CL. 2 PREAMBLE) ..... 1

II. “WHEREIN AN OXIDE MATERIAL...” (’657 PATENT, CL. 2) ..... 1

\*All emphasis added unless otherwise stated.

\*Docket citations are to Case No. 6:20-cv-00634

Claim 2 of the ’657 patent is reproduced below. The disputed terms are highlighted.

**2. A method of depositing an insulating film on a substrate, comprising:**

providing a process gas between a target and a substrate;  
providing pulsed DC power to the target through a narrow band rejection filter such that the voltage on the target alternates between positive and negative voltages;  
providing an RF bias that corresponds to the narrow band rejection filter to the substrate; and  
providing a magnetic field to the target;  
wherein an oxide material is deposited on the substrate, and the insulating film is formed by reactive sputtering in a mode between a metallic mode and a poison mode.

## I. “A method of depositing an insulating film on a substrate, comprising:”

Demaray has no response to the parallel between claim 2’s preamble and *Bio-Rad*’s preamble (Dkt. 134 at 1-2), where the Federal Circuit rejected the same arguments Demaray makes here. *Bio-Rad Labs., Inc. v. 10X Genomics Inc.*, 967 F.3d 1353, 1371-72 (Fed. Cir. 2020). Just as the *Bio-Rad* court determined the action verb phrase “conducting . . . in” could not be divorced from the object of that action, claim 2’s full preamble requires the same result: the action verb “depositing” cannot be excised from the object, an “insulating film.”

| <i>Bio-Rad</i> Preamble*  | '657 Patent Claim 2 Preamble*  |
|---|--|
| A method of <b>conducting</b> <i>a reaction</i> in plugs <b>in</b> <i>a microfluidic system</i> | A method of <b>depositing</b> <i>an insulating film on a substrate</i> |

\* *Agreed constructions italicized* and **disputed action verbs held to be limiting bolded**.

Demaray’s suggestion that the Court’s construction of claim 1’s preamble is determinative of claim 2’s preamble is incorrect as it ignores relevant differences in claim language. In claim 1, the Court found “film” not to be limiting, and “depositing” appears only in the preamble, not in the remainder of the claim. By contrast, “insulating film” in claim 2 *is* limiting (as Demaray concedes) and “depositing” in the preamble links the “insulating film” to the “oxide material” (“wherein an oxide material is *deposited* on the substrate”).

## II. “wherein an oxide material...”

| Plaintiff’s Proposal       | Defendants’ Proposal   |
|----------------------------|--|
| Plain and ordinary meaning | “wherein an oxide material is deposited on the substrate, and the insulating film <b>comprising the oxide material</b> is formed by reactive sputtering in a mode between a metallic mode and a poison mode” |

The claim recites “*wherein* an oxide material is deposited,” and Demaray does not dispute that “whereby” and “wherein” clauses “state the result of the patented process.” *See* Dkt. 128 at 1, 3 (*citing Hoffer and Allergan*). Demaray’s improper attempt to disembodify “insulating film” from the full “wherein” clause sought to be construed should be rejected. The intrinsic evidence shows that the plain meaning of the full “wherein” clause, not just isolated snippets, confirms the recited relationship between the “oxide material” and the “insulating film” that results from the claimed process. Moreover, Demaray does not dispute the patentee’s lexicography of “a mode between a metallic mode and a poison mode” as requiring deposition of “oxide material.” Dkt.

128-3 at 10:46-48, 11:28-35, 12:5-9; Dkt. 128-4 at 23-25. This alone establishes that the “insulating film” must comprise the “oxide material.”

Demaray’s construction ignores the lexicographical and “present invention” statements, relying instead on a single sentence (Dkt. 134 at 3 (citing Dkt. 128-3, 7:62-65)) in an attempt to override the specification’s repeated and consistent characterization of the alleged invention—and even the *title* of the patent as “Biased Pulsed DC Sputtering *of Oxide Films*.” See Dkt. 128 at 4-5. Such a construction is clear legal error. See *GPNE Corp. v. Apple Inc.*, 830 F.3d 1365, 1371 (Fed. Cir. 2016). Further, that sentence describes a wafer coated with an insulator by CVD, which *is* the claimed “substrate” under the Court’s construction of the term, not “oxide material” deposited *on* said substrate. Dkt. 106 at 2. Indeed, Demaray itself previously argued that the sentence describes an example of “substrates that include layers of insulating materials that have been deposited on top of other materials . . . *that are also part of the ‘substrate.’*” Dkt. 46 at 6; see also Dkt. 46 at 2, 4; Dkt. 66 at 2-3; Ex. G at 10.

That the specification and dependent claims (e.g. claim 4) show that additional material *can* be deposited is inapposite where the claim explicitly recites depositing “*oxide* material.” The patent’s definitional “present invention” statements and disparagement of prior art methods for depositing oxides (such as CVD mentioned above) make clear that the “oxide material” is deposited as a result of the recited “providing” steps, and are not just mere exemplary embodiments as Demaray suggests. Dkt. 128 at 3-5; Dkt. 128-3 at 2:17-19, 2:39-41 (disparaging prior art CVD processes). Defendants’ construction is consistent with this evidence, while encompassing embodiments where additional material is deposited to form the “insulating film” alongside the “oxide material” (“*comprising* the oxide material”).

Demaray’s reliance on the file history is misguided. Original claim 86 *supports* Defendants’ construction. Claim 2 (original claim 85) recites the method of using the claim 86 apparatus. Dkt. 128-4 at 8-9. And that original claim 85 recited depositing an “oxide film” only makes clear the patentee’s intent in amending “material” to “oxide material”—to clarify that the “insulating film” comprises “oxide material,” not to broaden the claim. *Id.* at 41; Dkt. 128 at 5.

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