

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

(1) ASM AMERICA, INC. and (2) ASM
INTERNATIONAL N.V.

Plaintiffs,

v.

(1) APPLIED MATERIALS, INC.,

Defendants.

§
§
§
§
§
§
§
§
§
§

Case No.

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs ASM America, Inc. (“ASMA”) and ASM International N.V. (“ASMI”) for its Complaint against Defendant Applied Materials, Inc. (“Applied”) alleges:

THE PARTIES

1. Plaintiff ASMA is a corporation, duly organized and existing under the laws of the state of Delaware, having a principal place of business in Phoenix, Arizona.
2. Plaintiff ASMI is a corporation, duly organized and existing under the laws of The Netherlands, having a principal place of business in Bilthoven, The Netherlands.
3. Defendant Applied is a corporation, duly organized and existing under the laws of the state of Delaware, having principal places of business in Santa Clara, California and Austin, Texas.

JURISDICTION

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § § 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 271 *et seq.* The Court has personal jurisdiction over Defendant in that Defendant has established minimum contacts with the forum and the exercise of jurisdiction over Defendant would not offend traditional motions of fair play and substantial justice.

VENUE

5. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

INFRINGEMENT OF U.S. PATENT NO. 6,481,945

6. On November 19, 2002, United States Patent No. 6,481,945 (“the ‘945 patent”) was duly and legally issued to Hasper et al. for an invention entitled “Method And Device For Transferring Wafers.” Plaintiff ASMI was assigned the ‘945 patent and ASMI continues to hold all rights and interest in the ‘945 patent. A true and correct copy of the ‘945 patent is attached hereto as Exhibit A.

7. Upon information and belief, Applied has infringed and continues to infringe the '945 patent. The infringing acts include the manufacture, use, sale, importation, and/or offer for sale of semiconductor processing systems including but not limited to those known as Producer CVD Platform system, Endura iCuB system, Odyssey 300 system, SEMVision G2 system, the BX-20 S/D system and USJ Measurement System, and the practice of methods of transferring wafers claimed in the '945 patent. Applied also contributes to and induces infringement of the '945 patent.

8. Applied's acts of infringement have caused damage to ASMI and ASMI is entitled to recover from Applied the damages sustained by ASMI as a result of Applied's wrongful acts in an amount subject to proof at trial. Applied's infringement of ASMI's exclusive rights under the '945 patent will continue to damage ASMI's business, causing irreparable harm, for which there is no adequate remedy at law, unless it is enjoined by this Court.

9. Upon information and belief, Applied's infringement of the '945 patent is willful and deliberate entitling ASMI to increased damages under § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 6,572,924

10. On June 3, 2003, United States Patent No. 6,572,924 ("the '924 patent") was duly and legally issued to Michael W. Halpin for an invention entitled "Exhaust System For Vapor Deposition Reactor And Method Of Using The Same." Plaintiff ASMA was assigned the '924 patent and ASMA continues to hold all rights and interest in the '924 patent. A true and correct copy of the '924 patent is attached hereto as Exhibit B.

11. Upon information and belief, Applied has infringed and continues to infringe the '924 patent. The infringing acts include the manufacture, use, sale, importation, and/or offer for sale of semiconductor processing equipment including but not limited to those known as Centura, iSprint Centura and/or Producer, and the practice of methods of controlling exhaust gas flow from a deposition

chamber claimed in the '924 patent. Applied also contributes to and induces infringement of the '924 patent.

12. Applied's acts of infringement have caused damage to ASMA and ASMA is entitled to recover from Applied the damages sustained by ASMA as a result of Applied's wrongful acts in an amount subject to proof at trial. Applied's infringement of ASMA's exclusive rights under the '924 patent will continue to damage ASMA's business, causing irreparable harm, for which there is no adequate remedy at law, unless it is enjoined by this Court.

13. Upon information and belief, Applied's infringement of the '924 patent is willful and deliberate entitling ASMA to increased damages under § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 6,579,374

14. On June 17, 2003, United States Patent No. 6,579,374 ("the '374 patent") was duly and legally issued to Bondestam et al. for an invention entitled "Apparatus for Fabrication of Thin Films." Plaintiff ASMA was assigned the '374 patent and ASMA continues to hold all rights and interest in the '374 patent. A true and correct copy of the '374 patent is attached hereto as Exhibit C.

15. Upon information and belief, Applied has infringed and continues to infringe the '374 patent. The infringing acts include but are not limited to the manufacture, use, sale, importation, and/or offer for sale of semiconductor processing equipment including but not limited to those known as Endura, Producer, Ultima and/or Centura. Applied also contributes to and induces the infringement of the '374 patent.

16. Applied's acts of infringement have caused damage to ASMA and ASMA is entitled to recover from Applied the damages sustained by ASMA as a result of Applied's wrongful acts in an amount subject to proof at trial. Applied's infringement of ASMA's exclusive rights under the '374

patent will continue to damage ASMA's business, causing irreparable harm, for which there is no adequate remedy at law, unless it is enjoined by this Court.

17. Upon information and belief, Applied's infringement of the '374 patent is willful and deliberate entitling ASMA to increased damages under § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 6,410,463 B1

18. On June 25, 2002, United States Patent No. 6,410,463 ("the '463 patent") was duly and legally issued to Nobuo Matsuki for an invention entitled "Method For Forming Film With Low Dielectric Constant On Semiconductor Substrate." Plaintiff ASMA was assigned the '463 patent and ASMA continues to hold all rights and interest in the '463 patent. A true and correct copy of the '463 patent is attached hereto as Exhibit D.

19. Upon information and belief, Applied has infringed and continues to infringe the '463 patent. The infringing acts include but are not limited to the practice of methods for forming films having a low relative dielectric constant claimed in the '463 patent; and contribution to and inducement of others to practice methods for forming films having a low relative dielectric constant.

20. Applied's acts of infringement have caused damage to ASMA and ASMA is entitled to recover from Applied the damages sustained by ASMA as a result of Applied's wrongful acts in an amount subject to proof at trial. Applied's infringement of ASMA's exclusive rights under the '463 patent will continue to damage ASMA's business, causing irreparable harm, for which there is no adequate remedy at law, unless it is enjoined by this Court.

21. Upon information and belief, Applied's infringement of the '463 patent is willful and deliberate entitling ASMA to increased damages under § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 6,511,539

22. On January 28, 2003, United States Patent No. 6,511,539 (“the ‘539 patent”) was duly and legally issued to Ivo Raaijmakers for an invention entitled “Apparatus and Method for Growth of a Thin Film.” Plaintiff ASMA was assigned the ‘539 patent and ASMA continues to hold all rights and interest in the ‘539 patent. A true and correct copy of the ‘539 patent is attached hereto as Exhibit E.

23. Upon information and belief, Applied has infringed and continues to infringe the ‘539 patent. The infringing acts include practice of methods for depositing a layer on a semiconductor substrate claimed in the ‘539 patent; and contribution to and inducement of others to practice methods for depositing a layer on a semiconductor substrate claimed in the ‘539 patent.

24. Applied’s acts of infringement have caused damage to ASMA and ASMA is entitled to recover from Applied the damages sustained by ASMA as a result of Applied’s wrongful acts in an amount subject to proof at trial. Applied’s infringement of ASMA’s exclusive rights under the ‘539 patent will continue to damage ASMA’s business, causing irreparable harm, for which there is no adequate remedy at law, unless it is enjoined by this Court.

25. Upon information and belief, Applied’s infringement of the ‘539 patent is willful and deliberate entitling ASMA to increased damages under § 284 and to attorneys’ fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 6,053,686

26. On April 25, 2000, United States Patent No. 6,053,686 (“the ‘686 patent”) was duly and legally issued to Mitsusuke Kyogoku for an invention entitled “Device and Method For Load Locking For Semiconductor Processing.” Plaintiff ASMA was assigned the ‘686 patent and ASMA continues to hold all rights and interest in the ‘686 patent. A true and correct copy of the ‘686 patent is attached hereto as Exhibit F.

27. Upon information and belief, Applied has infringed and continues to infringe the '686 patent. The infringing acts include the manufacture, use, sale, importation, and/or offer for sale of semiconductor processing load lock devices for transit storage of objects which are loaded onto and unloaded from load lock devices, and the practice of methods of transferring objects between load lock devices claimed in the '686 patent. Applied also contributes to and induces infringement of the '686 patent.

28. Applied's acts of infringement have caused damage to ASMA and ASMA is entitled to recover from Applied the damages sustained by ASMA as a result of Applied's wrongful acts in an amount subject to proof at trial. Applied's infringement of ASMA's exclusive rights under the '686 patent will continue to damage ASMA's business, causing irreparable harm, for which there is no adequate remedy at law, unless it is enjoined by this Court.

29. Upon information and belief, Applied's infringement of the '686 patent is willful and deliberate entitling ASMA to increased damages under § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs ASMA and ASMI pray for judgment and seek relief against Applied as follows:

- (a) For judgment that the '924, '945, '374, '463, '539, and '686 patents have been and continue to be infringed by Applied;
- (b) For an accounting of all damages sustained by ASMA and ASMI as the result of Applied's acts of infringement;
- (c) For preliminary and permanent injunctions enjoining the aforesaid acts of infringement by Applied, its officers, agents, servants, employees, subsidiaries and attorneys, and

those persons acting in concert with Applied, including related individuals and entities, customers, representatives, OEMs, dealers, distributors;

- (d) For actual damages together with prejudgment interest, according to proof;
- (e) For enhanced damages pursuant to 35 U.S.C. § 284;
- (f) For an award of attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law;
- (g) For all costs of suit; and
- (h) For such other and further relief as the Court may deem just and proper.

DATED: October 23, 2003

Respectfully submitted,

By: _____

Otis W. Carroll — **Attorney-In-Charge**
State Bar No. 03895700
IRELAND CARROLL AND KELLEY, P.C.
6101 South Broadway, Suite 500
P.O. Box 7879
Tyler, TX 75711
Telephone: (903) 561-1600
Facsimile: (903) 561-1071
E-Mail: nancy@icklaw.com

S. Calvin Capshaw
State Bar No. 03783900
BROWN McCARROLL LLP
1127 Judson Road, Suite 220,
P.O. Box 3999
Longview, Texas 75601-5157
Telephone: (903) 236-9800
Facsimile: (903) 236-8787
E-Mail: ccapshaw@mailbmc.com

Franklin Jones Jr.
State Bar No. 00000055
JONES AND JONES, INC., P.C.
201 West Houston Street

P.O. Drawer 1249
Marshall, TX 75671-1249
Telephone: (903) 938-4395
Facsimile: (903) 938-3360
E-Mail: maizieh@millerfirm.com

Douglas Cawley
State Bar No.
Kristi Thomas
State Bar No.
McKOOL SMITH, P.C.
300 Crescent Court
Suite 1500
Dallas, Texas 75201
Telephone: (214) 978-4000
Facsimile: (214) 978-4044
E-Mail:

Henry C. Bunsow
California State Bar No. 60707
K. T. Cherian
California State Bar No. 133967
Scott Wales
California State Bar No. 179804
HOWREY SIMON ARNOLD & WHITE, LLP
525 Market Street, Suite 3600
San Francisco, California 94105
E-Mail: bunsowh@howrey.com
E-Mail: cheriank@howrey.com
E-Mail: waless@howrey.com

Attorneys for Plaintiff
ASM AMERICA, INC. and ASM INTERNATIONAL, N.V.