

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

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 22
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,¹ 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 eSeparation system, and did not start using SuccessFactors until approximately 15 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.