

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

SEMCON TECH, LLC,

Plaintiff,

v.

ProMOS Technologies Inc.,

Defendant.

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 Defendant ProMOS Technologies Inc.:

**PARTIES**

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

2. On information and belief, Defendant ProMOS Technologies Inc. (“ProMOS”) is a company organized under the laws of Taiwan that maintains its principal place of business at No.19-1, Li-Hsin Rd., Hsinchu Science Park, Hsinchu 30078, Taiwan. On information and belief, ProMOS can be served through its authorized agent, Jatin Mehta, 25 Creekside Road, Hopewell Junction, NY 12533. On information and belief, ProMOS can be served through its in-house counsel Ming-Hsing Yang, ProMOS Technologies, Inc., No. 19-1, Li-Hsin Rd., Hsinchu Science Park, Hsinchu, 30078, Taiwan, 886-3-566-3300 (facsimile), [MING-HSING\\_YANG@promos.com.tw](mailto:MING-HSING_YANG@promos.com.tw) (email). On information and belief, ProMOS can be served through the California

Secretary of State pursuant to California Corporations Code 2112(a)(4). On information and belief, ProMOS has appointed Memphis Electronic Inc., 2323 S Shepherd Dr, Suite 910 Houston, Texas 77019, Viza Electronics, LLC, 363 Williamson Rd, Suite 103, Mooresville, NC 28117, and XEL Group-US, 31681 Camino Capistrano, Suite 106, San Juan Capistrano. CA 92675 as its authorized sales agents in the United States.

### **JURISDICTION AND VENUE**

3. 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).

4. ProMOS is 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 itself of the rights and benefits of Delaware by conducting substantial business in this forum, including: (i) having made, 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.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). On information and belief, ProMOS has transacted business in this district and has committed acts of patent infringement in this district.

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

6. Plaintiff Semcon realleges and incorporates by reference paragraphs 1-5 above, as if fully set forth herein.

7. 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.

8. Defendant ProMOS makes, uses, sells, offers for sale, and/or imports into the United States integrated circuits including DRAM semiconductor wafers. ProMOS, alone and/or in conjunction with its corporate affiliates, fabricates integrated circuits in Hsinchu, Taiwan and Taichung, Taiwan.

9. At least some of the integrated circuits including DRAM semiconductor wafers made, used, sold, offered for sale, and/or imported into the United States by ProMOS 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.

10. On information and belief, ProMOS has sold and continues to sell and/or offer for sale integrated circuits including DRAM semiconductor wafers fabricated by ProMOS and/or ProMOS’s corporate affiliates using, in part, CMP performed with the use of Applied Materials Reflexion LK and/or GT CMP systems to customers in the United States, directly or through its authorized sales agents Memphis Electronic Inc., Viza Electronics, LLC, and XEL Group-US.

11. On information and belief, ProMOS has infringed and continues 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, DRAM semiconductor wafers fabricated using, in part, CMP performed with the use of Applied Materials Reflexion LK and/or GT 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 including DRAM semiconductor wafers made by a process patented under the '717 Patent, ProMOS has injured Semcon and is liable to Semcon for infringement of the '717 Patent pursuant to 35 U.S.C. § 271(g).

12. As a result of ProMOS's 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 ProMOS, 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 ProMOS has infringed, either literally and/or under the doctrine of equivalents, the '717 patent;
- b. A judgment and order requiring ProMOS to pay Plaintiff its damages, costs, expenses, and pre-judgment and post-judgment interest for ProMOS's infringement of the '717 patent, as provided under 35 U.S.C. § 284; and

c. A judgment and order requiring ProMOS 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. Brauerman  
Richard D. Kirk (rk0922)  
Stephen B. Brauerman (sb4952)  
Vanessa R. Tiradentes (vt5398)  
222 Delaware Avenue, Suite 900  
Wilmington, DE 19899  
(302) 655-5000  
rkirk@bayardlaw.com  
sbrauerman@bayardlaw.com  
vtiradentes@bayardlaw.com

Attorneys for Plaintiff  
Semcon Tech LLC