

1 [Attorney Information Below]

2 UNITED STATES DISTRICT COURT  
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
4 SAN FRANCISCO DIVISION

5 APPLIED MATERIALS, INC.,

6 Plaintiff,

7 vs.

8 DR. URI COHEN,

9 Defendant.

Lead Case No. 3:17-cv-04990-EMC  
Consolidated with:  
Case No. 3:17-cv-06451-EMC  
Case No. 3:17-cv-05001-EMC

10 **STIPULATION AND [PROPOSED] ORDER  
REGARDING CASE SCHEDULE AND  
DISCOVERY PLAN**

11 Judge: Hon. Edward M. Chen

12 TSMC NORTH AMERICA; TAIWAN  
SEMICONDUCTOR MANUFACTURING  
COMPANY LIMITED,

13 Plaintiffs,

14 vs.

15 URI COHEN,

16 Defendant.

17 DR. URI COHEN,

18 Plaintiff,

19 vs.

20 TAIWAN SEMICONDUCTOR  
MANUFACTURING COMPANY LTD.,  
21 HUAWEI DEVICE USA INC., HUAWEI  
DEVICE (DONGGUAN) CO. LTD.,

22 Defendant.

23 GEORGE TZANAVARAS,

24 Plaintiff,

25 vs.

26 URI COHEN,

27 Defendant.

28 Case No. 3:18-cv-01052-EMC

1 Pursuant to the Court’s order at the February 8, 2018 case management conference (*see* Dkt.  
2 No. 70), Applied Materials, Inc.; George Tzanavaras; Dr. Uri Cohen; Taiwan Semiconductor  
3 Manufacturing Company Limited; TSMC North America; Huawei Device USA Inc.; Huawei Device  
4 (Dongguan) Co., Ltd.; Huawei Device Co., Ltd; and HiSilicon Technologies Co., Ltd., hereby  
5 provide the following stipulated case schedule and discovery plan for the related cases of *Applied*  
6 *Materials, Inc. v. Cohen*, No. 3:17-cv-04990-EMC; *TSMC North America v. Cohen*, No. 3:17-cv-  
7 05001; *Cohen v. Taiwan Semiconductor Manufacturing Company Ltd.*, No. 3:17-cv-06451-EMC  
8 (collectively, the “Infringement Actions”); and *Tzanavaras v. Cohen*, No. 3:18-cv-01052-EMC (the  
9 “Inventorship Action”):

10 **I. Agreement to Stay the Infringement Actions.**

11 The parties agree that the inventorship claims raised in the Inventorship Action, brought  
12 under 35 U.S.C. § 256, should be litigated and resolved before continuation of the litigation of the  
13 Infringement Actions. Accordingly, the parties agree that all discovery and proceedings in the  
14 Infringement Actions, including any Patent Local Rule, pleadings, and discovery deadlines, should  
15 be stayed until resolution of the Inventorship Action. The parties agree that the doctrine of issue  
16 preclusion from the Inventorship Action will apply to each of them in the Infringement Action as if  
17 each party was a party to the Inventorship Action. For clarity, the parties agree that alleged  
18 coinventorship by Mr. Tzanavaras is an issue the parties intend to litigate and resolve in the  
19 Inventorship Action. The parties agree that no party shall seek a stay of the Inventorship Action,  
20 even if the Patent Trial and Appeal Board institutes *inter partes* review proceedings as to one or  
21 more of the Patents-in-Suit. This agreement shall in no way affect, and shall not be deemed a waiver  
22 of, Defendants’ ability to seek a stay of the Infringement Actions pending any instituted IPRs.

23 The parties agree to meet and confer in good faith promptly after resolution of the  
24 Inventorship Action regarding a proposed schedule and discovery plan for the Infringement Actions  
25 that includes a *Markman* hearing within six months of resolution of the Inventorship Action, if  
26 necessary and subject to the Court’s own calendar at that time.

1 **II. Proposed Schedule for the Inventorship Action.**

2 Subject to the Court’s approval, the parties believe that an expedited schedule is appropriate  
3 to resolve the Inventorship Action. Mr. Tzanavaras and Dr. Cohen have agreed upon and propose  
4 the following schedule for the Inventorship Action:

5

Event	Date
Dr. Cohen’s Answer to Mr. Tzanavaras’s Complaint	3/15/18
Rule 26 Initial Disclosures	3/23/18
Opening of Fact Discovery	3/23/18
Close of Fact Discovery	7/31/18
Opening Expert Reports <sup>1</sup>	8/15/18
Rebuttal Expert Reports	9/5/18
Close of Expert Discovery	9/19/18
Motion for Summary Judgment <sup>2</sup>	9/21/18
MSJ Responses	10/5/18
MSJ Replies	10/12/18
Pretrial Conference	10/16/18 at 2:30 pm
Trial	10/29/18 (subject to the Court’s availability)

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14 At present, Mr. Tzanavaras does not believe there are any jury trial issues in the Inventorship  
15 Action. There is no right to a jury trial for inventorship claims asserted under 35 U.S.C. § 256. *See*  
16 *Shum v. Intel Corp.*, 499 F.3d 1272, 1277 (Fed. Cir. 2007) (“[A]n action for correction of  
17 inventorship under § 256, standing alone, is an equitable claim to which no right to a jury trial  
18 attaches.”). Dr. Cohen reserves the right to seek a jury trial on any issues so triable. The parties  
19 agree to discuss whether a bench or jury trial is appropriate with the Court at a later time.

20 The parties expect that a trial will last 2 to 3 court days.

21 **III. Discovery Plan for the Inventorship Action.**

22 Mr. Tzanavaras and Dr. Cohen have agreed upon the following discovery limits, which are  
23 modified from those set forth in the Federal Rules of Civil Procedure:

24 \_\_\_\_\_  
25 <sup>1</sup> Dr. Cohen proposes the Court limit expert reports to one per side, given the expedited schedule.  
26 Mr. Tzanavaras believes that a limited number of expert reports is appropriate in light of the  
27 expedited schedule. However, given the early stage of the case, it is difficult to know the number of  
expert reports that might be needed. Accordingly, Mr. Tzanavaras proposes that the parties meet and  
confer at a later date to determine the appropriate number of expert reports.

28 <sup>2</sup> Dr. Cohen proposes setting a deadline for filing summary judgment motions. While Mr.  
Tzanavaras does not believe such a deadline is necessary, he does not oppose Dr. Cohen’s proposal.

- 1 • 10 interrogatories (“ROGs”) per side;
- 2 • 15 requests for admission (“RFAs”) per side, with the exception of RFAs regarding the
- 3 authenticity of documents;
- 4 • One seven-hour deposition of Dr. Cohen;
- 5 • One seven-hour deposition of Mr. Tzanavaras; and
- 6 • Up to three third-party document and/or deposition subpoenas per side.

7 Mr. Tzanavaras and Dr. Cohen further agree to the following procedures regarding discovery  
8 in the Inventorship Action:

- 9 • Each party responding to ROGs or RFAs shall respond substantively to such ROGs or
- 10 RFAs by the initial deadline for responding set forth in the Federal Rules of Civil
- 11 Procedure, *i.e.*, 30 days after service of the ROGs or RFAs, subject to appropriate
- 12 objections; and
- 13 • Each party responding to requests for production (“RFPs”) shall work in good faith to
- 14 produce substantially all non-privileged, responsive documents on the same day that
- 15 written objections and responses to the RFPs are due under the Federal Rules of Civil
- 16 Procedure, *i.e.*, 30 days after service of the RFPs, or as otherwise agreed to by the parties.

17 All parties agree that, if Dr. Cohen is deposed for one day in the Inventorship Action, that  
18 day will count as one day toward the number of days that Defendants are permitted to depose Dr.  
19 Cohen in the Infringement Actions.

20 The parties also agree that any discovery taken and produced in the Inventorship Action shall  
21 also be deemed usable as if produced in the Infringement Actions.

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1 Dated: March 5, 2018

Respectfully submitted,

2  
3 By: /s/ Brett M. Schuman

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13 Dated: March 5, 2018

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13 HUAWEI DEVICE (DONGGUAN) CO., LTD.,

14 HUAWEI DEVICE CO., LTD., AND

15 HISILICON TECHNOLOGIES CO., LTD.

16 Dated: March 5, 2018

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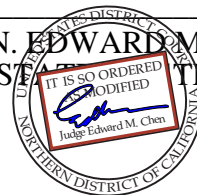
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27 Attorneys for Dr. Uri Cohen

28 **IT IS SO ORDERED.** See modifications on p. 2. Special CMC is  
set for 3/15/18 at 10:30 a.m. The Court will  
discuss remainder of the stipulation at that time.

Dated: March 6, 2018

HON. EDWARD M. CHEN  
UNITED STATES DISTRICT JUDGE



**ATTORNEY ATTESTATION**

I hereby attest, pursuant to Local Rule 5-1(i)(3), that I obtained the concurrence in the filing of this document from the signatories indicated by the conformed signature (/s/).

/s/ Brett M. Schuman  
Brett M. Schuman

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