

SEMITOOl INC
Form SC TO-T/A
December 15, 2009

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**SCHEDULE TO
(Amendment No. 5)**

(Rule 14d-100)

Tender Offer Statement Under Section 14(d)(1) or Section 13(e)(1)

of the Securities Exchange Act of 1934

Semitool, Inc.

(Name of Subject Company (Issuer))

Jupiter Acquisition Sub, Inc. (Offeror)

Applied Materials, Inc. (Parent of Offeror)

(Names of Filing Persons)

COMMON STOCK, NO PAR VALUE PER SHARE

(Title of Class of Securities)

816909105

(CUSIP Number of Class of Securities)

Joseph J. Sweeney, Esq.

Senior Vice President, General Counsel

and Corporate Secretary

Applied Materials, Inc.

3050 Bowers Avenue

P.O. Box 58039

Santa Clara, California 95052-8039

(408) 727-5555

(Name, address and telephone number of person authorized to receive notices

and communications on behalf of filing persons)

With a copy to:

Keith A. Flaum, Esq.

Lorenzo Borgogni, Esq.

Dewey & LeBoeuf LLP

1950 University Avenue, Suite 500

East Palo Alto, CA 92612

(650) 845-7000

CALCULATION OF FILING FEE

Transaction Valuation*: \$373,489,952

Amount of Filing Fee: \$20,841**

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* Estimated solely for the purpose of calculating the registration fee in accordance with the Securities Exchange Act of 1934, as amended (the Exchange Act), based on the product of (i) \$11.00 (i.e. the tender offer price) and (ii) 33,953,632, the estimated maximum number of shares of Semitool common stock to be acquired in the tender offer (which number is composed of 32,751,356 shares of Semitool common stock outstanding as of November 16, 2009, 1,192,226 shares of Semitool common stock issuable upon the exercise of outstanding options having an exercise price of less than \$11.00 and 10,050 shares of Semitool common stock subject to restricted stock units).

** The amount of the filing fee calculated in accordance with the Exchange Act, equals \$55.80 for each \$1,000,000 of value. The filing fee was calculated in accordance with Rule 0-11(d) under the Exchange Act and Fee Rate Advisory #3 for fiscal year 2010, issued October 30, 2009.

þ Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount previously paid: \$ 20,841
Filing Party: Applied Materials, Inc. and Jupiter Acquisition Sub, Inc.

Form or registration no.: Schedule TO-T
Date Filed: November 19, 2009

.. Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.
Check the appropriate boxes below to designate any transactions to which the statement relates:

þ third-party tender offer subject to Rule 14d-1.

.. issuer tender offer subject to Rule 13e-4.

.. going-private transaction subject to Rule 13e-3.

.. amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer: ..

INTRODUCTORY STATEMENT

This Amendment No. 5 (this Amendment) amends and supplements the Tender Offer Statement on Schedule TO (which, together with any amendments and supplements thereto, collectively constitute the Schedule TO) that was originally filed with the Securities and Exchange Commission on November 19, 2009 by (i) Jupiter Acquisition Sub, Inc., a Montana corporation (Acquisition Sub) and a wholly-owned subsidiary of Applied Materials, Inc., a Delaware corporation (Applied), and (ii) Applied. The Schedule TO relates to the purchase of all of the outstanding shares of common stock, no par value per share, of Semitool, Inc. at a purchase price of \$11.00 per share, net to the seller in cash, without interest thereon and less any required withholding tax, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated November 19, 2009 (the Offer to Purchase), and in the related Letter of Transmittal (which, together with the Offer to Purchase and any amendments or supplements thereto, collectively constitute the Offer), copies of which were filed with the Schedule TO as Exhibits (a)(1) and (a)(2) thereto, respectively. This Amendment is being filed on behalf of Acquisition Sub and Applied. The information set forth in the Offer to Purchase and the related Letter of Transmittal is hereby expressly incorporated by reference in answer to Items 1 through 9 and 11 of this Amendment and is amended and supplemented by the information specifically provided herein.

Capitalized terms used and not defined in this Amendment have the meanings assigned to such terms in the Offer to Purchase.

ITEM 11. ADDITIONAL INFORMATION.

Item 11 of the Schedule TO is amended and supplemented by amending and supplementing the information set forth in Section 14 (Certain Legal Matters) of the Offer to Purchase as follows:

The following two paragraphs are added after the second paragraph under the caption Litigation on page 50:

On December 9, 2009, the Court heard the motion by plaintiff *Stationary Engineers Local* for expedited discovery and took the matter under advisement. Also on December 9, 2009, the Court issued an Order to Show Cause setting the hearing on the application for preliminary injunction by plaintiff *Stationary Engineers Local* for December 15, 2009. On December 10, 2009, the Court issued its Order and Rationale on Expedited Discovery, which denied plaintiff's motion to advance discovery proceedings.

On December 14, 2009, all defendants in the three pending lawsuits described above reached an agreement in principle with all plaintiffs (on behalf of themselves and the members of the putative class) to settle the matters. The agreement in principle provides that, without any defendant admitting any wrongdoing, liability or damage, Semitool will disclose certain additional information in the Schedule 14D-9 and defendants will agree not to oppose an award of plaintiff counsels' attorneys' fees and expenses up to a specified amount, which, subject to the Court's approval, Semitool and Applied will pay. The agreement in principle is subject to the parties reaching agreement on the terms of a mutually acceptable definitive settlement agreement. Subject to completion of a definitive settlement agreement, defendants have agreed to consent to the entry of a class designation solely for purposes of settlement, such that the settlement, if approved, would result in a complete and final discharge of all claims on behalf of the class. Thereafter, the settlement agreement will be subject to approval by the Court and conditioned upon consummation of the Offer and certification of the class designation.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this Statement is true, complete and correct.

JUPITER ACQUISITION SUB, INC.

By: /s/ THOMAS T. EDMAN
Name: **Thomas T. Edman**
Title: **President**

APPLIED MATERIALS, INC.

By: /s/ JOSEPH J. SWEENEY
Name: **Joseph J. Sweeney**
Title: **Senior Vice President, General Counsel
and Corporate Secretary**

Dated: December 15, 2009

EXHIBIT INDEX

| Exhibit No. | Description |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a)(1) | Offer to Purchase, dated November 19, 2009.* |
| (a)(2) | Form of Letter of Transmittal.* |
| (a)(3) | Form of Notice of Guaranteed Delivery.* |
| (a)(4) | Form of Letter from the Information Agent to Brokers, Dealers, Banks, Trust Companies and Other Nominees.* |
| (a)(5) | Form of Letter to Clients for use by Brokers, Dealers, Banks, Trust Companies and Other Nominees.* |
| (a)(6) | Instructions for Certification of Taxpayer Identification Number on Substitute Form W-9.* |
| (a)(7) | Joint Press Release issued by Applied Materials, Inc. and Semitool, Inc. on November 17, 2009 (incorporated by reference to the Form 8-K filed by Applied Materials, Inc. with the Securities and Exchange Commission on November 17, 2009). |
| (a)(8) | Summary Newspaper Advertisement published in The Wall Street Journal on November 19, 2009.* |
| (a)(9) | Press Release issued by Applied Materials, Inc. on November 19, 2009.* |
| (a)(10) | Complaint captioned <i>Stationary Engineers Local 39 Pension Trust Fund vs. Semitool, Inc., et al.</i> (Cause No. DV-09-1461 (B)) filed on November 19, 2009, in the Montana Eleventh Judicial District Court, County of Flathead.* |
| (a)(11) | Amended Complaint captioned <i>Stationary Engineers Local 39 Pension Trust Fund vs. Semitool, Inc., et al.</i> (Cause No. DV-09-1461 (B)) filed on November 25, 2009, in the Montana Eleventh Judicial District Court, County of Flathead.* |
| (a)(12) | Complaint captioned <i>Stern vs. Thompson, et al.</i> (Cause No. DV-09-1513(C)) filed on November 30, 2009, in the Montana Eleventh Judicial District Court, County of Flathead.* |
| (a)(13) | Press Release issued by Applied Materials, Inc. on December 2, 2009.* |
| (a)(14) | Press Release issued by Applied Materials, Inc. on December 7, 2009.* |
| (a)(15) | Complaint captioned <i>Marvel vs. Thompson, et al.</i> (Cause No. DV-09-1526(B)) filed on December 4, 2009, in the Montana Eleventh Judicial District Court, County of Flathead.* |
| (a)(16) | Press Release issued by Applied Materials, Inc. on December 8, 2009 (incorporated by reference to the Form 8-K filed by Applied Materials, Inc. with the Securities and Exchange Commission on December 8, 2009). |
| (d)(1) | Agreement and Plan of Merger, dated as of November 16, 2009, by and among Applied Materials, Inc., Jupiter Acquisition Sub, Inc. and Semitool, Inc.* |
| (d)(2) | Noncompetition Agreement, dated as of November 16, 2009, by Larry E. Murphy in favor of and for the benefit of Applied Materials, Inc.* |
| (d)(3) | Noncompetition Agreement dated as of November 16, 2009, by Raymon F. Thompson in favor of and for the benefit of Applied Materials, Inc.* |
| (d)(4) | Form of Tender and Support Agreement, dated as of November 16, 2009, by and among Applied Materials, Inc., Jupiter Acquisition Sub, Inc. and each of the following: Raymon F. Thompson and Ladiene A. Thompson (and/or related trusts); Howard A. Bateman; Donald P. Bauman; Timothy C. Dodkin; Daniel J. Eigeman; Charles P. Grenier; Steven C. Stahlberg; Steven R. Thompson; Larry E. Murphy; Larry A. Viano; James L. Right; Paul M. Siblingrud; Klaus Pfeifer and Richard C. Hegger.* |
| (d)(5) | Consulting Agreement, dated as of November 16, 2009, between Applied Materials, Inc. and Raymon F. Thompson.* |
| (d)(6) | Offer Letter, dated as of November 16, 2009, between Applied Materials, Inc. and Larry E. Murphy.* |
| (g) | Not applicable. |
| (h) | Not applicable. |

* Previously filed with the Schedule TO.