

**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, LLC,**

Defendants.

**Case No. 6:20-cv-00636-ADA**

**JURY TRIAL DEMANDED**

**DECLARATION OF C. MACLAIN WELLS IN SUPPORT OF PLAINTIFF DEMARAY  
LLC'S OPPOSITION TO SAMSUNG'S MOTION TO TRANSFER VENUE**

**DECLARATION OF C. MACLAIN WELLS**

I, C. Maclain Wells, declare as follows:

1. I am counsel at the law firm of Irell & Manella LLP, counsel for Plaintiff Demaray LLC (“Demaray”). I am a member in good standing of the State Bar of California and have been duly licensed to practice law before all of the courts of the State of California, and have been admitted to practice *pro hac vice* before this Court. I submit this declaration in support of Demaray’s Opposition to Samsung’s Motion to Transfer Venue. I have personal knowledge of the matters set forth in this declaration and, if called as a witness, could testify to its contents.
2. Attached as **Exhibit 1** is a true and correct copy of the first amended complaint filed as Dkt. 13 in *Applied Materials, Inc. v. Demaray LLC*, No. 5:20-cv-05676-EJD, in the United States District Court for the Northern District of California, San Jose Division.
3. Attached as **Exhibit 2** is a true and correct copy of the order denying Applied Materials, Inc.’s (“Applied”) motion for preliminary injunction filed as Dkt. 47 in *Applied Materials, Inc. v. Demaray LLC*, No. 5:20-cv-05676-EJD.
4. Attached as **Exhibit 3** is a true and correct copy of Applied Materials, Inc.’s notice of voluntary dismissal filed as Dkt. 61 in *Applied Materials, Inc. v. Demaray LLC*, No. 5:20-cv-05676-EJD.
5. Attached as **Exhibit 4** is a true and correct copy of the complaint filed as Dkt. 1 in *Applied Materials, Inc. v. Demaray LLC*, No. 5:20-cv-09341-EJD, in the United States District Court for the Northern District of California, San Jose Division.
6. Attached as **Exhibit 5** is a true and correct copy of Demaray’s motion to dismiss filed as Dkt. 30 in *Applied Materials, Inc. v. Demaray LLC*, No. 5:20-cv-09341-EJD.
7. Attached as **Exhibit 6** is a true and correct copy of the case management conference transcript dated January 21, 2021, in *Applied Materials, Inc. v. Demaray LLC*, No.

5:20-cv-09341-EJD.

8. Attached as **Exhibit 7** is a true and correct copy of the discovery hearing transcript dated October 20 & 21, 2020, in Case Nos. 6:20-cv-00634 & 6:20-cv-00636, before this Court.

9. Attached as **Exhibit 8 [UNDER SEAL]** is a true and correct copy of excerpts from the 30(b)(6) deposition of Do-Hyung Kim taken on December 4, 2020, which Samsung designated as CONFIDENTIAL - OUTSIDE ATTORNEYS' EYES ONLY.

10. Attached as **Exhibit 9 [UNDER SEAL]** is a true and correct copy of excerpts from the 30(b)(6) deposition of Keith Miller taken on February 9, 2021, which Applied designated as HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY.

11. Attached as **Exhibit 10 [UNDER SEAL]** is a true and correct copy of Samsung's supplemental response to Demaray's transfer-related interrogatories, dated January 18, 2021, which Samsung designated as CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY.

12. Attached as **Exhibit 11** is a true and correct copy of a LegalMetric District Report for the California Northern District Court in Patent Cases from January 2016 through June 2020.

13. Attached as **Exhibit 12** are photographs of products offered for sale at a Best Buy store in Waco, Texas taken on November 9, 2020.

14. Attached as **Exhibit 13** is a true and correct printout of <https://www.samsung.com/semiconductor/about-us/location/manufacturing-centers/>.

15. Attached as **Exhibit 14** is a true and correct printout of <https://www.samsung.com/us/sas/Company/History>.

16. Attached as **Exhibit 15** is a true and correct printout of <https://www.anandtech.com/show/16483/samsung-in-the-usa-a-17-billion-usd-fab-by-late-2023>.

17. Attached as **Exhibit 16** is an exhibit left intentionally blank to maintain consistency with exhibit numbering in the Intel case.
18. Attached as **Exhibit 17** is a true and correct printout of <https://www.bizjournals.com/austin/news/2021/01/22/applied-materials-expanding-with-huge-warehouse.html>.
19. A member of the Demaray legal team under my direction performed a search on ULVAC Technologies, Inc. ULVAC is headquartered in Massachusetts. <https://www.ulvac.com/support/index.cfm>.
20. A member of the Demaray legal team under my direction performed a search on the USPTO's patent full text and image database at <http://patft.uspto.gov/netahtml/PTO/search-adv.htm>. A search for patents relating to PVD technology assigned to Samsung or Applied and mentioning Austin yielded 129 patents. Attached as **Exhibit 18** is a true and correct copy of those search results. Attached as **Exhibits 19-20** are true and correct copies of example patents from those search results.
21. A member of the Demaray legal team under my direction performed a search in which Intel, Samsung, or Applied have been plaintiffs in district court litigation in the United States District Court for the Western District of Texas. Attached as **Exhibit 21** is a true and correct copy of an example complaint from those search results.
22. A member of the Demaray legal team under my direction performed a search on Google Maps. Applied's Austin facility is approximately 89 miles from the district court in Waco, measured "as the crow flies" using Google Maps's measurement feature. Car directions from Applied's Austin facility to the district court in Waco are approximately 99 miles.

Executed on February 23, 2021 in Sebastopol, California. I declare under penalty of perjury that the foregoing is true and correct.

By: /s/ C. Maclain Wells  
C. Maclain Wells  
Attorneys for Plaintiff DEMARAY LLC