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

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** [redacted] PUBLIC VERSION

SAMSUNG'S [redacted] RESPONSE IN OPPOSITION TO
DEMARAY'S MOTION TO AMEND FINAL INFRINGEMENT CONTENTIONS

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I. INTRODUCTION

Demaray seeks to accuse two additional products under a brand-new infringement theory that directly contradicts Demaray's prior positions taken before this Court and the Patent Office. Demaray's motion should be denied for at least four independent reasons.

First, Demaray cannot show good cause to amend. Demaray has known about these products, as well as their use by Samsung, for ***years***, yet Demaray knowingly declined to advance its new infringement theory against those products in any of its prior ***nine*** sets of contentions. Samsung disclosed its use of the [redacted] long ago—going back to Samsung's document production in this case from December ***2020***. The question of whether [redacted] should be in this case has already been decided: the Court recently denied Demaray's motion to compel discovery on [redacted] finding no good cause for injecting it into the case now. *See* Ex. 1 (Sept. 14, 2022 Hr'g Tr.) at 17:14-16; Dkt. 224.[1] The [redacted] should be treated in the exact same way—indeed, Demaray has specifically relied (since August 2021) on a document showing the specific structure and operation of Samsung's implementations of [redacted] (in the Samsung-produced [redacted] manual) in its infringement contentions, albeit for a purpose unrelated to [redacted] confirming (1) Demaray's knowledge of precisely how [redacted] work, and (2) its decision not to accuse [redacted] until now. The Court long ago put Demaray on notice that it may not hide the ball on its contentions where, as here, Samsung provided Demaray will all relevant information about its products. Ex. 2 (Jan. 26, 2021 Hr'g Tr.) at 73:15-74:14 ("[I]f the defendants are able to show that they were prejudiced by not getting adequate infringement contentions at this time, despite the fact that they -- the defendants had

[1] All citations to "Ex. 1-14" herein refer to the exhibits to the Declaration of Kat Li in Support of Samsung's Sealed Opposition to Demaray's Motion to Amend Its Infringement Contentions, filed contemporaneously herewith.

produced sufficient information, I will take into consideration striking any of those claims for which there are not sufficient infringement contentions."). Having chosen not to assert its new infringement theory over the past 2.5 years, it is far too late for Demaray to inject this theory into the case now.

Second, Demaray is already litigating infringement of the exact same products in an infringement case against [redacted]—the manufacturer of these products. There is simply no reason to prejudicially disrupt these proceedings to duplicate those parallel proceedings against Samsung's ***supplier*** in the present ***customer*** suit. The relief sought by Demaray's motion will only burden the Court unnecessarily, and unduly prejudice Samsung.

Third, Demaray should be estopped from pursuing its new infringement theory. Demaray explicitly circumscribed the scope of the patents and of discovery (before this Court and at the PTAB) to ***exclude*** products with the very ***same*** configuration Demaray now seeks to accuse. This Court, the PTAB, and the parties have all relied on Demaray's prior representations about the scope of the technology at issue, and Demaray should be held to its prior position.

Finally, Samsung would be significantly prejudiced by Demaray's new theory of infringement. Samsung has already litigated invalidity before the PTAB based upon Demaray's prior representations concerning the scope of its patents. Now that those proceedings are concluded, Samsung would be deprived of the full opportunity to litigate the invalidity of Demaray's patents under the same claim scope that Demaray needs to maintain in order to pursue its new infringement theory.

II. BACKGROUND

This case involves two patents relating to physical vapor deposition ("PVD") chambers used to manufacture microprocessors and chipsets. All presently accused chambers are manufactured by non-party [redacted], and Samsung is the end user of those third-party

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