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NORTHERN DISTRICT OF CALIFORNIA****E-filing**

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UNITED STATES DISTRICT COURT**FOR THE NORTHERN DISTRICT OF CALIFORNIA****PVT****APPLIED MATERIALS ISRAEL, LTD.****Plaintiff,****v.****NEGEVTECH LTD. and NEGEVTECH,
INC.,****Defendants.**

Case No.

05 0810**COMPLAINT FOR PATENT INFRINGEMENT****CERTIFICATION OF INTERESTED PARTIES****DEMAND FOR JURY TRIAL**

Plaintiff Applied Materials Israel, Ltd. ("AMIL") alleges as follows:

THE PARTIES

1. Plaintiff AMIL is an Israeli corporation with its principal place of business in Rehovot, Israel. Plaintiff AMIL is a subsidiary of Applied Materials, Inc. ("Applied Materials").

2. On information and belief, defendant Negevtech Ltd. is an Israeli company with a place of business at 12 Hamada Street, Rehovot, 76703 Israel.

3. On information and belief, defendant Negevtech, Inc. is a Delaware corporation with its principal place of business at 2880 Lakeside Drive, Santa Clara, California 95054. On information and belief, defendant Negevtech Ltd. is the parent of defendant Negevtech, Inc.

JURISDICTION

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338 because this action arises under the patent laws of the United States (35 U.S.C. §§ 1 et seq.).

VENUE AND INTRADISTRICT ASSIGNMENT

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b).

6. Pursuant to Civil Local Rules 3-5(b) and 3-12, assignment of this case to Judge Illston in the San Francisco Division would be appropriate as Case No. 04-03656-SI, currently pending before Judge Illston, involves the same patent, the same defendants, the same accused product and plaintiff's parent corporation, Applied Materials, Inc.

GENERAL ALLEGATIONS

7. On November 9, 1999, United States Patent No. 5,982,921, entitled "Optical Inspection Method and Apparatus" was duly and lawfully issued by the United States Patent and Trademark Office (hereinafter "the '921 patent"). A true and correct copy of the '921 patent is attached as Exhibit A to this complaint.

8. The '921 patent issued from application serial number 08/984,558 ("the '558 application") filed on December 3, 1997. The '558 application was a continuation of application serial number 07/790,871 ("the '871 application") filed on November 12, 1991.

9. The named inventors on the '871 application were Mr. David Alumot, Mr. Gad Neumann, Ms. Rivka Sherman, and Mr. Ehud Tirosh.

10. In 1991, the named inventors of the '871 application executed an assignment in favor of Orbot Instruments Ltd. and Orbot Instruments Ltd.'s successors and assigns. In particular, the named inventors of the '871 application sold, assigned and transferred to Orbot Instruments Ltd. their "entire rights, title and interest in and to the invention titled: OPTICAL INSPECTION METHOD AND APPARATUS described and claimed in the following Patent Application: US Patent Application S/N 07,790,871 filed November 12, 1991 and in and to said Patent Application, and all original and reissued Patents granted therefore, and all divisions and continuations thereof, including the right to apply and obtain Patents in all other countries, the priority rights under International Conventions, and the Letters Patent which may be granted thereon."

11. The named inventors of the '871 application covenanted that they had the full right to convey the entire interest to the '871 application to Orbot Instruments Ltd.

1 **12.** As part of the assignment and transfer, the named inventors of the '871 application
2 agreed that they would "sign all lawful papers, make all rightful oaths, do all lawful acts requisite
3 for such Patent Applications, and do everything possible to aid said Assignee to apply for, obtain
4 and enforce Patent protection for said invention."

5 **13.** A true and correct copy of the 1991 assignment from the named inventors of the
6 '871 application to Orbot Instruments, Ltd. is attached as Exhibit B.

7 **14.** Applied Materials acquired the shares of Orbot Instruments Ltd. in 1997.

8 **15.** Applied Materials acquired the shares of Opal, Inc., a parent company of Opal
9 Technologies Ltd. ("Opal") in 1997.

10 **16.** After the acquisition of Orbot Instruments Ltd. and Opal by Applied Materials,
11 Orbot Instruments Ltd. merged into Opal in 1998.

12 **17.** After the merger of Orbot Instruments Ltd. into Opal, Opal subsequently changed
13 its name to Applied Materials Israel, Ltd., plaintiff in this action.

14 **18.** Plaintiff AMIL is the owner of the '921 patent.

15 **19.** Mr. David Alumot is a named inventor of the '921 patent. On information and
16 belief, Mr. Alumot is a co-founder and Managing Director of Negevtech Ltd. Prior to joining
17 Negevtech, Mr. Alumot co-founded Orbot Instruments Ltd. He later joined Opal. In 1997,
18 plaintiff Applied Materials acquired both Orbot Instruments Ltd. and Opal. Mr. Alumot left
19 Applied Materials in 1999, the same year he co-founded Negevtech Ltd.

20 **20.** Mr. Gad Neumann is a named inventor of the '921 patent. On information and
21 belief, Mr. Neumann is a co-founder and Managing Director of Negevtech Ltd. On information
22 and belief, Mr. Neumann is the President of defendant Negevtech, Inc. Prior to joining
23 Negevtech, Mr. Neumann co-founded Orbot Instruments Ltd. In and around 1996, Mr. Neumann
24 founded Negevtech Consulting. In and around 1997 and 1998, Neumann provided consulting
25 services to Applied Materials and its subsidiaries.

26 **21.** Ms. Rivka Sherman is a named inventor on the '921 patent. On information and
27 belief, Ms. Sherman is a Vice President of Business Development of defendant Negevtech, Inc.
28 Prior to joining Negevtech, Ms. Sherman worked for both Orbot Instruments Ltd. and Applied

1 Materials.

2 22. On information and belief, Negevtech Ltd. makes, uses and sells a semiconductor
3 wafer inspection tool under the trade name Negevtech 302 (sometimes referenced as the "NT
4 302").

5 23. On information and belief, Negevtech, Inc. uses and sells a semiconductor wafer
6 inspection tool under the trade name Negevtech 302 (sometimes referenced as the "NT 302").

7 24. On information and belief, Negevtech Ltd. and Negevtech, Inc. were aware of the
8 '921 patent before the commencement of this lawsuit.

9 FIRST CAUSE OF ACTION

10 (Patent Infringement)

11 25. Plaintiff AMIL incorporates by reference the allegations set forth in paragraphs 1
12 through 24 of this Complaint as though set forth in full herein.

13 26. On information and belief, defendant Negevtech Ltd. has directly and
14 contributorily infringed, and has induced others to infringe, at least one claim of the '921 patent
15 by using, selling, and/or offering to sell within the United States the Negevtech 302 wafer
16 inspection tool.

17 27. On information and belief, defendant Negevtech, Inc. has directly and
18 contributorily infringed, and has induced others to infringe, at least one claim of the '921 patent
19 by using, selling and/or offering to sell within the United States the Negevtech 302 wafer
20 inspection tool.

21 28. On information and belief, the infringement of the '921 patent by the defendants
22 has been willful.

23 29. Plaintiff AMIL has been and will continue to be damaged and irreparably harmed
24 by the defendants' infringement, which will continue unless the defendants are enjoined from
25 further acts of infringement by this Court.

26 WHEREFORE, plaintiff AMIL prays that this Court:

27 (a) enter an order permanently enjoining the defendants, their officers, agents, servants,
28 employees, attorneys and affiliated companies, their assigns and successors in

1 interest, and those persons in active concert or participation with them, from
2 continued acts of infringement of the '921 patent;

3 (b) enter a judgment holding the defendants liable for infringement of the '921 patent;

4 (c) enter an order awarding AMIL damages according to proof resulting from the
5 defendants' infringement of the '921 patent, together with pre-judgment and post-
6 judgment interest;

7 (d) enter a judgment holding that the defendants' infringement of the '921 patent was
8 willful and trebling the damages for such infringement pursuant to 35 U.S.C. § 284;

9 (e) award AMIL its attorneys' fees as a result of this being an exceptional case pursuant
10 to 35 U.S.C. § 285;

11 (f) award AMIL its costs in connection with this action; and

12 (g) enter orders for such other and further relief as the Court deems just and proper.

13 **CERTIFICATION OF INTERESTED ENTITIES OR PERSONS**

14 Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other than the
15 named parties and plaintiff AMIL's parent corporation, Applied Materials, Inc., there is no known
16 interest to report.

17 **DEMAND FOR JURY TRIAL**

18 AMIL demands a trial by jury of all issues triable by right by a jury.

19
20 Dated: February 22, 2005

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

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23 Chuck P. Ebertin
24 Attorneys for Plaintiff
25 Applied Materials Israel Ltd.
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