

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

OCEAN SEMICONDUCTOR LLC,

*Plaintiff,*

v.

WESTERN DIGITAL  
TECHNOLOGIES, INC.,

*Defendant.*

Case No. 6:20-cv-01216-ADA

**ORAL ARGUMENT REQUESTED**

**DEFENDANT WESTERN DIGITAL TECHNOLOGIES, INC.'S  
REPLY IN SUPPORT OF ITS MOTION TO DISMISS**

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35 U.S.C. § 271(g)..... *passim*

Ocean's Opposition (D.I. 19) confirms that its Complaint fails to state a claim for direct, induced, or willful infringement. The Opposition ignores Federal Circuit precedent that WDT cited in its Motion to Dismiss (D.I. 12), misreads and mischaracterizes the cases Ocean does cite, and seeks to impermissibly add new allegations found nowhere in the Complaint. The Complaint fails to state any claim for relief and should be dismissed.

## I. THE COMPLAINT FAILS TO STATE A DIRECT INFRINGEMENT CLAIM

### A. Ocean Mischaracterizes And Misunderstands Federal Circuit Authority On Section 271(g)

Ocean's (relatively simple, but incorrect) position on direct infringement can be summarized as follows: because the patented processes are allegedly used "during" production of the accused products, the processes allegedly "relate[] directly to the manufacture of [the] products," and therefore satisfy 35 U.S.C. § 271(g). *See, e.g.*, Opp. at 4, 7 (emphases omitted). Ocean's theory has been expressly rejected by the Federal Circuit. *E.g., Momenta Pharm., Inc. v. Teva Pharm. USA Inc.*, 809 F.3d 610, 616 (Fed. Cir. 2015).

Tellingly, Ocean's Opposition does not address the Federal Circuit *Momenta* and *Phillips M. Adams* decisions (or the *Sharafabadi* district court decision, cited approvingly in *Momenta*) that WDT raised in its Motion. *See generally*, Opp. at 3–15. Instead, the Opposition only discusses *Bayer*, yet both mischaracterizes its holding and its applicability to Ocean's § 271(g) claims. *Id.*

As WDT explained in its Motion (at pages 4–12), Ocean claims that WDT<sup>1</sup> infringes the following processes allegedly covered by the Asserted Patents:

'402: method for *configuring a process tool* in response to the presence of a fault condition

'691: method for conducting a process control activity *related to one of the process tools*

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<sup>1</sup> It is of no moment that WDT moved on certain asserted patents that other defendants did not move on; WDT's request for dismissal is based on Ocean's allegations as to WDT.

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