

Senniger Powers Announces Key Victory for MEMC Electronic Materials, Inc.

Senniger Powers today announced a key victory for MEMC Electronic Materials, Inc., in an antitrust lawsuit filed by Sumitomo Mitsubishi Silicon Corporation (SUMCO) and SUMCO USA Corporation. The suit involved an attempted monopolization claim under § 2 of the Sherman Act. SUMCO sought \$137 million in actual damages, treble damages, and attorneys' fees. Senniger Powers' Partners David Harlan and Robert Evans, Jr., and Associates Marc Vander Tuig and Michael Hartley were involved in the case and were instrumental to its successful outcome.

SUMCO alleged that MEMC's procurement and enforcement of U.S. Patent No. 5,919,302 was improper and anticompetitive. MEMC's patent covers "perfect silicon" wafers—silicon wafers that are free of yield-reducing agglomerated intrinsic point defects. This proprietary MEMC technology is becoming increasingly important as integrated circuit fabricators move to advanced technology nodes. MEMC originally filed suit against SUMCO in 2001 for supplying infringing silicon wafers to the United States from Japan. SUMCO claimed that MEMC's patent infringement lawsuit against SUMCO caused the closure of SUMCO's Salem, Oregon plants.

The United States District Court for the Northern District of California granted summary judgment against SUMCO's attempted monopolization claim. The Court found MEMC was immune from liability under the *Noerr-Pennington* doctrine, rejecting SUMCO's numerous *Walker Process* and sham litigation allegations.

"We are gratified that the Court recognized that MEMC had a reasonable basis for its patent infringement lawsuit against SUMCO," Partner David Harlan said.

Senniger Powers has represented MEMC, a world leader in the supply of wafers to semiconductor device manufacturers, for 18 years. In addition to the antitrust ruling, the firm has won favorable rulings in recent years for MEMC with the European Patent Office and in the United States Court of Appeals for the Federal Circuit.

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Founded in 1919, Senniger Powers is a leading intellectual property law firm based in St. Louis, Mo., that specializes in all facets of patents, trademarks, copyrights and related litigation. With nearly 40 intellectual property lawyers, the firm is Missouri's largest collection of engineers and scientists that focus on IP. We represent and provide insightful counsel to clients across the country, from Fortune 500 companies to small start-ups, allowing them to achieve a competitive advantage through strategic management of their IP portfolios. For additional information about Senniger Powers, please visit www.senniger.com.