

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Howington v. Taiwan Semiconductor Manufacturing Co., Ltd.

No. 24-cv-05684-VKD (N.D. Cal. Aug. 29, 2025) · No. 24-cv-05684-VKD · Decided August 29, 2025

SUMMARY

The United States District Court for the Northern District of California resolves a discovery dispute concerning requests for applicant and employee data in a putative employment discrimination class action against Taiwan Semiconductor Manufacturing Co., Ltd. The court orders production of data responsive to RFPs 1 and 2, excluding visa type and information about PERM or green-card sponsorship, and denies discovery under RFPs 3 and 4.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                       |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Northern District of California                                                                                                                                                                                                                                                  |
| WRITING FOR THE COURT | Virginia K. DeMarchi                                                                                                                                                                                                                                                                                                  |
| JURISDICTION          | United States District Court for the Northern District of California                                                                                                                                                                                                                                                  |
| DECIDED               | August 29, 2025                                                                                                                                                                                                                                                                                                       |
| DOCKET                | 24-cv-05684-VKD                                                                                                                                                                                                                                                                                                       |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | The court resolved a discovery dispute concerning four requests for production directed to defendants' applicant and employee data in a putative employment-discrimination class action.                                                                                                                              |
| STANDARD OF REVIEW    | Discovery is permitted under Federal Rule of Civil Procedure 26(b)(1) when the requested information is nonprivileged, relevant to a claim or defense, and proportional to the needs of the case. The court weighed relevance, the importance of the discovery, access to information, burden, and privacy interests. |
| PRECEDENTIAL VALUE    | unpublished and nonprecedential district-court order                                                                                                                                                                                                                                                                  |

TOPICS

- discovery dispute
- civil procedure
- employment discrimination
- title vii
- racial discrimination

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether plaintiffs were entitled to discovery of applicant and employee data responsive to RFPs 1 and 2 for statistical analyses of their employment-discrimination claims.
2. Whether plaintiffs were entitled to discovery concerning employee visa applications and PERM or green-card applications responsive to RFPs 3 and 4.
3. Whether production could be limited to information concerning the named plaintiffs rather than the broader applicant and employee populations.
4. Whether privacy interests in immigration-related information outweighed plaintiffs' need for the requested information.

## HOLDINGS

1. TSMC must produce data from its HR-related data sources and Excel files responsive to RFPs 1 and 2, except for data reflecting visa type and whether TSMC sought a permanent labor certification or green card on an employee's behalf.
2. The court could not limit production of responsive applicant and employee data to the named plaintiffs because broader data was necessary to develop statistical evidence of alleged discrimination.
3. TSMC was not required to produce visa-type information or information concerning whether it sought a permanent labor certification or green card on an employee's behalf.
4. Plaintiffs were not entitled to an order compelling production of information concerning employee visa applications or PERM and green-card applications.

## KEY QUOTATIONS

*“For the reasons explained below, the Court orders TSMC to produce data from its HR-related data sources and Excel files responsive to RFPs 1 and 2, except for data reflecting “visa type” or “whether TSMC sought a permanent labor certification or green card on the employee's behalf.”” (at 1)*

*“The Court has no difficulty concluding that an individual's immigration status may be considered sensitive information, and that it should not be disclosed unless the information is relevant to a claim or defense and the risks of disclosure are outweighed by the plaintiffs' need for the information.” (at 4)*

## FACTUAL BACKGROUND

Plaintiffs allege that TSMC and related entities engaged in a pattern and practice of employment discrimination against individuals who are not East Asian, Taiwanese, or Chinese, including discrimination in hiring, staffing, promotion, and termination or retention. Plaintiffs also allege a hostile work environment and constructive discharges. They sought applicant and employee demographic, employment, performance, and immigration-related data to conduct statistical analyses supporting their pattern-or-practice claims.

## PROCEDURAL HISTORY

Plaintiffs brought putative class claims under 42 U.S.C. § 1981 and Title VII alleging racial, national-origin, and citizenship discrimination and a hostile work environment. The parties submitted a dispute concerning plaintiffs' RFPs 1 through 4, and the court resolved the dispute without oral argument under Civil Local Rule 7-1(b).

## DISPOSITION

other

## REMAND INSTRUCTIONS

TSMC must substantially complete production responsive to RFPs 1 and 2 by September 19, 2025, excluding visa-type information and information concerning whether TSMC sought a permanent labor certification or green card on an employee's behalf. If TSMC cannot access an item within the permitted scope, it must identify the item and explain why it cannot be produced. Any remaining disputes may be brought to the court's attention. TSMC need not produce data responsive to RFPs 3 and 4.

## CASES CITED

- Diaz v. Am. Telephone & Telegraph, 752 F.2d 1356 (9th Cir. 1985)
- Rivera v. NIBCO, Inc., 364 F.3d 1057, 1074 (9th Cir. 2004)
- Comm. for Immigrant Rts. of Sonoma Cnty. v. Cnty. of Sonoma, No. C08-4220 RS (JL), 2010 WL 11575520, at \*6 (N.D. Cal. Nov. 12, 2010)

## OPINION

Howington v. Taiwan Semiconductor Manufacturing Co., Ltd.

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 SAN JOSE DIVISION

7 DEBORAH HOWINGTON, et al., Case No. 24-cv-05684-VKD 8 Plaintiffs,

9 ORDER RE JULY 23, 2025

v. DISCOVERY DISPUTE RE RFPS 1-4

10 TAIWAN SEMICONDUCTOR Re: Dkt. No. 82 11 MANUFACTURING CO., LTD., et al.,  
Defendants. 12 13 The parties ask the Court to resolve their dispute regarding four of plaintiffs'  
document 14 requests directed to TSMC's applicant and employee data. Dkt. No. 82. The Court  
finds this 15 dispute suitable for resolution without oral argument. Civil L.R. 7-1(b). 16 For the  
reasons explained below, the Court orders TSMC to produce data from its HR- 17 related data  
sources and Excel files responsive to RFPs 1 and 2, except for data reflecting "visa 18 type" or  
"whether TSMC sought a permanent labor certification or green card on the 19 employee's  
behalf." TSMC is not required to produce data responsive to RFPs 3 and 4.

## 20 I. BACKGROUND

21 In this putative class action, plaintiffs allege that defendants Taiwan Semiconductor  
Manufacturing Co. Ltd., TSMC North America, TSMC Technology, Inc., TSMC Arizona  
23 Corporation, and TSMC Washington, LLC (collectively, “TSMC” or “defendants”) engage in an  
24 “intentional pattern and practice of employment discrimination against individuals who are not  
of 25 East Asian race, not of Taiwanese or Chinese national origin, and who are not citizens of  
Taiwan 26 or China,<sup>1</sup> including discrimination in hiring, staffing, promotion, and  
retention/termination 27 1 decisions.” Dkt. No. 75 ¶ 1. Additionally, plaintiffs allege that “TSMC  
routinely subjects non- 2 East Asians (including those who are not of Taiwanese or Chinese  
descent) to a hostile work 3 environment where verbal abuse, gaslighting, isolation, and  
humiliation is common, and 4 oftentimes leads to the constructive discharge of these employees.”  
Id. ¶ 2. Plaintiffs assert class 5 claims under 42 U.S.C. § 1981 for disparate treatment on the basis  
of race and citizenship, as well 6 as for a hostile work environment (based on race), and under  
Title VII, 42 U.S.C. § 2000e-2 for 7 disparate treatment based on race and national origin,  
disparate impact based on race and national 8 origin, as well as for a hostile work environment  
(based on race and national origin). See id. 9 ¶¶ 347-380. Certain of the named plaintiffs also  
assert individual claims for relief. 10 As pertinent to this discovery dispute, plaintiffs ask TSMC to  
produce data responsive to 11 the following document requests: 12 RFP 1: An Excel  
spreadsheet(s) or comparable file format that contains the following: the identity of each  
individual who applied to 13 TSMC (either directly or through a third party recruiter or referral)  
for 14 a position in the United States during the relevant time period, and for each such individual,  
the applicant’s name, applicant number, 15 race, national origin, citizenship, visa type (if any),  
date of application, TSMC entity applied to, source of the application (e.g., 16 contracting  
company, employee referral, job board, career website, school recruiting, etc.), requisition/job  
opening number, 17 position(s) applied to or considered for, whether the applicant was 18  
interviewed for the role and interview date, the applicant’s interview score or review, whether or  
not the applicant was offered a position, the 19 position(s) offered, whether the applicant accepted  
any such offer and was hired, and if not hired, the name, race, national origin, citizenship, and 20  
visa type (if any) of the individual ultimately hired by TSMC for the role(s). 21 22 RFP 2: An  
Excel spreadsheet(s) or comparable file format that contains the following: the identity of each  
employee who worked for 23 TSMC in the United States during the relevant time period, and for  
each such individual, the employee’s name, employee number, race, 24 national origin,  
citizenship, visa type (if any), country of hire, TSMC entity that employed the employee, each  
position held 25 by the employee in the United States and abroad (by date), each 26 job level in  
the United States and abroad (by date), date of promotion (if promoted), each performance rating,  
date the 27 employee was placed on a Performance Improvement Plan or behalf,  
termination/resignation date (if terminated or resigned), 1 reason for termination/resignation (if  
terminated or resigned), and 2 location at the time of termination or resignation (if terminated or

resigned). 3 RFP 3: An Excel spreadsheet(s) or comparable file format that 4 contains the following: the identity of each employee for whom TSMC sought a visa during the relevant time period, and for 5 each such individual, the employee's name, employee number, visa type (and any amendments thereto), job role, job level, job 6 location, and TSMC entity employer in the U.S. listed on the visa 7 application, date of initial visa application, date of visa extension (if any), date of visa amendment (if any), country of hire, date of visa 8 approval (if any), date of visa rejection (if any). 9 RFP 4: An Excel spreadsheet(s) or comparable file format that contains the following: the identity of each employee for whom 10 TSMC filed an Application for Permanent Employment 11 Certification ("PERM" application) or green card during the relevant period and for each such individual, the employee's 12 name, employee number, job role, job level, and job location in the U.S., whether a PERM application or green card was filed on 13 the employee's behalf, visa type at the time of filing the PERM or green card application, date of PERM or green card application 14 approval (if any), date of PERM or green card application 15 withdrawal (if any) and reason for the withdrawal, and date of PERM or green card application rejection (if any) and the reason 16 for the rejection. 17 Dkt. No. 83-1 at ECF 8-10.

## 18 II. DISCUSSION

19 As a general matter, a party may obtain discovery "regarding any nonprivileged matter that 20 is relevant to any party's claim or defense and proportional to the needs of the case, considering 21 the importance of the issues at stake in the action, the amount in controversy, the parties' relative 22 access to relevant information, the parties' resources, the importance of the discovery in resolving 23 the issues, and whether the burden or expense of the proposed discovery outweighs its likely 24 benefit." Fed. R. Civ. P. 26(b)(1). Plaintiffs argue that the information they seek is necessary for 25 statistical analyses they will conduct to support their pattern or practice claims. Dkt. No. 82 at 1, 26 4. They contend that the information is easily accessible in standard HR-related data sources or in 27 existing Excel files maintained by TSMC. Id. at 2-3. TSMC objects that the information is not 1 TSMC, its obligations to produce responsive data should be limited to the named plaintiffs. Id. at 2 4-5. TSMC further objects that plaintiffs seek the confidential information of thousands of other 3 individuals, and that they have not shown that their need for the information outweighs those 4 individuals' interest in protecting their privacy, particularly to the extent plaintiffs seek 5 information about individuals' immigration status. Id. at 4-6. 6 A. TSMC's objections regarding accessible data sources 7 The parties provide the Court with conflicting representations regarding TSMC's HR- 8 related data sources. Plaintiffs state that TSMC uses standard tools and data sources to record 9 applicant and employee data and maintains other information in Excel files in shared HR folders 10 or drives. Id. at 2-3. TSMC does not specifically address each data source plaintiffs identify, but 11 asserts generally that "[w]hile TSMC Arizona Corporation has some ability to sort through and 12 identify potentially responsive data, the other Defendants do not." Id. at 4. The only examples 13 TSMC provides are that "TSMC North America and TSMC Technology, Inc. . . . do not use 14 WorkDay or the

Separation system, and did not start using SuccessFactors until approximately the end of 2022.” Id. 16 The Court is not persuaded that TSMC fails to maintain standard HR data for applicants 17 and employees in readily accessible form—whether in an Excel file, a database, or another data 18 source—for the relevant time period. Whether a particular TSMC defendant uses a particular tool 19 or data store is not the point. The Court expects that all defendants maintain, and will have 20 preserved, the same or similar data for each applicant and employee in a form or forms that are 21 easily accessible, even if they did not use the same platform or tool to record the data. 22 In any event, the Court could not properly limit TSMC’s production of responsive data to 23 the named plaintiffs only, as TSMC suggests. See *Diaz v. Am. Telephone & Telegraph*, 752 F.2d 24 1356 (9th Cir. 1985) (finding district court erred in refusing to permit discovery of defendant’s 25 employment statistics for relevant geographic region). Such a production would not permit 26 plaintiffs to develop relevant statistical evidence showing disparities based on race, national origin 27 and/or citizenship in hiring, staffing, promotion, and retention or termination decisions. TSMC 1 address TSMC’s concerns about undue burden. 2 B. RFPs 1 and 2: Applicant and employee demographic and performance data 3 RPS 1 and 2 seek multiple items of information about TSMC’s applicants and employees 4 in the United States. While TSMC objects generally to the scope of the information requested, it 5 specifically objects that plaintiffs have not established a need for immigration-related information 6 that is sufficient to outweigh applicants’ and employees’ interests in keeping this information 7 private and confidential. 8 Plaintiffs do not explain why they require information about each applicant’s or 9 employee’s “visa type (if any)” or, for each employee, “whether TSMC sought a permanent 10 labor certification or green card on the employee’s behalf.” Separately, each of these requests 11 seeks information about each applicant’s or employee’s race, national origin, and 12 citizenship—all of which information plaintiffs insist is collected and maintained by TSMC in the 13 ordinary course as part of its hiring and management of employees. Plaintiffs do not allege 14 discrimination based on visa type or immigration status, but only on the basis of race (not East 15 Asian), national origin (not from Taiwan or China), and/or citizenship (not citizens of Taiwan or 16 China). The Court has no difficulty concluding that an individual’s immigration status may be 17 considered sensitive information, and that it should not be disclosed unless the information is 18 relevant to a claim or defense and the risks of disclosure are outweighed by the plaintiffs’ need for 19 the information. See, e.g., *Rivera v. NIBCO, Inc.*, 364 F.3d 1057, 1074 (9th Cir. 2004) (affirming 20 protective order barring discovery of civil rights plaintiffs’ immigration status, as such discovery 21 could have a chilling effect on litigants and was not relevant to a claim or defense); *Comm. for 22 Immigrant Rts. of Sonoma Cnty. v. Cnty. of Sonoma*, No. C08-4220 RS (JL), 2010 WL 11575520, 23 at \*6 (N.D. Cal. Nov. 12, 2010) (“The harm resulting from disclosure of immigration status is 24 significant and real.”) (summarizing authority).. 25 With respect to the other information plaintiffs seek in response to RFPs 1 and 2, the Court 26 finds that this information is reasonably necessary for plaintiffs to conduct the statistical analyses 27 1 they require.” While TSMC is

correct that the data includes personally identifiable information of 2 || non-parties, the Court finds that these individuals' privacy interests can be adequately protected if 3 access to the information is limited to plaintiffs' counsel and appropriate experts, as provided in 4 || the protective order (Dkt. No. 64), with appropriate safeguards to ensure the information is not 5 otherwise disclosed and is not used for any purpose other than performance of the statistical 6 analyses plaintiffs identify. 7 C. RFPs 3 and 4: Employee visa and PERM card information 8 RPS 3 and 4 seek detailed information about TSMC's applications for visas and PERM or 9 green cards for its employees. As explained above, plaintiffs do not explain why they require this 10 || type of immigration-related information for all of TSMC's employees in the United States. 11 Accordingly, the Court denies plaintiffs' request for an order compelling production of 12 || information responsive to RFPs 3 and 4.

### 13 || 1. CONCLUSION

14 TSMC must produce data from its HR-related data sources and Excel files responsive to 3 15 || RFPs 1 and 2, except that TSMC need not include data reflecting "visa type" or "whether TSMC a 16 sought a permanent labor certification or green card on the employee's behalf." TSMC's 3 17 production must be substantially complete by September 19, 2025. To the extent TSMC claims it 18 || does not have or cannot access an item of information within the permitted scope of RFPs 1 and 2, 19 || it shall disclose to plaintiffs the specific item of information in question and explain why it cannot 20 || be produced. Any remaining disputes about this data may be brought to the Court's attention. 21 TSMC is not required to produce data responsive to RFPs 3 and 4. 22 IT IS SO ORDERED. 23 Dated: August 29, 2025 5 Virginia K. DeMarchi United States Magistrate Judge 26 27 28 > RFPs | and 2 do not require disclosure of applicants' or employees' contact information.