

EXHIBIT 4

1 YAR R. CHAIKOVSKY (SB# 175421)
yarchaikovsky@paulhastings.com
2 PHILIP OU (SB# 259896)
philipou@paulhastings.com
3 JOSEPH J. RUMPLER, II (SB# 296941)
josephrumpler@paulhastings.com
4 BERKELEY FIFE (SB# 325293)
berkeleyfife@paulhastings.com
5 BORIS LUBARSKY (SB# 324896)
borislubarsky@paulhastings.com
6 PAUL HASTINGS LLP
1117 S. California Avenue
7 Palo Alto, California 94304-1106
Telephone: 1(650) 320-1800
8 Facsimile: 1(650) 320-1900

9 Attorneys for Plaintiff
APPLIED MATERIALS, INC.

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

14 APPLIED MATERIALS, INC.,
15 Plaintiff,
16 vs.
17 DEMARAY LLC,
18 Defendant.

CASE NO. 5:20-cv-9341

**COMPLAINT FOR DECLARATORY
JUDGMENT**

19
20
21
22
23
24
25
26
27
28

NATURE OF THE ACTION

1
2 1. This is an action for declaratory relief arising under the patent laws of the United States.
3 Applied Materials, Inc. (“Applied”) brings the instant action because there is a substantial
4 controversy between Applied and Defendant Demaray LLC (“Demaray”), two parties having
5 adverse legal interests, of sufficient immediacy and reality to require a judicial declaration of the
6 parties’ legal rights. On July 14, 2020, Demaray filed lawsuits alleging that certain of Applied’s
7 customers, Intel and Samsung, infringe United States Patent Nos. 7,544,276 (the ’276 patent) and
8 7,381,657 (the ’657 patent) (collectively, the “Asserted Patents”) by using “semiconductor
9 manufacturing equipment including reactive magnetron sputtering reactors” manufactured by
10 Applied. (“Customer Suits”). True and correct copies of these complaints are attached as Exhibits
11 A and B (“Customer Complaints”).
12

13 2. The Asserted Patents are both entitled “Biased Pulse DC Reactive Sputtering of Oxide
14 Films” and share a common specification. The ’276 patent discloses only apparatus claims directed
15 to a reactor having certain hardware components (herein also, “the ’276 reactor patent”), and Intel
16 and Samsung’s alleged infringement is based on their use of Applied’s reactors to produce
17 semiconductor products. On information and belief, neither Samsung nor Intel makes, sells or
18 offers to sell reactors; the alleged infringement of the ’276 reactor patent by Samsung or Intel is
19 based on their *use* of the accused reactor supplied by the manufacturer, Applied. The ’657 patent
20 (herein also, “the ’657 process patent”) discloses method claims for depositing films, where again,
21 Intel and Samsung’s alleged *use* of the reactors supplied by Applied, allegedly infringes the claimed
22 methods. The Applied reactors identified and accused in the Customer Complaints are used for the
23 same applications by Applied in its own laboratories in the Northern District of California for
24 research and development and customer demonstrations.
25
26
27
28

1 3. Thus, contrary to the arguments Demaray has made to this Court, this is “a case where one
2 entity [Applied] makes an [allegedly] infringing product [Applied’s accused reactors], and its
3 customers [Intel and Samsung] are then sued for nothing more than purchasing and using it [as a
4 practical matter based on the commercial realities] in the only way possible.” *Applied Materials,*
5 *Inc. v. Demaray LLC*, Case No. 5:20-cv-5676-EJD (“DJ Action”), Dkt. No. 25, p. 6:5-9. As John
6 Forster, Applied’s Senior Director, Process Engineer for Metal Deposition Products, who has
7 worked at Applied since October 1993, explained in his declaration submitted to the Court in
8 opposing Demaray’s motion to dismiss for lack of subject matter jurisdiction in the DJ Action:

9
10 Customers like Intel and Samsung typically provide Applied with a set of
11 specifications for a type of film they would like to deposit, and based on those
12 specifications, Applied manufactures and configures the RMS reactors to deposit
13 films according to the customers’ specifications. Post-installation modifications,
14 such as modifying the power supply or adding an additional component, such as a
15 filter, to the system as installed by Applied, could, for example, cause the RMS
16 reactor to no longer meet the customers’ required specifications or impact the
17 warranty of the reactor.

18 DJ Action, Dkt. No. 42-1, ¶ 6 (also attached hereto as Exhibit Q)

19 4. On information and belief, Demaray is well aware of these commercial realities and the
20 relationships between an equipment supplier like Applied and its customers, like Samsung and
21 Intel, who use Applied’s customized equipment for material deposition processes to manufacture
22 its products. Demaray’s principal, Dr. Ernest Demaray, is a former employee of Applied Komatsu,
23 a joint venture of Applied in the 1990s, and claims to have over fifty years of experience working
24 with or in the semiconductor industry. DJ Action, Dkt. No. 23-1, ¶¶ 2, 4. A true and correct copy
25 of Dr. Demaray’s declaration is also attached as Exhibit M. On information and belief, Demaray
26 also has extensive knowledge regarding the semiconductor industry through its purported
27 consultant attorney hired to manage the Customer Suits, Scot Griffin. On information and belief,
28 Mr. Griffin has extensive knowledge about the semiconductor industry, having worked for over a
decade in-house at Intel, Spansion, Inc. (another semiconductor manufacturer) and Tessera, Inc. (a

1 company that purported to be a global leader in the development of semiconductor packaging
2 technology). A true and correct copy of Mr. Griffin’s LinkedIn profile is attached as Exhibit R.

3 5. In considering the Customers Suits’ allegations with the commercial realities of Applied’s
4 relationships with its customers—including that Applied designs, manufactures and installs its
5 reactors at its customers’ fabrication facilities, and thereafter provides maintenance and support for
6 those reactors—Demaray’s affirmative act of filing the Customer Suits, which implicitly accused
7 Applied and Applied’s reactors of infringement, created a reasonable potential that infringement
8 claims could be brought against Applied based on the same allegations. As a result of Applied’s
9 reasonable apprehension of suit, on August 13, 2020, Applied filed a declaratory judgment action
10 of non-infringement of the Asserted Patents. *Applied Materials, Inc. v. Demaray LLC*, Case No.
11 5:20-cv-5676-EJD, Dkt. No. 1. On September 4, 2020, Applied moved for a preliminary injunction
12 to enjoin Demaray from proceeding with its Customer Suits during the pendency of the DJ Action.
13 *Id.*, Dkt. No. 13.

14 6. Demaray opposed by arguing that the Court did not have subject matter jurisdiction over
15 the DJ Action by representing that its allegations in the Customer Suits were directed at “particular
16 configurations” made by Intel and Samsung to Applied’s reactors such that “Demaray [did not]
17 accuse **Applied PVD reactors standing alone** of infringement in the Texas cases—Demaray
18 accused particular reactor configurations, and methods of depositing thin films using them, of
19 infringement in the Texas cases...”. DJ Action, Dkt. No. 23, p. 5:26-6:9 (emphasis added). But
20 nowhere in the Customer Complaints did Demaray allege that its accusations of infringement did
21 not accuse “Applied PVD reactors standing alone”. Nor did Demaray provide any evidence, let
22 alone allege in the Customer Complaints, that Intel and Samsung’s alleged infringement was based
23 on post-installation modifications to the hardware of the PVD reactors after the reactors were
24 manufactured, configured, and installed by Applied. On information and belief, Demaray’s subject
25
26
27
28

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.