

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

DEMARAY LLC,

Plaintiff,

v.

INTEL CORPORATION,

Defendant.

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

JURY TRIAL DEMANDED

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

**PLAINTIFF DEMARAY LLC'S
REPLY CLAIM CONSTRUCTION BRIEF**

TABLE OF CONTENTS

	<u>Page</u>
I. “Substrate” (’657 Patent, cls. 1, 2, 7, 11; ’276 Patent, cls. 1, 2, 6, 10)	1
II. “Pulsed DC power” (’657 Patent, cls. 1, 2, 11; ’276 Patent, cls. 1, 6).....	3
A. Defendants Seek To Add Limitations Requiring Constant Pulsing.....	3
B. Defendants’ Attempt To Import Preset Parameters Should Be Rejected	5
III. “Narrow band rejection filter” (’657 Patent, cls. 1, 2, 20; ’276 Patent, cls. 1, 6).....	7
IV. “Reconditioning the target” (’657 Patent, cl. 1)	9
V. “Substantially constant” (’276 Patent, cl. 10).....	10

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Elbex Video, Ltd. v. Sensormatic Elecs. Corp.</i> , 508 F.3d 1366 (Fed. Cir. 2007).....	8
<i>GPNE Corp. v. Apple Inc.</i> , 830 F.3d 1365 (Fed. Cir. 2016).....	10
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005).....	6
<i>ScriptPro LLC v. Innovation Assocs., Inc.</i> , 833 F.3d 1336 (Fed. Cir. 2016).....	6

* Unless otherwise noted, internal citations and subsequent history are omitted, and emphasis is added.

The “Demaray Patents” are U.S. Patent Nos. 7,381,657 and 7,544,276 (“657 patent” and “276 patent,” respectively) (Exs. 1-2). All exhibits are attached to the previously filed Declaration of C. Maclain Wells (“Wells”). Also referenced is the previously filed Declaration of Dr. Alexander Glew (“Glew”).

Defendants eschew established claim construction principles and, rather than engage with the claim language itself, seek to import limitations into the claims based upon extrinsic evidence. To the limited extent defendants cite the intrinsic record at all, they fail to identify any clear, unambiguous statements giving rise to lexicography or disclaimers. For these reasons, the Court should give the claim terms at issue the full scope of their plain and ordinary meaning.

I. “Substrate” (’657 Patent, cls. 1, 2, 7, 11; ’276 Patent, cls. 1, 2, 6, 10)

Defendants admit “there appears to be no disagreement on what constitutes a ‘substrate’ in practice.” Resp. 5. The term has a plain and ordinary meaning in the context of the patents and no construction is needed. Defendants do not even attempt to dispute Demaray’s evidence that the patents embrace all substrates, including those comprising insulating layers (*see* Br. 6; Ex. 1, 2:61–62 (“substrate can be any material and, in some embodiments, is a silicon wafer.”)), nor do defendants present *any* contrary intrinsic evidence. Defendants’ proposed construction is instead patched together from cherry-picked, then edited, and then augmented, extrinsic definitions.

Rather than address the term in the full context of the claims, defendants only address an “insulating substrate” in the preamble to claim 1 of the ’657 patent. Resp. 3 n.2. But defendants fail to overcome the presumption that preambles are not limiting. Defendants do not disagree with Demaray’s point that the body of claim 1 recites all the material steps of the invention independent of the term “insulating substrate.” *See, e.g.*, Ex. 1, cl. 1. Defendants’ argument that the preamble was relied upon to distinguish the claims during prosecution is incorrect. The amendment to which defendants point included “narrow band rejection filter” and “RF bias” limitations that the file history makes clear were the basis for allowance. Ex. 4 at -2514–15. The applicants argued that “claim 62 is allowable” because the prior art combination “does not teach or suggest the

combination of ‘providing pulsed DC power to the target through a narrow band rejection filter such that the target alternates between positive and negative voltages’ and ‘providing an RF bias at a frequency that corresponds to the narrow band rejection filter to the substrate.’” *Id.* at -2518–20.

Claim 62 (Currently amended): A method of depositing a film on [[a]] an insulating substrate, comprising:
 providing a process gas between a conductive target and [[a]] the substrate;
 providing pulsed DC power to the target through a narrow band rejection filter such that the target alternates between positive and negative voltages;
 providing an RF bias at a frequency that corresponds to the narrow band rejection filter to the substrate;
 providing a magnetic field to the target; and
 reconditioning the target;
 wherein reconditioning the target includes reactive sputtering in the metallic mode and then reactive sputtering in the poison mode.

Nowhere in that exchange (for claim 62 or 85, which are now independent claims 1 and 2) did the applicants rely on the term “insulating substrate” to distinguish the prior art.

In addition, recognizing that even in the context of the preamble their proposed construction is fatally flawed, defendants now propose *new, previously undisclosed* additional limitations: “base support structure ... *for example the entirety of a wafer and all layers on that wafer.*” Defendants argue that this convoluted addition is necessary because an “insulating substrate” must be wholly insulating, “including all materials in the substrate if it is composed of multiple materials” (*e.g.*, all previously deposited films). Resp. 5. That is also incorrect. The patents teach the use of both conductive and insulating elements in the production of “optical devices and production of semiconductor devices ... [that] hold promise for *integrated optical and electronic signal processing on a single semiconductor-like substance.*” Ex. 1, 1:15–29. Indeed, claim 1 of the ’657 patent calls for a “conductive target” of the type used in such products. *Id.*, cl. 1. Defendants’ own dictionaries (Resp. 5) recognize that wafers and previously deposited thin-films (*i.e.*, the substrates for subsequent depositions) are used to form “the parts of an integrated circuit,” which, by definition, need to include conductive elements. Defendants do not even address preferred embodiments that involve substrates that include layers of insulating materials deposited on top of other materials. *Id.*, 7:62–65 (“[t]ypically, substrate 16 can be a silicon wafer or

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