

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

MARPOSS SOCIETÀ PER AZIONI, and MARPOSS CORPORATION,)	
)	
Plaintiffs,)	Case No. : _____
)	
v.)	
)	
JENOPTIK AUTOMOTIVE NORTH AMERICA, LLC, and JENOPTIK INDUSTRIAL METROLOGY GERMANY GMBH,)	JURY TRIAL DEMANDED
)	
Defendants.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs Marposs Società per Azioni (“Marposs Italy”) and Marposs Corporation (“Marposs US”) (collectively, “Marposs”), by and through counsel, hereby file this Complaint for Patent Infringement against Defendants Jenoptik Automotive North America, LLC (“Jenoptik NA”) and Jenoptik Industrial Metrology Germany GmbH (“Jenoptik Germany”) (collectively, “Jenoptik”). Marposs alleges as follows:

PARTIES

1. Marposs Italy is an Italian corporation, with its principal place of business at Via Saliceto, 13 1-40010 Bentivoglio (BO), Italy.
2. Marposs US is a New York corporation, with its principal place of business at 3300 Cross Creek Parkway, Auburn Hills, MI 48326-2758.

3. On information and belief, Jenoptik NA is a limited liability company organized and existing under the laws of Michigan, with its principal place of business at 1505 West Hamlin Road, Rochester Hills, MI 48309. On information and belief, Jenoptik NA was formerly known as Jenoptik Industrial Metrology North America LLC.

4. On information and belief, Jenoptik NA imports, uses, sells, and/or offers for sale various in-process measuring systems for crankshafts and other workpieces, including the DF500 device which infringes the Patents-in-Suit.

5. On information and belief, Jenoptik Germany is a German limited liability company, with its place of business at Alte Tuttlinger Strasse 20 - 78056 Villingen-Schwenningen, Germany.

6. On information and belief, Jenoptik Germany manufactures, imports, uses, sells, and/or offers for sale various in-process measuring systems for crankshafts and other workpieces, including the DF500 device which infringes the Patents-in-Suit.

JURISDICTION AND VENUE

7. This is a civil action for patent infringement arising under the United States Patent Act, codified at 35 U.S.C. § 1 et seq., and, in particular, 35 U.S.C. §§ 271 and 281-285.

8. This Court has subject matter jurisdiction over this patent infringement action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over Jenoptik because, *inter alia*, Jenoptik has committed, induced, and/or contributed to acts of patent infringement in this District and continues to do so.

10. Venue is proper in this judicial District pursuant to 28 U.S.C. §§ 1391 and 1400 because Jenoptik has committed, induced, and/or contributed to acts of patent infringement in this District, and continues to do so.

PATENTS-IN-SUIT

11. On October 9, 2001, the U.S. Patent and Trademark Office (“USPTO”) duly and legally issued U.S. Patent No. 6,298,571 (“the ’571 Patent”), entitled “Apparatus for Checking Diametral Dimensions of Rotating Cylindrical Parts.” The named inventors of the ’571 Patent are Carlo Dall’Aglia and Riccardo Cipriani. A true and correct copy of the ’571 Patent is attached hereto as Exhibit 1.

12. On October 27, 2009, the USPTO duly and legally issued U.S. Patent No. 7,607,239 (“the ’239 Patent”), entitled “Apparatus for Checking Diametral Dimensions of Cylindrical Parts Rotating with an Orbital Motion.” The named inventors of the ’239 Patent are Carlo Dall’Aglia and Riccardo Cipriani. A true and correct copy of the ’239 Patent is attached hereto as Exhibit 2.

13. On October 16, 2012, the USPTO duly and legally issued U.S. Patent No. 8,286,361 (“the ’361 Patent”), entitled “Apparatus for Checking Diametral Dimensions of a Cylindrical Part in Orbital Motion in a Numerical Control Grinding Machine.” The named inventors of the ’361 Patent are Carlo Dall’Aglia and Riccardo Cipriani. A true and correct copy of the ’361 Patent is attached hereto as Exhibit 3.

14. On March 11, 2014, the USPTO duly and legally issued U.S. Patent No. 8,667,700 (“the ’700 Patent”), entitled “Method for Checking the Diameter of a Cylindrical Part

in Orbital Motion.” The named inventors of the ’700 Patent are Carlo Dall’Aglia and Riccardo Cipriani. A true and correct copy of the ’700 Patent is attached hereto as Exhibit 4.

15. Marposs Italy is the assignee of all right, title, and interest in and to the ’571, ’239, ’361, and ’700 Patents (collectively, the “Patents-in-Suit”), including the rights to prosecute this action and to collect and receive damages for all past, present, and future infringements.

16. Marposs US is the exclusive distributor for Marposs Italy in the United States and Canada for all products incorporating the Patents-in-Suit, including the Fenar L In-Process Gauging System for Crankshafts (the “Fenar L system”).

17. Marposs Italy and Marposs US are parties to a Distributorship Agreement. As set forth in the Agreement, Marposs Italy grants Marposs US the exclusive right to market its products in the United States and Canada. The Agreement prohibits Marposs Italy from granting to any other person or entity residing in the United States or Canada the right to represent or sell its products in the United States or Canada.

18. The Distributorship Agreement prohibits Marposs US from selling in the United States and Canada products of other manufacturers identical or similar to the products of Marposs Italy and, in general, from competing directly or indirectly with Marposs Italy for the duration of the Agreement and one year after the end of the Agreement.

FACTUAL ALLEGATIONS

A. Marposs, The Inventors and Their Inventions

19. Marposs is a world leader in measurement technology. Its mission is to provide precision metrology equipment for use in the workshop environment during and after machining

operations. Marposs supplies and/or sells precision gauging equipment to industries worldwide, including substantial sales in the United States. A substantial portion of Marposs's revenue is invested in research and development activities, and Marposs participates with a number of partners in international research programs.

20. Marposs Italy, through its employees, Carlo Dall'Aglio and Riccardo Cipriani, invented improved ways to check a dimension of a cylindrical part, such as a crankpin of a rotating crankshaft. The Dall'Aglio/Cipriani inventions are particularly advantageous in connection with a computer numerical control ("CNC") grinding system, where a crankpin orbits around its crankshaft axis, while a grinding wheel moves back and forth to follow the orbital motion of the crankpin. The Dall'Aglio/Cipriani inventions were a revolutionary breakthrough in the field of grinding metrology. The inventions make it possible, among other things, to check a dimension of a crankpin in a CNC grinding system with remarkably improved functionality and efficiency. The checking device can be effectively and conveniently placed on and removed from the orbiting crankpin, and the crankpin dimension can be checked, all in an "in process" condition, that is, while grinding continues.

21. Many of the Dall'Aglio/Cipriani inventions are embodied in Marposs's Fenar L system. The Fenar L system has many advantages that flow directly from one or more of the Dall'Aglio/Cipriani inventions, including safety, flexibility, precision, processing speed, durability, and reliability. The Marposs Fenar L system can obtain more accurate measurements more quickly than other systems. Moreover, the Fenar L system allows users to check all cylindrical parts of a crankshaft, i.e., both the orbitally rotating crankpins and the bearing

journals, without any specific change in its arrangement on the machine tool. As a result, the Marposs Fenar L system is a premier product that is the market leader in its category.

22. Prior to June 7, 2001, Marposs learned that Etamic SA, a predecessor-in-interest/affiliate to Jenoptik, had obtained U.S. Patent No. 6,088,924 (“the ’924 Patent”) covering the same invention for monitoring the dimensions of cylindrical parts that Marposs Italy had invented. Since Marposs Italy believed that its inventors were the true first inventors of the claims of the ’924 Patent, it took steps to invoke an interference proceeding within the USPTO. An interference is a proceeding designed to decide, among other things, who is the true first inventor where more than one entity is claiming patent rights to the same invention. In these circumstances, the USPTO determined that it was appropriate to have an interference proceeding in which Jenoptik’s predecessor-in-interest/affiliate participated. Marposs Italy prevailed in the interference proceeding and thus, the Marposs inventors were recognized as the true inventors. The ’239 Patent was then issued to Marposs Italy, including the claims awarded to it during the interference proceeding, and the interfering claims of the ’924 Patent were canceled.

23. Other ones of the Dall’Aglia/Cipriani inventions are claimed in the ’571, ’361, and ’700 Patents, and in other United States patents. The ’571, ’239, ’361, and ’700 Patents share essentially the same written description (specification) and drawings.

B. Jenoptik NA and Jenoptik Germany

24. Jenoptik NA and Jenoptik Germany operate through a global integrated organization (“the Jenoptik Group”). The Jenoptik Group divides its activities into five divisions: Optical Systems, Healthcare & Industry, Automotive, Traffic Solutions and Defense & Civil Systems.

25. Jenoptik AG, based in Jena, Germany, is the corporate center (i.e., headquarters) and ultimate power of the Jenoptik Group.

26. The Jenoptik Group has a presence in more than 80 countries, including Jenoptik NA in Rochester Hills, Michigan, USA, and Jenoptik Germany in Villingen-Schwenningen, Germany. The Jenoptik Group has approximately 18 subsidiaries. These subsidiaries directly or indirectly own approximately 45 additional subsidiaries throughout the world, including in the United States.

27. As described above, Jenoptik Germany manufactures, imports, uses, sells, and/or offers for sale the infringing DF500 device in and/or into the United States, and Jenoptik NA imports, uses, sells, and/or offers for sale the infringing DF500 device in and/or into the United States. Like Marposs's previously-introduced Fenar L system, the infringing DF500 device checks a dimension of a cylindrical part, particularly a crankpin of a rotating crankshaft.

C. Jenoptik's Knowledge of the Patents-in-Suit

28. On June 7, 2001, Marposs Italy filed U.S. Patent Application No. 09/875,137 ("the '137 Application") and requested an interference with the '924 Patent. The '239 Patent issued from the '137 Application, which claims priority to the '571 Patent, and thus, the '571 Patent was a part of the interference record. Accordingly, Jenoptik had knowledge of the '571 Patent at least by May 6, 2008, when the USPTO declared the interference.

29. Jenoptik also had knowledge of the claims in the '137 Application at least by May 6, 2008, which, by virtue of Marposs Italy's success in the interference, became the claims of the '239 Patent.

30. Jenoptik also had knowledge of the '571 and '239 Patents at least by September of 2010, about two years after the USPTO decided the interference.

31. The International Manufacturing Trade Show ("IMTS"), held every two years in September in Chicago, Illinois, is one of the world's largest industrial trade shows, featuring more than 2,000 exhibiting companies.

32. Jenoptik displayed the DF500 device, and Marposs personnel observed the displayed device, at the Chicago IMTS in September of 2010. The DF500 device has features that can be found in the Patents-in-Suit and in the Fenar L system.

33. On or about January 12, 2011, Marposs contacted Jenoptik and explained that the DF500 device infringed at least the '571 and '239 Patents. In apparent recognition of the appropriateness of Marposs's claims, on February 22, 2011, Jenoptik stated it would "halt[] offering the DF500 measuring system within the United States," and Jenoptik modified its website to indicate that the DF500 device was not available in the United States. A true and correct copy of the February 22nd letter is attached hereto as Exhibit 5.

34. Jenoptik also had knowledge of the Patents-in-Suit at least by September of 2014, when Marposs and Jenoptik again attended the IMTS in Chicago.

35. Notwithstanding its prior assertions that the DF500 device was not available in the United States, Jenoptik again had the DF500 device on display at the IMTS in 2014, and used the DF500 device to show potential customers how the device operates.

36. At the IMTS in 2014, Marposs personnel observed and took videos of the DF500 in operation, and graphics from those videos are discussed later in this Complaint.

37. On or about November 17, 2014, counsel for Marposs sent Jenoptik's counsel a letter regarding the Patents-in-Suit. The letter identified each of the Patents-in-Suit by number and provided proof demonstrating how the DF500 device and the method of operating the DF500 device meet each and every claim limitation of at least one claim in each of the Patents-in-Suit. A true and correct copy of the November 17th letter is attached hereto as Exhibit 6.

38. In subsequent months following the IMTS of 2014, Marposs did not observe any marketing activities by Jenoptik with respect to the DF500 device in the United States, and it appeared that Jenoptik had again recognized the appropriateness of Marposs's positions and that this matter had been resolved at that time.

D. Customer Issues Request for Proposal

39. Fives Landis Corp. and Fives Landis Ltd. (collectively, "Fives Landis") manufactures grinding machines for a variety of companies in the United States and throughout the world. Five Landis requires another party to provide gauging equipment (devices) for the grinding machines. Both Marposs and Jenoptik manufacture gauging devices – the Fenar L system in the case of Marposs and the DF500 device in the case of Jenoptik.

40. In March of 2016, Fives Landis issued a Request for Proposal to Marposs, inviting and welcoming proposals for a multi-year program to supply gauging devices for monitoring and checking grinding machines in the United States. Marposs responded to this Request for Proposal.

41. On information and belief, notwithstanding their knowledge of the Marposs patents, Marposs's positions and Jenoptik's prior assertions withdrawing the product from the United States, Jenoptik made a presentation about the infringing DF500 device to Five Landis in

or around Hagerstown, Maryland in an attempt to obtain the business for this program. On information and belief, Jenoptik indicated that it would sell its infringing DF500 device to Five Landis at prices lower than Marposs.

42. In light of the potential competition from Jenoptik's infringing device, Marposs substantially lowered its price to Five Landis.

E. IMTS of 2016

43. IMTS was being held this year in Chicago, Illinois, starting on September 12, 2016.

44. Jenoptik attended the IMTS of 2016.

45. Notwithstanding their knowledge of the Marposs patents, Marposs's positions and Jenoptik's prior assertions withdrawing the product from the United States, Jenoptik, once again, engaged in marketing activities in connection with the infringing DF500 device at the IMTS.

COUNT I: INFRINGEMENT OF THE '571 PATENT

46. Marposs incorporates by reference the allegations contained in paragraphs 1-45 above as if fully set forth herein.

47. On information and belief, Jenoptik has directly infringed (literally and/or by the doctrine of equivalents) and continues to directly infringe at least claims 16 and 18-20 of the '571 Patent by importing, making, using, selling and/or offering to sell products, services, methods, and/or systems including, without limitation, its in-process measuring system for crankshafts, for example, at least the DF500 device. Jenoptik is liable for its infringement of the '571 Patent in violation of 35 U.S.C. § 271(a).

48. The DF500 device infringes at least claims 16 and 18-20 of the '571 Patent because it has each and every element recited in claims 16 and 18-20.

49. Claim 16, for example, is reproduced below.

16. An apparatus for checking the diameter of a crankpin rotating with an orbital motion about a geometrical axis in a numerical control grinding machine, said apparatus comprising:

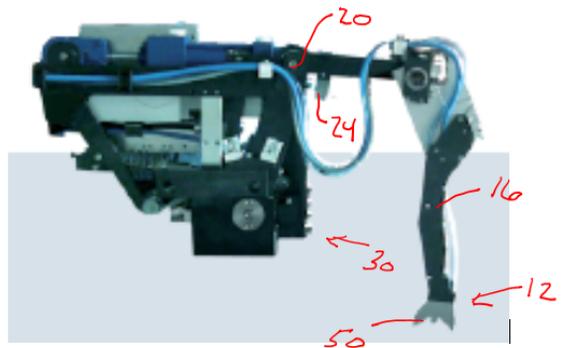
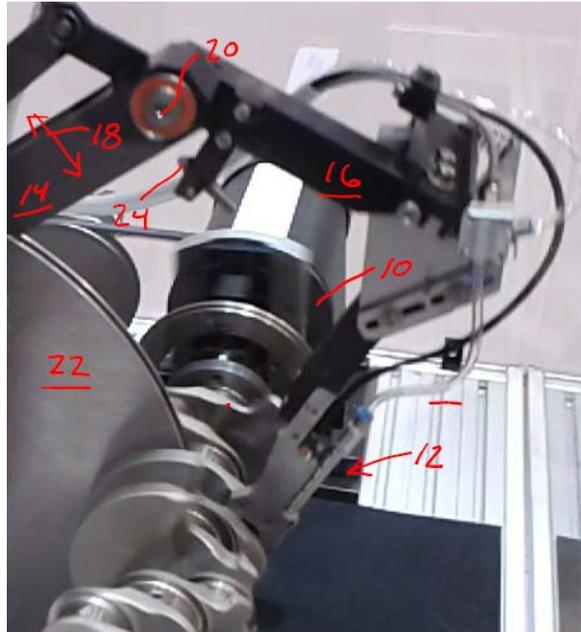
a Vee-shaped reference device for cooperating with the crankpin and defining a checking condition of said apparatus,

a measuring device movable with the reference device,

a support device for supporting the reference device and the measuring device, the support device including first and second coupling elements, the first coupling element being rotatable about a first axis of rotation parallel to said geometrical axis, the second coupling element carrying the reference device and being coupled to said first coupling element, and said second coupling element being rotatable with respect to said first coupling element about a second axis of rotation parallel to said geometrical axis, and wherein said reference device is maintained in contact with the crankpin by gravity, and

a control device for rotating said first coupling element to lift said reference device upwardly away from the crankpin against the force of gravity.

50. Referring to claim 16, the DF500 device is an apparatus (see graphic to the right, taken at the IMTS in 2014, with explanatory numerals added) for checking the diameter of a crankpin. In a checking condition, the crankpin is contacted by the edge of a grinding wheel 22. In operation, the crankpin rotates with an orbital motion about a geometrical axis in a numerical control grinding machine. The geometrical axis runs through the axis of rotation of a driven pulley 10. The DF500 device has a Vee-shaped reference device 50 (see graphic below from a Jenoptik marketing document, with explanatory numerals added) for cooperating with the crankpin and defining the checking condition. In the checking condition, the Vee-shaped reference device is in contact with the orbitally rotating crankpin. The DF500 device has a measuring device 12 that is movable with the Vee-shaped reference device 50, first and second coupling elements 14, 16 (see the two graphics on this page), and a support device for supporting the reference device and the measuring device 12. The support device includes the coupling elements 14, 16. The first coupling element 14 is rotatable in the directions of the double-headed arrow 18 in the graphic above, about a first axis of rotation parallel to the geometrical axis. The



second coupling element 16 carries the reference device and is coupled (20) to the first coupling element 14 (see first graphic on the previous page). The second coupling element 16 is rotatable with respect to the first coupling element 14 about a second axis of rotation (20) parallel to the geometrical axis. The reference device is maintained in contact with the crankpin by gravity. The DF500 device also has a control device for rotating the first coupling element 14 to lift the Vee-shaped reference device 50 upwardly away from the crankpin against the force of gravity. Moreover, the DF500 device, shown in the graphics reproduced in this Complaint, meets each and every limitation recited in claims 18-20, which depend from claim 16, of the '571 Patent.

51. Notwithstanding its knowledge of the Patents-in-Suit, having written notice from Marposs that it infringed the Patents-in-Suit, and its prior assertions withdrawing the product from the United States, and other facts discussed above, Jenoptik NA has actively, knowingly, and intentionally induced and continues to induce infringement of at least claims 16 and 18-20 of the '571 Patent, including by intentionally developing, marketing, advertising and/or providing the DF500 device with the knowledge (and/or willful blindness) of the infringement and specific intent that third parties, such as customers, will use and/or import the accused device in the United States. For example, Jenoptik NA encourages customers to use the DF500 device with their grinding machines. As a result, third parties have directly infringed the '571 Patent.

52. Notwithstanding its knowledge of the Patents-in-Suit, having written notice from Marposs that it infringed the Patents-in-Suit, and its prior assertions withdrawing the product from the United States, and other facts discussed above, Jenoptik Germany has actively, knowingly, and intentionally induced and continues to induce infringement of at least claims 16 and 18-20 of the '571 Patent, including by intentionally developing, making, marketing,

advertising and/or providing the DF500 device with the knowledge (and/or willful blindness) of the infringement and specific intent that third parties, such as customers, will use and/or import the accused device in the United States. For example, Jenoptik Germany encourages Jenoptik NA to import, use, sell, and/or offer for sale the DF500 device in the United States. Jenoptik Germany also encourages customers to use the DF500 device with their grinding machines. As a result, Jenoptik NA and third parties have directly infringed the '571 Patent.

53. Jenoptik NA has contributed and continues to contribute to the infringement of the '571 Patent by third parties, who use or import the DF500 device into the United States, by promoting, advertising, and marketing the DF500 device, at a minimum, on the website www.jenoptik.com, and by providing the necessary equipment and related documentation to third parties to operate the infringing device.

54. Jenoptik Germany has contributed and continues to contribute to the infringement of the '571 Patent by Jenoptik NA and third parties, who use or import the DF500 device into the United States, by promoting, advertising, and marketing the DF500 device, at a minimum, on the website www.jenoptik.com, and by providing the necessary equipment and related documentation to Jenoptik NA and/or third parties to operate the infringing device.

55. The DF500 device is not a staple article or commodity of commerce suitable for substantial non-infringing use.

56. Jenoptik has deliberately persisted in its infringing acts despite its knowledge of the '571 Patent at least by May 6, 2008. Further, Jenoptik had knowledge that the DF500 device infringed the '571 Patent when it marketed its products in the United States and at least by January 12, 2011, and thus, it had full knowledge of the risk of infringement. Despite this risk,

Jenoptik continued and continues to import, use, sell, and/or offer for sale the infringing DF500 device in and/or into the United States. As such, its infringement is willful.

COUNT II: INFRINGEMENT OF THE '239 PATENT

57. Marposs incorporates by reference the allegations contained in paragraphs 1-45 above as if fully set forth herein.

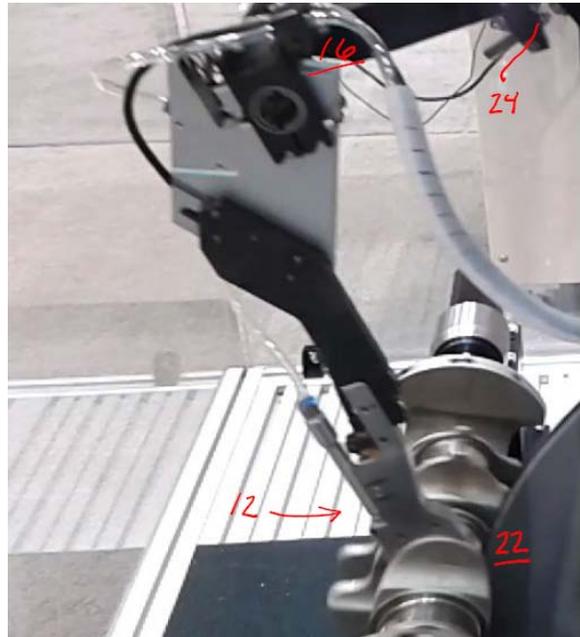
58. On information and belief, Jenoptik has directly infringed (literally and/or by the doctrine of equivalents), and continues to directly infringe, at least claims 1, 3-8, 11-14 and 16 of the '239 Patent by importing, making, using, selling and/or offering to sell products, services, methods, and/or systems including, without limitation, its in-process measuring system for crankshafts, for example, at least the DF500 device. Jenoptik is liable for its infringement of the '239 Patent in violation of 35 U.S.C. § 271(a).

59. The DF500 device infringes at least claims 1, 3-8, 11-14, and 16 of the '239 Patent because it has each and every element recited in claims 1, 3-8, 11-14, and 16.

60. Claim 1, for example, is reproduced below.

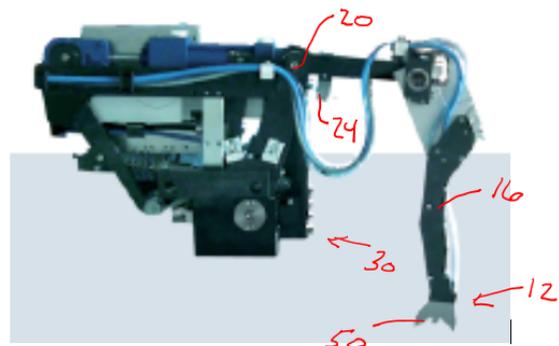
1. A device for monitoring the diameter of a cylindrical piece in orbital motion about an axis during a grinding thereof by an edge of a rotatable disk-shaped tool mounted on a carriage, said carriage being movable in a transverse direction relative to said axis and said device having a measurement head coupled to a support, said support being provided with a member for contacting the periphery of said piece and being movably mounted relative to a frame in order to follow the orbital motion of said cylindrical piece wherein said frame is secured to said carriage.

61. Referring to claim 1, the DF500 device (shown in the graphic to the right, taken at the IMTS in 2014, with explanatory numerals added) monitors the diameter of a cylindrical piece in orbital motion about an axis during a grinding thereof by an edge of a rotatable disk-shaped tool 22. The disk-shaped tool 22 is mounted on a carriage. In operation, the cylindrical piece is contacted by the edge of the



disk-shaped tool 22. The axis of orbital motion is essentially parallel to the axis of rotation of the disk-shaped tool 22. The carriage of the DF500 device is movable in a transverse direction (essentially left-right as viewed in each of the graphics reproduced in this Complaint) relative to the axis of orbital motion. The DF500 device has a measurement head 12 coupled to a support 16. The support is provided with a member 50 (see graphic below from a Jenoptik marketing document, with explanatory numerals added) which, in the position shown in the graphic above,

is in contact with the periphery of the cylindrical piece. The support is movably mounted relative to a frame in order to follow the orbital motion of the cylindrical piece. The frame is secured to the movable carriage. In operation, the frame moves in the transverse direction together with the carriage. Moreover, the DF500 device,

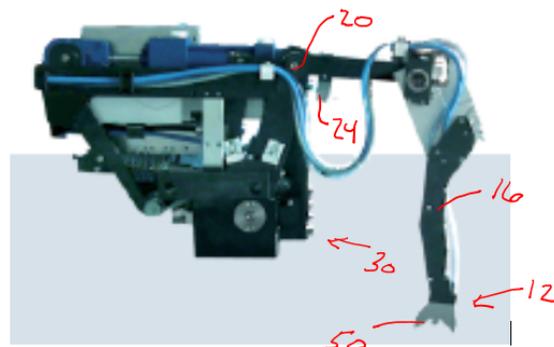
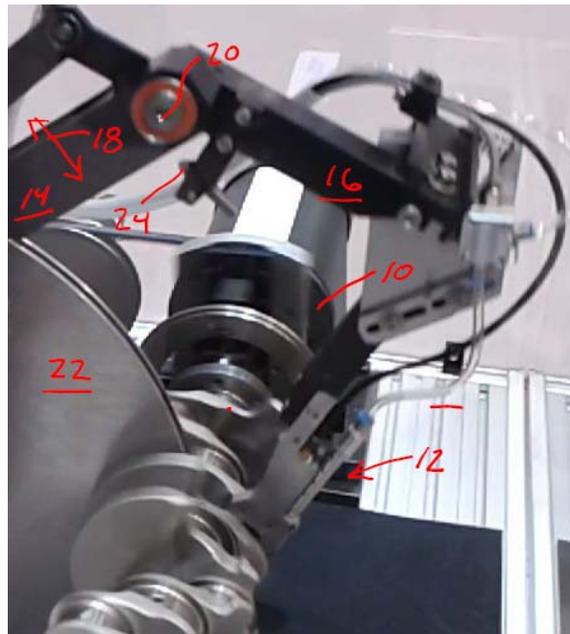


shown in the graphics reproduced in this Complaint, meets each and every limitation recited in claims 3-6, which depend from claim 1, of the '239 Patent.

62. Claim 7, for example, is reproduced below.

7. An apparatus for checking the diameter of a crankpin in orbital motion about a geometrical axis during a grinding thereof by a grinding wheel mounted on a grinding-wheel slide, said grinding-wheel slide being movable in a transverse direction relative to said geometrical axis and said apparatus having a measurement device coupled to a coupling element of a support device, said coupling element carrying a reference device for contacting the periphery of said crankpin and being movably mounted relative to a support element in order to follow the orbital motion of said crankpin, wherein said support element is secured to said grinding-wheel slide.

63. Referring to claim 7, the DF500 device is an apparatus for checking the diameter of a crankpin in orbital motion about a geometrical axis during a grinding thereof by a grinding wheel 22 mounted on a grinding-wheel slide. The grinding-wheel slide is movable in a transverse direction relative to the geometrical axis (essentially left-right in each graphic on this page, with explanatory numerals added). The apparatus has a measurement device 12 coupled to a coupling element 16 of a support device. The coupling element carries a reference device 50 for contacting the periphery of the crankpin. The coupling element is movably mounted relative to



a support element in order to follow the orbital motion of the crankpin, and the support element is secured to the grinding-wheel slide. In operation, the support element moves in the transverse direction together with the grinding wheel slide. Moreover, the DF500 device, shown in the graphics reproduced in this Complaint, meets each and every limitation recited in claims 8, 11-14, and 16, which depend from claim 7, of the '239 Patent.

64. Notwithstanding its knowledge of the Patents-in-Suit, having written notice from Marposs that it infringed the Patents-in-Suit, and its prior assertions withdrawing the product from the United States, and other facts discussed above, Jenoptik NA has actively, knowingly, and intentionally induced and continues to induce infringement of at least claims 1, 3-8, 11-14 and 16 of the '239 Patent, including by intentionally developing, marketing, advertising and/or providing the DF500 device with the knowledge (and/or willful blindness) of the infringement and specific intent that third parties, such as customers, will use and/or import the accused device in the United States. For example, Jenoptik NA encourages customers to use the DF500 device with their grinding machines. As a result, third parties have directly infringed the '239 Patent.

65. Notwithstanding its knowledge of the Patents-in-Suit, having written notice from Marposs that it infringed the Patents-in-Suit, and its prior assertions withdrawing the product from the United States, and other facts discussed above, Jenoptik Germany has actively, knowingly, and intentionally induced and continues to induce infringement of at least claims 1, 3-8, 11-14 and 16 of the '239 Patent, including by intentionally developing, making, marketing, advertising and/or providing the DF500 device with the knowledge (and/or willful blindness) of the infringement and specific intent that third parties, such as customers, will use and/or import the accused device in the United States. For example, Jenoptik Germany encourages Jenoptik

NA to import, use, sell, and/or offer for sale the DF500 device in the United States. Jenoptik Germany also encourages customers to use the DF500 device with their grinding machines. As a result, Jenoptik NA and third parties have directly infringed the '239 Patent.

66. Jenoptik NA has contributed and continues to contribute to the infringement of the '239 Patent by third parties, who use or import the DF500 device into the United States, by promoting, advertising, and marketing the DF500 device, at a minimum, on the website www.jenoptik.com, and by providing the necessary equipment and related documentation to third parties to operate the infringing device.

67. Jenoptik Germany has contributed and continues to contribute to the infringement of the '239 Patent by Jenoptik NA and third parties, who use or import the DF500 device into the United States, promoting, advertising, and marketing the DF500 device, at a minimum, on the website www.jenoptik.com, and by providing the necessary equipment and related documentation to Jenoptik NA and third parties to operate the infringing device.

68. The DF500 device is not a staple article or commodity of commerce suitable for substantial non-infringing use.

69. Jenoptik has deliberately persisted in its infringing acts despite its knowledge of claims in the application that are included as the '239 Patent at least by May 6, 2008, and, on information and belief, upon the issuance of the '239 Patent in October 2009, and at least by January 12, 2011. Further, Jenoptik had knowledge that the DF500 device infringed the '239 Patent when it marketed its products in the United States and at least by January 12, 2011, and thus, it had full knowledge of the risk of infringement. Despite this risk, Jenoptik continued and

continues to import, use, sell, and/or offer for sale the infringing DF500 device in and/or into the United States. As such, its infringement is willful.

COUNT III: INFRINGEMENT OF THE '361 PATENT

70. Marposs incorporates by reference the allegations contained in paragraphs 1-45 above as if fully set forth herein.

71. On information and belief, Jenoptik has directly infringed (literally and/or by the doctrine of equivalents), and continues to directly infringe, claims 1-7 of the '361 Patent by importing, making, using, selling and/or offering to sell products, services, methods, and/or systems including, without limitation, its in-process measuring system for crankshafts, for example, at least the DF500 device. Jenoptik is liable for its infringement of the '361 Patent in violation of 35 U.S.C. § 271(a).

72. The DF500 device infringes at least claims 1-7 of the '361 Patent because it has each and every element recited in claims 1-7.

73. Claim 1, for example, is reproduced below.

1. An apparatus for checking the diameter of a cylindrical part in orbital motion about a geometrical axis in a numerical control grinding machine, said apparatus comprising:

a reference device for cooperating with the cylindrical part in orbital motion and defining a checking condition of said apparatus;

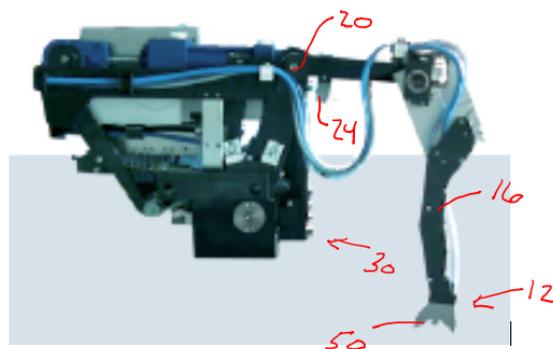
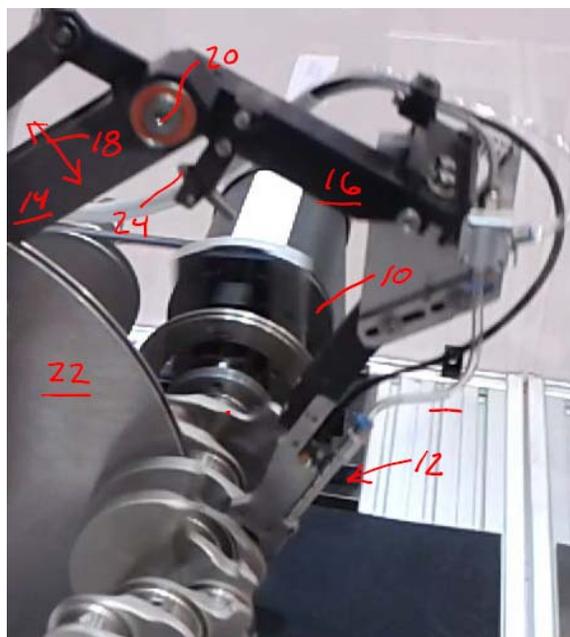
a measuring device movable with the reference device;

a support device for movably supporting the reference device and the measuring device, the support device including coupling elements with a first coupling element rotatable about a first axis of rotation parallel to said geometrical axis, and a second coupling element coupled to said first coupling element and rotatable with respect to said first coupling element about a second axis of rotation parallel to said geometrical axis;

a limiting element for limiting rotational displacements of the second coupling element with respect to the first coupling element; and

a control device for enabling the apparatus to displace in an automatic way from a rest position to the checking condition, and vice versa.

74. Referring to claim 1, the DF500 device (see graphic to right, taken at the IMTS in 2014, with explanatory numerals added) is an apparatus for checking the diameter of a cylindrical part in orbital motion about a geometrical axis in a numerical control grinding machine. The DF500 device has a reference device for cooperating with the cylindrical part in orbital motion and defining a checking condition of the apparatus. In the checking condition, shown in the graphic above and to the right, the reference device 50 (see graphic below from a Jenoptik marketing document, with explanatory numerals added) is in contact with the cylindrical part. The DF500 device has a measuring device 12 movably with the reference device, and a support device for movably supporting the reference device and the measuring device 12. The support device includes coupling elements 14, 16 with a first coupling element 14 rotatable (in the directions of the double headed



arrow 18 in the graphic on the previous page) about a first axis of rotation parallel to the geometrical axis, and a second coupling element 16 coupled to the first coupling element 14. The second coupling element 16 is rotatable with respect to the first coupling element 14 about a second axis of rotation 20 parallel to the geometrical axis. The geometrical axis runs through the axis of rotation of a driven pulley 10 (see first graphic above on previous page). The DF500 device also has a limiting element 24 for limiting rotational displacements of the second coupling element 16 with respect to the first coupling element 14, and a control device for enabling the apparatus to displace in an automatic way from a rest position (where the reference device 50 is removed from the crankpin) to the checking condition, and vice versa. Moreover, the DF500 device, shown in the graphics reproduced in this Complaint, meets each and every limitation recited in claims 2-7, which depend from claim 1, of the '361 Patent.

75. Notwithstanding its knowledge of the Patents-in-Suit, having written notice from Marposs that it infringed the Patents-in-Suit, and its prior assertions withdrawing the product from the United States, and other facts discussed above, Jenoptik NA has actively, knowingly, and intentionally induced and continues to induce infringement of at least claims 1-7 of the '361 Patent, including by intentionally developing, marketing, advertising and/or providing the DF500 device with the knowledge (and/or willful blindness) of the infringement and specific intent that third parties, such as customers, will use and/or import the accused device in the United States. For example, Jenoptik NA encourages customers to use the DF500 device with their grinding machines. As a result, third parties have directly infringed the '361 Patent.

76. Notwithstanding its knowledge of the Patents-in-Suit, having written notice from Marposs that it infringed the Patents-in-Suit, and its prior assertions withdrawing the product

from the United States, and other facts discussed above, Jenoptik Germany has actively, knowingly, and intentionally induced and continues to induce infringement of at least claims 1-7 of the '361 Patent, including by intentionally developing, making, marketing, advertising and/or providing the DF500 device with the knowledge (and/or willful blindness) of the infringement and specific intent that third parties, such as customers, will use and/or import the accused device in the United States. For example, Jenoptik Germany encourages Jenoptik NA to import, use, sell, and/or offer for sale the DF500 device in the United States. Jenoptik Germany also encourages customers to use the DF500 device with their grinding machines. As a result, Jenoptik NA and third parties have directly infringed the '361 Patent.

77. Jenoptik NA has contributed and continues to contribute to the infringement of the '361 Patent by third parties, who use or import the DF500 device into the United States, by promoting, advertising, and marketing the DF500 device, at a minimum, on the website www.jenoptik.com, and by providing the necessary equipment and related documentation to third parties to operate the infringing device.

78. Jenoptik Germany has contributed and continues to contribute to the infringement of the '361 Patent by Jenoptik NA and third parties, who use or import the DF500 device into the United States, by promoting, advertising, and marketing the DF500 device, at a minimum, on the website www.jenoptik.com, and by providing the necessary equipment and related documentation to Jenoptik NA and third parties to operate the infringing device.

79. The DF500 device is not a staple article or commodity of commerce suitable for substantial non-infringing use.

80. Jenoptik has deliberately persisted in its infringing acts despite its knowledge of the '361 Patent at least by September of 2014. Further, Jenoptik had knowledge that the DF500 device infringed the '361 Patent at least by September of 2014, and thus, it had full knowledge of the risk of infringement. Despite this risk, Jenoptik continued and continues to import, use, sell, and/or offer for sale the infringing DF500 device in and/or into the United States. As such, its infringement is willful.

COUNT IV: INFRINGEMENT OF THE '700 PATENT

81. Marposs incorporates by reference the allegations contained in paragraphs 1-45 above as if fully set forth herein.

82. On information and belief, Jenoptik NA has directly infringed (literally and/or by the doctrine of equivalents), and continues to directly infringe, at least claims 1-5 and 8-12 of the '700 Patent by importing, making, using, selling, and/or offering to sell products, services, methods, and/or systems including, without limitation, its in-process measuring system for crankshafts, for example, at least the DF500 device. Jenoptik NA is liable for its infringement of the '700 Patent in violation of 35 U.S.C. § 271(a).

83. The DF500 device infringes at least claims 1-5 and 8-12 of the '700 Patent because it has each and every element recited in claims 1-5 and 8-12.

84. Claim 1, for example, is reproduced below.

1. A method for checking the diameter of a cylindrical part in orbital motion about a geometrical axis in a numerical control grinding machine, by means of a checking apparatus including a Vee-shaped reference device for cooperating with the cylindrical part in orbital motion to be checked, a support device movably carrying the Vee-shaped reference device, and a measuring device movable with the Vee-shaped reference device, the method including the following steps:

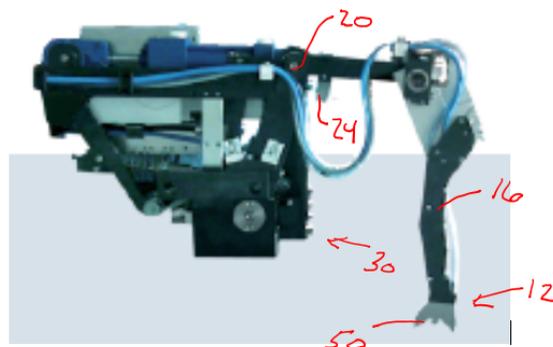
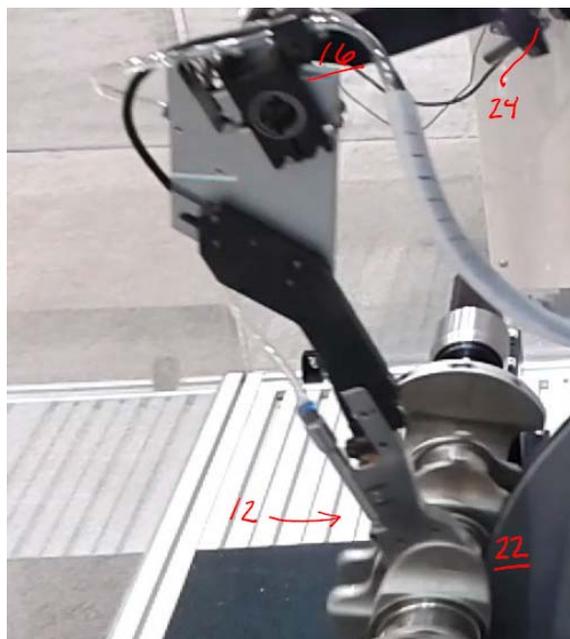
bringing the Vee-shaped reference device into contact with the cylindrical part to be checked, in an automatic way starting from a rest position and so defining a checking condition of the apparatus, and,

in said checking condition,

causing displacements of said support device by gravity, and

maintaining said Vee-shaped reference device in contact with the cylindrical part in orbital motion by virtue of said displacements of said support caused by gravity, and by the thrust applied by the cylindrical part in orbital motion to the Vee-shaped reference device in opposition to the force of gravity.

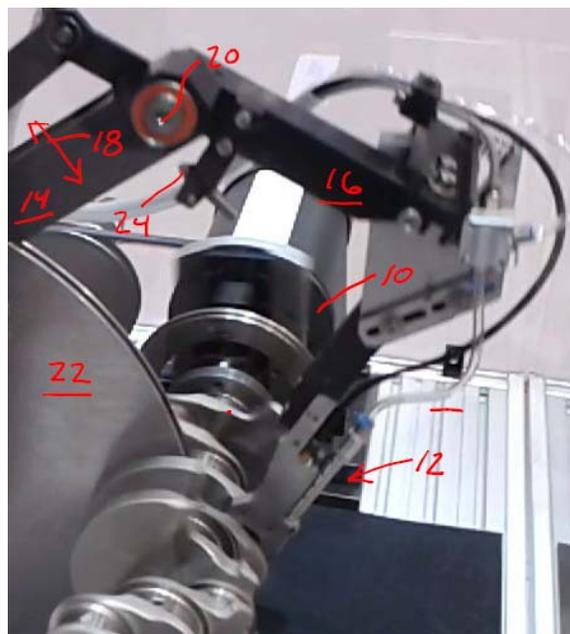
85. Referring to claim 1, the operation of the DF500 device observed at IMTS 2014 was a method for checking the diameter of a cylindrical part in orbital motion about a geometrical axis in a numerical control grinding machine, by means of a checking apparatus (see graphic to the right, taken at the IMTS in 2014, with explanatory numerals added) including a Vee-shaped reference device 50 (see graphic below from a Jenoptik marketing document, with explanatory numerals added) for cooperating with the cylindrical part in orbital motion to be checked, a support device movably carrying the Vee-shaped reference device, and a measuring device 12 movable with the Vee-shaped reference device. The DF500 device is a checking apparatus and includes the Vee-shaped reference device 50 for cooperating with the cylindrical part in orbital motion to be checked, the support device movably carrying the Vee-shaped reference device, and the measuring device 12 movable with the the Vee-shaped reference device. The Vee-shaped reference device is shown in the graphic above in contact with the orbitally moving cylindrical part. The operation of the DF500 device at IMTS 2014 included the steps of bringing the Vee-shaped reference device 50 into contact with the cylindrical part to be checked, in



an automatic way starting from a rest position and so defining a checking condition of the apparatus.

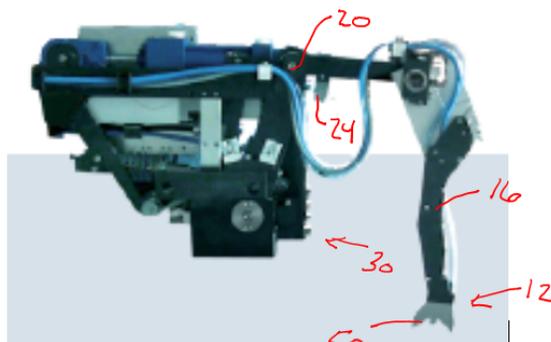
In the rest position, the Vee-shaped reference device was removed from the cylindrical part.

The operation of the DF500 at IMTS 2014 included the steps of causing displacements of the support device by gravity and maintaining the reference device in contact with the cylindrical part in orbital motion by virtue of the



displacements of the support caused by gravity, and by the thrust applied by the cylindrical part in orbital motion to the Vee-shaped reference device in opposition to the force of gravity.

During the causing-displacements step, the support device, carrying the Vee-shaped reference device 50, was displaced downwardly by gravity as the reference device moved downwardly to follow the orbital motion of the cylindrical part. During the maintaining step, the reference device moved upwardly when the cylindrical part moved upwardly, to follow the orbital motion of the cylindrical part. The cylindrical part pushed the reference device 50 upward in a cyclical manner, but the reference device remained in contact with the cylindrical part. The causing-displacements step and the maintaining step were performed while the DF500 device was in the checking condition. The DF500 device is



shown in the checking condition in the graphics on the previous page. Moreover, the DF500 device, shown in the graphics reproduced in this Complaint, meets each and every limitation recited in claims 2-5 and 8-12, which depend from claim 1, of the '700 Patent.

86. Notwithstanding its knowledge of the Patents-in-Suit, having written notice from Marposs that it infringed the Patents-in-Suit, and its prior assertions withdrawing the product from the United States, and other facts discussed above, Jenoptik NA has actively, knowingly, and intentionally induced and continues to induce infringement of at least claims 1-5 and 8-12 of the '700 Patent, including by intentionally developing, making, marketing, offering for sale, and selling the DF500 device with the knowledge (and/or willful blindness) of the infringement and specific intent that third parties, such as customers, will use the DF500 device to infringe by performing the claimed method for checking the diameter of a cylindrical part in orbital motion about a geometrical axis in a numerical control grinding machine in the United States. As a result, third parties have directly infringed the '700 Patent.

87. Notwithstanding its knowledge of the Patents-in-Suit, having written notice from Marposs that it infringed the Patents-in-Suit, and its prior assertions withdrawing the product from the United States, and other facts discussed above, Jenoptik Germany has actively, knowingly, and intentionally induced and continues to induce infringement of at least claims 1-5 and 8-12 of the '700 Patent, including by intentionally developing, making, marketing, offering for sale, and selling the DF500 device with the knowledge (and/or willful blindness) of the infringement and specific intent that Jenoptik NA and third parties, such as customers, will use the DF500 device to infringe by performing the claimed method for checking the diameter of a cylindrical part in orbital motion about a geometrical axis in a numerical control grinding

machine in the United States. As a result, Jenoptik NA and third parties have directly infringed the '700 Patent.

88. Jenoptik NA has contributed and continues to contribute to the infringement of the '700 Patent by third parties, who use or import the DF500 device into the United States, by promoting, advertising, and marketing the DF500 device, at a minimum, on the website www.jenoptik.com, and by providing the necessary equipment and related documentation to third parties to operate the infringing device.

89. Jenoptik Germany has contributed and continues to contribute to the infringement of the '700 Patent by Jenoptik NA and third parties, who use or import the DF500 device into the United States, by promoting, advertising, and marketing the DF500 device, at a minimum, on the website www.jenoptik.com, and by providing the necessary equipment and related documentation to Jenoptik NA and third parties to operate the infringing device.

90. The DF500 device is not a staple article or commodity of commerce suitable for substantial non-infringing use.

91. Jenoptik has deliberately persisted in its infringing acts despite its knowledge of the '700 Patent at least by September of 2014. Further, Jenoptik had knowledge that the DF500 device infringed the '700 Patent at least by September of 2014, and thus, it had full knowledge of the risk of infringement. Despite this risk, Jenoptik continued and continues to import, use, sell, and/or offer for sale the infringing DF500 device in and/or into the United States. As such, its infringement is willful.

PRAYER FOR RELIEF

WHEREFORE, Marposs prays for the following relief:

1. A judgment that Jenoptik NA directly infringes and has directly infringed the Patents-in-Suit;
2. A judgment that Jenoptik Germany directly infringes and has directly infringed the '571, '239, and '361 Patents;
3. A judgment that Jenoptik induces and has induced infringement of the Patents-in-Suit;
4. A judgment that Jenoptik contributes and has contributed to the infringement of the Patents-in-Suit;
5. An order preliminarily and permanently enjoining Jenoptik from infringing, inducing the infringement of, and contributing to the infringement of the Patents-in-Suit;
6. An award of damages pursuant to 35 U.S.C § 284, including supplemental damages for any continuing post-verdict infringement up until entry of final judgment, with an accounting, as needed;
7. An order requiring Jenoptik to pay Marposs's costs in this action, together with reasonable attorneys' fees and pre-judgment and post-judgment interest on the damages awarded, calculated at the highest interest rate allowed by law;
8. A judgment that Jenoptik has willfully infringed the Patents-in-Suit and an order tripling Marposs's damages;
9. A declaration that this case is exceptional pursuant to 35 U.S.C. § 285 and an award of Marposs's costs, expenses, and reasonable attorneys' fees incurred in this action; and
10. An award of such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Marposs hereby demands a jury trial on all issues so triable.

Respectfully submitted,

Dated: September 19, 2016

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