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

Ocean Semiconductor LLC, Plaintiff, v. NXP Semiconductors N.V., NXP B.V. and NXP USA, Inc., Defendants.	C.A. No. 6:20-cv-1212-ADA JURY TRIAL DEMANDED PATENT CASE

PLAINTIFF OCEAN SEMICONDUCTOR LLC'S OPPOSITION TO NXP USA, INC.'S MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UNDER 35 U.S.C. § 271(g)

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/s/ *Alex Chan*
Timothy Devlin
tdevlin@devlinlawfirm.com
Henrik D. Parker
hparker@devlinlawfirm.com
Alex Chan (State Bar No. 24108051)
achan@devlinlawfirm.com
DEVLIN LAW FIRM LLC
1526 Gilpin Avenue
Wilmington, Delaware 19806
Telephone: (302) 449-9010
Facsimile: (302) 353-4251

Attorneys for Plaintiff,
Ocean Semiconductor LLC

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I. INTRODUCTION

NXP USA, Inc.'s ("NXP") Motion to Dismiss for Failure to State a Claim Under § 271(g) ("Motion") misconstrues both the nature of the patents at issue and the applicable law. Each of the four patents that NXP seeks to dismiss—U.S. Patent Nos. 6,725,402 ("'402 patent"), 8,676,538 ("'538 patent"), 6,907,305 ("'305 patent"), and 6,968,248 ("'248 patent") (collectively, "Asserted Patents")—describes the manufacture of semiconductors in excruciating detail and claims methods used for, and during, the manufacture of semiconductors including semiconductor wafers, which are physical products falling squarely within the scope of § 271(g). NXP's bare bones motion with little factual or legal argument, coupled with its artificial attempt to limit the Court's analysis to isolated claimed features and its misapplication of the relevant law, falls far short of the high bar necessary to obtain dismissal. The Motion should be denied.

II. LEGAL STANDARD

A. The High Bar for a Motion to Dismiss

Under Federal Rule of Civil Procedure 12(b)(6), dismissal of a complaint or cause of action is appropriate if it fails to state a claim for relief that is "plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). When considering a motion to dismiss under Rule 12(b)(6), "[t]he court ***must*** accept all well-pleaded facts as true and ***must*** draw all reasonable inferences in favor of the plaintiff." *Frye v. Anadarko Petro. Corp.*, 953 F.3d 285, 290-91 (5th Cir. 2019) (citing *Lormand v. US Unwired, Inc.*, 565 F.3d 228, 232 (5th Cir. 2009));[1] *see also Bustos v. Martini Club, Inc.*, 599 F.3d 458, 461 (5th Cir. 2010) (internal quotations omitted); *see also Bell Atl. Corp.*, 550 U.S. at 570. The question resolved is "whether [the] complaint was sufficient to cross the federal court's threshold"—***not*** whether the plaintiff will ultimately prevail. *Skinner v. Switzer*, 562 U.S. 521,

[1] Unless otherwise indicated, all emphasis in this brief has been added.

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