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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.
**DECLARATORY JUDGMENT OF
NON-INFRINGEMENT**

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NATURE OF THE ACTION

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2 1. This is an action for a declaratory judgment of noninfringement arising under the patent
3 laws of the United States, Title 35 of the United States Code. Applied Materials, Inc. (“Applied”)
4 requests this relief because Defendant Demaray LLC (“Demaray”) has filed lawsuits alleging that
5 certain customers of Applied infringe United States Patent Nos. 7,544,276 and 7,381,657 (the
6 “Asserted Patents”) by, for example, “making, using, offering to sell, selling, supplying or
7 causing to supply semiconductor manufacturing equipment including reactive magnetron
8 sputtering reactors” also identified in the complaints as “from Applied Materials, Inc.” True and
9 correct copies of these complaints against Applied’s customers are attached as Exhibits A and B.
10 Demaray’s lawsuits has placed a cloud on Applied’s products; threatened Applied’s business and
11 relationships with its customers and partners, as well as its sales of its reactors; and created a
12 justiciable controversy between Applied and Demaray.
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THE PARTIES

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16 2. Plaintiff Applied Materials, Inc. is a corporation organized and existing under the laws of
17 the state of Delaware, with its principal place of business at 3050 Bowers Avenue, Santa Clara,
18 CA 95054-3299. Applied is a leader in materials engineering solutions that creates technology
19 and products used for semiconductor fabrication, including but not limited to reactors in the
20 “Endura” product line.
21

22 3. Defendant Demaray LLC is a limited liability company organized and existing under the
23 laws of the state of Delaware. Dr. Richard Ernest Demaray is the founder of Demaray LLC. Dr.
24 Demaray is also one of the named inventors on the Asserted Patents. Dr. Demaray describes
25 Demaray LLC as a “Silicon Valley, CA” company which “[is] about the portfolio of my
26 patents.”¹
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¹ <https://www.edemaray.com/bios.html>

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JURISDICTIONAL STATEMENT

4. This action arises under the Declaratory Judgment Act, 28 U.S.C. § 2201, and under the patent laws of the United States, 35 U.S.C. §§ 1-390.

5. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331, 1338(a), and 2201(a).

6. This Court has personal jurisdiction over Demaray. Among other things, Demaray has continuous and systematic business contacts with Northern California. Demaray’s “founder and president,” Dr. Demaray, describes Demaray as a “Silicon Valley, CA” company:²

Experience:

Founder and President: Demaray LLC March 2013 – Present Silicon Valley CA

Intellectual Property invention and development, including licensing for thin film energy conversion and storage technologies and devices, thin film optics, solar energy, photo-chemistry, solid state Li+ ion films and devices, advanced thin film coatings and devices.



Founder and President

Demaray LLC

Jan 2006 – Present · 14 yrs 7 mos

Silicon Valley CA

Intellectual Property invention and development, including licensing for thin film energy conversion and storage technologies and devices, thin film optics, solar energy, photo-chemistry, solid state Li+ ion films and devices, advanced thin film coatings and devices.

On information and belief, according to Demaray’s website, several of the Board members and employees of Demaray are from and/or based in Northern California.³ Under its “Partners” sub-page, Demaray’s website lists the University of California at Santa Cruz as one of its primary partners, and claims that “Professor Kobayashi of UCSC is working with Demaray LLC to further develop the Sun2Fiber technology with a grant from ARPA-E.”⁴ Further, on information and

² <https://www.edemaray.com/bios.html>; <https://www.linkedin.com/in/ernestdemarayphd/>

³ <https://www.edemaray.com/bios.html>

⁴ <https://www.edemaray.com/partners.html>

1 belief, the technology underlying the Asserted Patents was allegedly developed in Northern
2 California.

3 7. In addition, this Court has personal jurisdiction over Demaray because Demaray has
4 purposefully directed into California its enforcement activities regarding the Asserted Patents. As
5 referenced above, Demaray has filed complaints against Intel (headquartered in Northern
6 California)⁵ and Samsung (conducts substantial business operations related to the allegedly
7 infringing technology in Northern California and holds a large US office in Northern California).⁶
8 Further, Demaray's complaints against both Samsung and Intel accuse Applied technology, and
9 Applied is also headquartered in Northern California.⁷ And, at least against Samsung, Demaray
10 relies on meetings occurring in Northern California to establish alleged pre-suit notice and
11 knowledge of the Asserted Patents, and alleged willful infringement. *See* Ex. B at 24-25.
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14 8. Venue is proper in this District under 28 U.S.C. §§ 1391(b), (c), because a substantial part
15 of the events giving rise to Applied's claim occurred in this district, and because Demaray is
16 subject to personal jurisdiction here.

17 9. An immediate, real, and justiciable controversy exists between Applied and Demaray as to
18 whether Applied is infringing or has infringed United States Patent Nos. 7,544,276 and
19 7,381,657.
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25 ⁵ <https://www.intel.com/content/www/us/en/support/articles/000015107/programs.html>

26 ⁶ [https://www.dezeen.com/2016/06/09/samsung-nbbj-silicon-valley-office-campus-california-usa-nap-pods-music-listening-rooms/#:~:text=Located%20in%20San%20Jose%20%E2%80%93%20a,the%20company's%20US%20semiconductor%20division.&text=The%20office%20campus%20features%20a,glass%20and%20white%20metal%20panels.](https://www.dezeen.com/2016/06/09/samsung-nbbj-silicon-valley-office-campus-california-usa-nap-pods-music-listening-rooms/#:~:text=Located%20in%20San%20Jose%20%E2%80%93%20a,the%20company's%20US%20semiconductor%20division.&text=The%20office%20campus%20features%20a,glass%20and%20white%20metal%20panels.;); <https://www.samsung.com/us/ssic/location/san-jose-ca/>

28 ⁷ <http://www.appliedmaterials.com/company/contact/locations>

1 **DEMARAY’S HISTORY AND BUSINESS**

2 10. On information and belief, Demaray was formed by Dr. Demaray in 2013 “to provide
3 portfolio related R&D activities, IP demonstration and development and new product
4 application.”⁸

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6 11. On information and belief, Dr. Demaray has filed over a hundred patents over the course
7 of his career, which has been spent almost entirely Northern California.⁹ After receiving the
8 entirety of his education at schools located in Northern California (Cal State Hayward and the
9 University of California at Santa Cruz), Dr. Demaray has spent almost 40 years working at
10 California-based companies, including Applied Komatsu, Varian Semiconductor, Symmphorix,
11 and Demaray.¹⁰

12 **APPLIED DOES NOT INFRINGE THE ASSERTED PATENTS**

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14 12. Applied’s reactors in the “Endura” product line do not directly or indirectly infringe any
15 claim of the Asserted Patents.

16 13. To the best of Applied’s knowledge, no third party infringes any claim of the Asserted
17 Patents by using Applied’s reactors in the “Endura” product line. Applied has not caused,
18 directed, requested, or facilitated any such infringement, much less with specific intent to do so.
19 Applied’s reactors in the “Endura” product line are not designed for use in any combination
20 which infringes any claim of the Asserted Patents. To the contrary, each is a product with
21 substantial uses that does not infringe any claim of these patents.
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27 ⁸ <https://www.edemaray.com/bios.html>

28 ⁹ <https://www.linkedin.com/in/ernestdemarayphd/>

¹⁰ *Id.*

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