

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SEMCON TECH, LLC,

Plaintiff,

v.

TAIWAN SEMICONDUCTOR
MANUFACTURING COMPANY, LTD.,
TSMC NORTH AMERICA, TSMC
DEVELOPMENT, INC., WAFERTECH,
LLC, AND TSMC CHINA COMPANY
LIMITED,

Defendants.

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.*, in which Plaintiff Semcon Tech, LLC makes the following allegations against Defendants Taiwan Semiconductor Manufacturing Company, Ltd., TSMC North America, TSMC Development, Inc., Wafertech, LLC, and TSMC China Company Limited (collectively, “Defendants”):

PARTIES

1. Plaintiff Semcon Tech, LLC (“Semcon”) is a Delaware limited liability company.

2. On information and belief, Defendant Taiwan Semiconductor Manufacturing Company, Ltd. (“TSMC Ltd.”) is a company organized under the laws of Taiwan that maintains its principal place of business at No. 8, Li-Hsin Road 6, Hsinchu Science Park, Hsinchu, Taiwan 30077. On information and belief, TSMC Ltd. conducts

business in the United States through its wholly owned subsidiaries, the relevant ones of which are also named defendants in this action.

3. On information and belief, Defendant TSMC North America (“TSMC-NA”) is a California corporation with its principal place of business at 2585 Junction Avenue, San Jose, CA 95134. On information and belief, TSMC-NA can be served through its registered agent, Steven A Schulman, 2585 Junction Avenue, San Jose, CA 95134. On information and belief, TSMC-NA is wholly owned by TSMC Ltd., and serves as TSMC’s exclusive sales agent in North and South America.

4. On information and belief, Defendant TSMC Development, Inc. (“TSMC Development”) is a Delaware corporation with its principal place of business at 5509 NW Parker St, Camas, WA 98607. On information and belief, TSMC Development can be served through its registered agent, Corporation Service Company, 2711 Centerville Rd, Ste 400, Wilmington, DE 19808. On information and belief, TSMC Development is a wholly owned subsidiary of TSMC Ltd.

5. On information and belief, Defendant Wafertech, LLC (“Wafertech”) is a Delaware limited liability company with its principal place of business at 5509 NW Parker St, Camas, WA 98607. On information and belief, Wafertech can be served through its registered agent, Corporation Service Company, 2711 Centerville Rd, Ste 400, Wilmington, DE 19808. On information and belief, Wafertech is a wholly owned subsidiary of TSMC Ltd.

6. On information and belief, Defendant TSMC China Company Limited (“TSMC China”) is a company organized under the laws of the People’s Republic of China that maintains its principal place of business at 4000, Wen Xiang Rd., Songjiang,

Shanghai, China 201616. On information and belief, TSMC China is a wholly owned subsidiary of TSMC Ltd.

JURISDICTION AND VENUE

7. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. Defendants are subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Delaware Long Arm Statute, due to having availed themselves of the rights and benefits of Delaware due to their substantial business in this forum, including: (i) having offered for sale and/or sold products made by an infringing process in Delaware and in this District, having purposely imported/shipped or caused to be imported/shipped products made by an infringing process into Delaware and this District through established distribution channels, and/or having committed acts in this State and District that are the subject of the count set forth herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Delaware and in this District. Defendants TSMC Development and Wafertech have further availed themselves of the rights and benefits of Delaware by incorporating/forming under Delaware law.

9. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). Defendants TSMC Development and Wafertech are incorporated/formed in this District, and on information and belief, all Defendants have transacted business in this district and have committed acts of patent infringement in this District.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 7,156,717

10. Plaintiff Semcon realleges and incorporates by reference paragraphs 1-9 above, as if fully set forth herein.

11. Plaintiff Semcon is the owner by assignment of United States Patent No. 7,156,717 (“the ‘717 Patent”) titled “[In] Situ Finishing Aid Control.” The ‘717 Patent was duly and legally issued by the United States Patent and Trademark Office on January 2, 2007. A true and correct copy of the ‘717 Patent is included as Exhibit A.

12. Defendants make, use, sell, offer for sale, and/or import into the United States integrated circuits. Defendants, alone and/or in conjunction with their corporate affiliates, fabricate integrated circuits in the United States and overseas, including in Hsinchu, Taiwan, Tainan, Taiwan, Taichung, Taiwan, Camas, Washington, and Shanghai, China.

13. At least some of the integrated circuits made, used, sold, offered for sale, and/or imported into the United States by Defendants are fabricated using, in part, a process known as chemical-mechanical polishing (“CMP”) performed with the use of Applied Materials Reflexion LK and/or GT CMP systems and/or Ebara F-REX300 CMP systems.

14. On information and belief, Defendants have sold and continue to sell and/or offer for sale integrated circuits fabricated by Defendants and/or Defendants’ corporate affiliates using, in part, CMP performed with the use of Applied Materials Reflexion LK and/or GT CMP systems and/or Ebara F-REX300 CMP systems to customers in the United States or whom Defendants know or should know import such

integrated circuits into the United States. Such customers include, without limitation, Intel Corporation, Qualcomm Incorporated, and/or Xilinx, Inc.

15. On information and belief, Defendants have infringed and continue to infringe the '717 Patent by, among other things, making, using, offering for sale, selling and/or importing into the United States integrated circuits made by a process patented under the '717 Patent. Such integrated circuits include, by way of example and without limitation, integrated circuits fabricated using, in part, CMP performed with the use of Applied Materials Reflexion LK and/or GT CMP systems and/or Ebara F-REX300 CMP systems through a process covered by one or more claims of the '717 Patent, including but not limited to claim 1. By making, using, offering for sale, selling and/or importing into the United States integrated circuits made by a process patented under the '717 Patent, Defendants have injured Semcon and are liable to Semcon for infringement of the '717 Patent pursuant to 35 U.S.C. § 271(a) and (g).

16. As a result of Defendants' infringement of the '717 Patent, Plaintiff Semcon is entitled to monetary damages in an amount adequate to compensate for Defendants' infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendants, together with interest and costs as fixed by the Court.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 6,656,023

17. Plaintiff Semcon realleges and incorporates by reference paragraphs 1-16 above, as if fully set forth herein.

18. Plaintiff Semcon is the owner by assignment of United States Patent No. 6,656,023 ("the '023 patent") titled "In situ control with lubricant and tracking". The

'023 patent was duly and legally issued by the United States Patent and Trademark Office on December 2, 2003. A true and correct copy of the '023 patent is included as Exhibit B.

19. On information and belief, Defendants have infringed and continue to infringe the '023 patent by, among other things, making, using, offering for sale, selling and/or importing into the United States integrated circuits made by a process patented under the '023 patent. Such integrated circuits include, by way of example and without limitation, integrated circuits fabricated using, in part, CMP performed with the use of Ebara F-REX300 CMP systems through a process covered by one or more claims of the '023 patent, including but not limited to claim 1. By making, using, offering for sale, selling and/or importing into the United States integrated circuits made by a process patented under the '023 Patent, Defendants have injured Semcon and are liable to Semcon for infringement of the '023 Patent pursuant to 35 U.S.C. § 271(a) and (g).

20. As a result of Defendants' infringement of the '023 Patent, Plaintiff Semcon is entitled to monetary damages in an amount adequate to compensate for Defendants' infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendants, together with interest and costs as fixed by the Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Semcon respectfully requests that this Court enter:

- a. A judgment in favor of Plaintiff that Defendants have infringed, either literally and/or under the doctrine of equivalents, the '717 patent and the '023 patent;
- b. A judgment and order requiring Defendants to pay Plaintiff its damages, costs, expenses, and pre-judgment and post-judgment interest for Defendants'

infringement of the '717 patent and the '023 patent as provided under 35 U.S.C. § 284;
and

c. A judgment and order requiring Defendants to provide an accounting and to pay supplemental damages to Semcon, including without limitation, prejudgment and post-judgment interest; and

d. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

April 18, 2013

BAYARD, P.A.

OF COUNSEL:

Marc A. Fenster
Alexander C.D. Giza
Jeffrey Z.Y. Liao
Russ, August & Kabat
12424 Wilshire Boulevard, 12th Floor
Los Angeles, CA 90025-1031
(310) 826-7474
mfenster@raklaw.com
agiza@raklaw.com
jliao@raklaw.com

/s/ Stephen B. Braerman
Richard D. Kirk (rk0922)
Stephen B. Braerman (sb4952)
Vanessa R. Tiradentes (vt5398)
222 Delaware Avenue, Suite 900
Wilmington, DE 19899
(302) 655-5000
rkirk@bayardlaw.com
sbraerman@bayardlaw.com
vtiradentes@bayardlaw.com

Attorneys for Plaintiff
Semcon Tech LLC