

**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

PUBLIC VERSION

**PLAINTIFF DEMARAY LLC'S OPPOSED MOTION FOR LEAVE TO FILE SUR-
REPLY TO SAMSUNG'S MOTION TO TRANSFER VENUE**

Pursuant to Local Rule CV-7(b), Plaintiff Demaray LLC (“Demaray”) files this opposed Motion for Leave to File Sur-Reply to Samsung’s Motion to Transfer Venue (Dkt. 40). A copy of Demaray’s sur-reply brief is attached as Exhibit A. Samsung’s March 30, 2021 reply brief regarding its motion to transfer venue raises a snowstorm of cherry-picked, close-cropped, mischaracterized and untimely “evidence” (including twenty-four new exhibits and a new witness declaration) that Demaray has not been afforded an opportunity to address. For example:

- Samsung has submitted twenty-four new exhibits and a new declaration from Donald Verplancken in support of its reply to which Demaray has not had the opportunity to respond. Most of this evidence relates to Applied personnel and was readily available to Samsung at the time it filed its motion;
- Samsung identifies witnesses relating to unalleged, speculative inventorship and

inequitable conduct defenses to which Demaray has not had the opportunity to respond; and

- Samsung identifies a new laundry list of additional witnesses regarding its speculative inequitable conduct and inventorship defenses and the SRA underlying its licensing defense. Demaray should be allowed to respond to Samsung's heavily-skewed picture of these tangential matters.

In the interest of fairness, Demaray respectfully requests the Court grant it leave to file its sur-reply brief and attached declaration and exhibits addressing these new arguments. *See Rodriguez v. Hall*, CV SA-14-CA-459-OLG, 2015 WL 13796699, at *5 (W.D. Tex. Apr. 15, 2015) (“[I]n granting leave to file a sur-reply, the Court afforded defendants the opportunity to respond to the new argument raised in the plaintiff’s reply brief.”).

Samsung has been contacted with respect to the filing of this motion and opposes the relief requested.

Dated: March 31, 2021

/s/ C. Maclain Wells
C. Maclain Wells

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CERTIFICATE OF CONFERENCE

The undersigned certifies counsel notified Samsung of this filing and Samsung stated that it “disagree[s] that a sur-reply is warranted.” Accordingly, this motion and the relief requested herein are filed as opposed.¹

By: /s/ C. Maclain Wells

C. Maclain Wells

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing instrument and its attachments were served electronically via email upon all counsel of record on this 31 day of March, 2021.

By: /s/ C. Maclain Wells

C. Maclain Wells

¹ Counsel for Samsung indicated it may meet and confer further if Demaray listed all “new arguments and evidence” from the reply and identified any responsive evidence that Demaray intended to submit. Given Samsung’s position that a sur-reply is “unwarranted,” Demaray does not believe that any further meet and confer will be useful and is filing this motion as opposed.