

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

DEMARAY LLC,

Plaintiff,

v.

**SAMSUNG ELECTRONICS CO., LTD
(A KOREAN COMPANY), SAMSUNG
ELECTRONICS AMERICA, INC.,
SAMSUNG SEMICONDUCTOR, INC.,
and SAMSUNG AUSTIN
SEMICONDUCTOR, LCC**

Defendants.

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

JURY TRIAL DEMANDED

PUBLIC VERSION

**DEMARAY LLC'S BRIEF IN SUPPORT OF ITS MOTION TO
AMEND FINAL INFRINGEMENT CONTENTIONS**

I. INTRODUCTION

Critical, recently-produced information from Samsung's and Intel's [REDACTED] [REDACTED] [REDACTED] has revealed that Defendants failed to disclose to Demaray and this Court the full scope of their infringing activities. In the last few weeks, [REDACTED] produced documents confirming that its [REDACTED] [REDACTED] [REDACTED] Defendants also recently confirmed that they use all of these chambers. Demaray respectfully moves for leave to add these products to its Final Infringement Contentions.

Throughout discovery, Demaray has diligently sought to discover the full complement of reactors that Intel and Samsung use in manufacturing various semiconductor products that are configured in accordance with Demaray's '276 and '657 patents. To that end, on June 15, 2021, Demaray served interrogatories asking Defendants to [REDACTED] [REDACTED] [REDACTED] Exs. A-B (Defs. Resp. to Interrogatory 1). Notwithstanding Defendants' agreement to identify such chambers, numerous conferences, motions to compel and [REDACTED] [REDACTED] (9/27/2021 Tr. 42:19-23), Defendants failed to provide full disclosures, instead limiting or withholding pertinent information at every turn in an apparent attempt to bypass this Court (and its transfer ruling that Demaray's claims be heard here) and instead have certain of their chambers addressed in the co-pending Northern District of California case filed by [REDACTED] ("ND Cal case"). Based on the disclosures at the time of its Final Infringement Contentions (FICs), Demaray focused on the [REDACTED] [REDACTED] chambers, and Demaray expressly reserved the right to add additional infringing chambers, if later discovered.

As a result of Demaray's continuing investigation, on September 30 and October 4, 2022, Demaray received [REDACTED] [REDACTED] confirming that *additional* Intel/Samsung chambers use Demaray's patented chamber configuration. In particular, [REDACTED] produced evidence showing that its [REDACTED] [REDACTED] contain the [REDACTED] [REDACTED]

██████████—and ██████████ Samsung have confirmed, for the first time, on November 3 and November 8, 2022, usage of ██████████ chambers ██████████. ██████████ recent production also confirmed that Defendants' ██████████ chambers utilize a similar infringing combination.

In light of these changed circumstances and other recent developments, Demaray has more than good cause to serve supplemental final infringement contentions that identify the additional infringing ██████████ and ██████████ chambers. Demaray did not delay this important amendment, serving contentions in the ND Cal case and requesting leave here shortly after obtaining both the previously unproduced evidence and confirmation that Defendants use these chambers. Defendants also will not be prejudiced in their ability to respond to Demaray's allegations and should not be rewarded for withholding this information for so long. As evident from the contentions Demaray has already served in the ND Cal Case, Demaray's infringement allegations against the ██████████ chambers track those already in play for the ██████████ chambers. As such, Defendants already are on notice of these contentions given that ██████████ and Defendants share the same counsel. Allowing amendment also avoids a separate lawsuit on these chambers, which is efficient for both the parties and the Court.

II. BACKGROUND

A. The Demaray Patents

The Demaray patents cover novel configurations for PVD chambers involving: (1) pulsed DC; (2) RF bias "to the substrate;" and (3) a NBRF, *e.g.*, to protect the DC power from harmful RF feedback. For the RF bias element, the patent claims require "*RF bias...to the substrate*" (Ex. C, '657, cl. 1) or an "*RF bias power supply coupled to provide an RF bias to the substrate*" (Ex. D, '276, cl. 6). There is no claim limitation requiring only a direct connection of the RF generator to the substrate. The patent specification instead specifically contemplates that the substrate could be biased because of capacitive coupling of the RF to the substrate through the plasma. *Id.*, 5:26-27.

The coupling identified in the patent specification is at issue in this case, where an RF

generator connected to a target induces an RF bias on the substrate through capacitive coupling.

[REDACTED]

B. Defendants' Deficient Disclosures

Early in discovery, the parties agreed [REDACTED] [REDACTED] See 1/26/2021 Tr. at 21:15-18. When general discovery opened in June 2021, Demaray immediately asked Defendants to identify [REDACTED] [REDACTED] Exs. A-B (Resp. to Interrogatory 1). By September 27, 2021, Defendants claimed they had provided a complete list of such reactors: [REDACTED] [REDACTED] 9/27/2021 Tr. 9:17-20. To resolve any ambiguity, the Court ordered Defendants to [REDACTED] [REDACTED] *Id.* at 42:19-23. These agreed-upon and Court-ordered disclosure obligations have not changed. See, e.g., 4/1/22 Tr. 3:24-4:3 [REDACTED] [REDACTED]

It is now apparent that Defendants did not disclose all reactor chambers with [REDACTED] [REDACTED] Based on the recently-produced [REDACTED], it is evident that the [REDACTED] chambers include [REDACTED] [REDACTED] Exs. H-I [REDACTED] [REDACTED] Samsung did *not* identify its use of [REDACTED] chambers in its

responses to Demaray's discovery requests. Ex. B (Resp. Rog. 1). And it only confirmed the use of [REDACTED] chambers last week. Ex. J 11/8/2022.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

C. Demaray's Infringement Contentions

Demaray served its Supplemental Final Infringement Contentions on July 13, 2022. Because [REDACTED] third-party [REDACTED] [REDACTED] for the [REDACTED] chambers had [REDACTED] [REDACTED], the focus of Demaray's FICs was on those chambers. Demaray's contentions detailed that the chambers included [REDACTED]

[REDACTED]

[REDACTED] See [REDACTED]

[REDACTED] Samsung FICs ('276) at L (same).

In the Third Revised Scheduling Order entered May 6, 2022 setting the applicable deadline, and in its FICs, Demaray expressly reserved the right to amend should previously undisclosed information be obtained. *See, e.g.*, D.I. 169, n. 1 ("Plaintiff Demaray expressly reserves the right to amend its Final Infringement Contentions after July 13, 2022, to address new information obtained from Defendants or their suppliers regarding the presence of any protective filters or alternative protective mechanisms...."). Demaray included this reservation because of Defendants' continuing efforts to obfuscate the full scope of their use of reactors.

D. [REDACTED] Confirms Other Chambers With Infringing Configurations

While Demaray has been seeking complete discovery and trying to remedy long-running deficiencies, Demaray recently received directly from [REDACTED] information that exposed Defendants' failure to abide by their disclosure agreements and the Court's orders. On September 30 and October 4, 2022, after the deadline for FICs in this case, [REDACTED] provided technical details

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