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

DEMARAY LLC,

Plaintiff,

v.

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

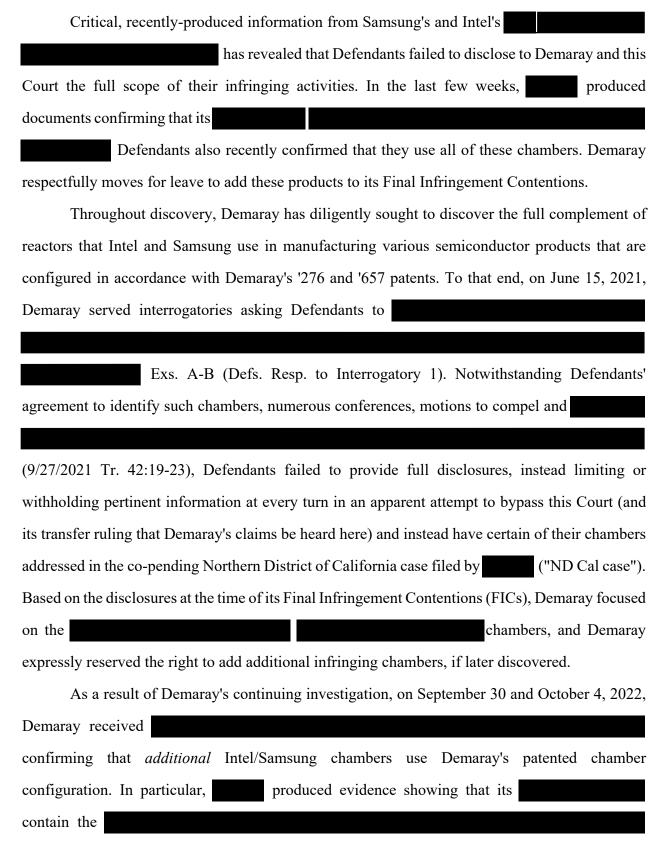
Defendants.

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. <u>INTRODUCTION</u>





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

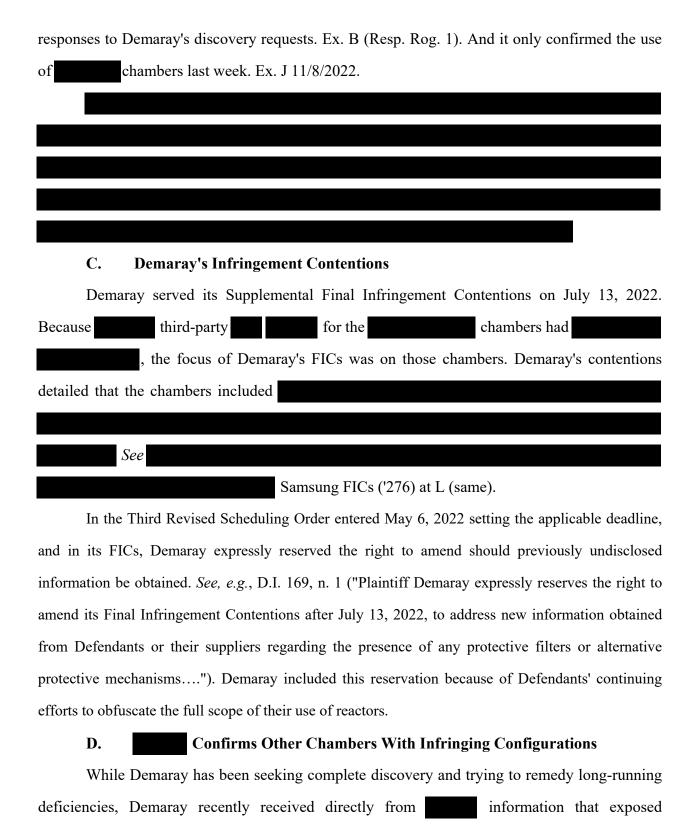
The Demaray patents cover novel configurations for PVD chambers involving: (1) pulsed DC; (2) RF bias "to the substrate;" and (3) a NBRF, *e.g.*, to protect the DC power from harmful RF feedback. For the RF bias element, the patent claims require "*RF bias...to the substrate*" (Ex. C, '657, cl. 1) or 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. |
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| B. Defendants' Deficient Disclosures |
| Early in discovery, the parties agreed |
| See 1/26/2021 Tr. at |
| 21:15-18. When general discovery opened in June 2021, Demaray immediately asked Defendants |
| to identify |
| Exs. A-B (Resp. to Interrogatory 1). By September 27, 2021, Defendants |
| claimed they had provided a complete list of such reactors: |
| claimed they had provided a complete list of such reactors. |
| 9/27/2021 Tr. 9:17-20. To resolve any ambiguity, |
| the Court ordered Defendants to |
| |
| 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 |
| |
| |
| It is now apparent that Defendants did not disclose all reactor chambers with |
| Based on the recently-produced |
| , it is evident that the chambers include |
| Exs. H-I |
| Samsung did <i>not</i> identify its use of chambers in its |







provided technical details

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,

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