

**UNITED STATES COURT FOR THE  
MIDDLE DISTRICT OF LOUISIANA**

x

**CARY RATNER,**  
*Plaintiff, pro se*

Index No.

**COMPLAINT**

**J.M. TEST SYSTEMS INC**  
*Defendant*

x

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff pro se, Cary Ratner, sues the Defendant, J.M. Test Systems Inc, for infringing on U.S. Patent No. D554152 ("152 patent") and alleges as follows:

**PARTIES**

1.Plaintiff Cary Ratner is a resident of the State of New York, residing in the jurisdiction of the United States District Court for the Eastern District of New York and resides at 38 Overlook Terrace, East Hills NY, county of Nassau

2.The Defendant J.M. Test Systems Inc is a corporation organized under the laws of the State of Louisiana, and upon information and belief has a principal place of business at 7323 Tom Drive, Baton Rouge, Louisiana 70806. In addition, it has one or more satellite offices in Texas. Upon information and belief, it is a corporation in good standing in the State of Louisiana.

3.JM Test Systems distributes and promotes the infringing products manufactured by Martel Electronics Corporation of New Hampshire. There is a similar action pending in the United States District Court in New Hampshire for patent infringement, where the court has jurisdiction over Martel Electronics Corporation. Cary Ratner, pro se, is the Plaintiff in that matter.

**JURISDICTION AND VENUE**

4.This is an action for pecuniary and injunctive relief from patent infringement arising under the Patent Laws of the United States, Title 35, of the United States Code.

5. This Court has jurisdiction over the subject matter of this action as provided for in 28 U.S.C. § 1331 and § 1338. Venue is proper in this district pursuant to 28 U.S.C. § 1391 and § 1400.

6. J.M. Test Systems Inc have a major outlets for their infringing products in the States of Louisiana and Texas. The Defendant is in the jurisdiction of the United States District Court for Central Louisiana

### **THE PATENT IN SUIT**

6. On October 20, 2007, U.S. Patent No. D554152 (“the ‘152 patent”), entitled “The Ornamental Design for an Ergonomic Pressure Calibration Pump” was duly and legally issued to Cary Ratner. Cary Ratner has been and is still the owner of the entire right, title, and interest in and to the ‘152 patent. A copy of the ‘152 patent is attached as Exhibit A.

7. The Plaintiff, Cary Ratner on August 20, 2007, upon learning of the infringement of his design, by a non party to this action, a manufacturer called Martel. Martel products MEPC10000 and MEPC500, infringe on the ‘152 patent and the Plaintiff called Martel’s President one Tom Fatur,.

8. The Plaintiff, forwarded copies of his patent application to Defendant Martel’s President, Tom Fatur. Fatur stated to the Plaintiff that “we only copied a little”.

9. Plaintiff Cary Ratner has fully complied with the requirements of 35 U.S.C. § 287(a) by notifying the Defendant JM Test Systems.. A copy is attached as Exhibit B.

10. As recently as October 17, 2008, the Defendant had on display and offered for sale, at the Instrument Society of America’s International Exposition, in Houston Texas, working, infringing products.

11. Service of this action upon the Defendants also fully complies with the requirements of 35 U.S.C. § 287(a).

### **INFRINGEMENT OF THE ‘152 PATENT**

12. The Defendant, J.M. Test Systems Inc has willfully infringed and continues to infringe: has induced and continues to induct others to infringe: and/or has committed and continues to commit acts of contributory infringement of the ‘152 patent. The Defendant’s infringing activities in the United States and this District include: use of the image, sales and offering for sale, pressure calibration pumps having handles using the Plaintiff’s ergonomic design. Such infringing activities violate 35 U.S.C. § 271. Upon information and belief, such infringement has been and continues to be, willful.

### **REQUESTED RELIEF**

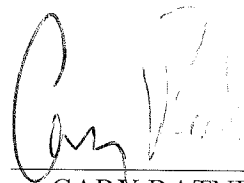
WHEREFORE, Cary Ratner prays for judgment against J.M. Test Systems Inc, as follows:

- A. That J.M. Test Systems Inc be declared to have infringed, induced others to infringe, and/or committed acts of contributory infringement with respect to the ergonomic design claim of the '152 patent;
- B. That J.M Test Systems Inc, its officers, agents, distributors, employees, attorneys, parents, subsidiaries, affiliates, successors, and all others in active concert or participation with them or acting on their behalf be permanently enjoined from further infringement of the '152 patent;
- C. That J.M. Test Systems Inc be ordered to account for and pay to Cary Ratner, all damages caused to Cary Ratner by reason of J.M. Test Systems Inc infringement of the '152 patent pursuant to 35 U.S.C. § 284 including any enhanced damages, to a sum of \$2,000,000;
- D. That Cary Ratner be granted pre-judgment and post-judgment interest on the damages caused to it by reason of J.M. Test Systems Inc infringement of the '152 patent;
- E. That this be declared an "exceptional case" pursuant to 35 U.S.C. § 285 and that J.M. Test Systems Inc be ordered to pay Cary Ratner's attorney fees and costs; and
- F. That the Court award the defendant triple damages for willful infringement of the "152" Patent.
- G. That Cary Ratner be granted a temporary injunction against J.M. Test Systems Inc from manufacturing, advertising, promoting and/or selling Martel Models MEPC 500, and MEPC 10000 in any form or permutation, using all or portions of the ergonomic handles as shown in the '152 patent;
- H. That Cary Ratner be granted such other and further relief as the case may require and the Court may deem just and proper.

**JURY DEMAND**

Cary Ratner demands a jury trial on all issues triable to a jury in this matter.

Dated: East Hills, NY  
October 25, 2008

  
\_\_\_\_\_  
CARY RATNER

Plaintiff pro se,  
38 Overlook Terrace  
East Hills NY  
516 621 6669

# EXHIBIT A

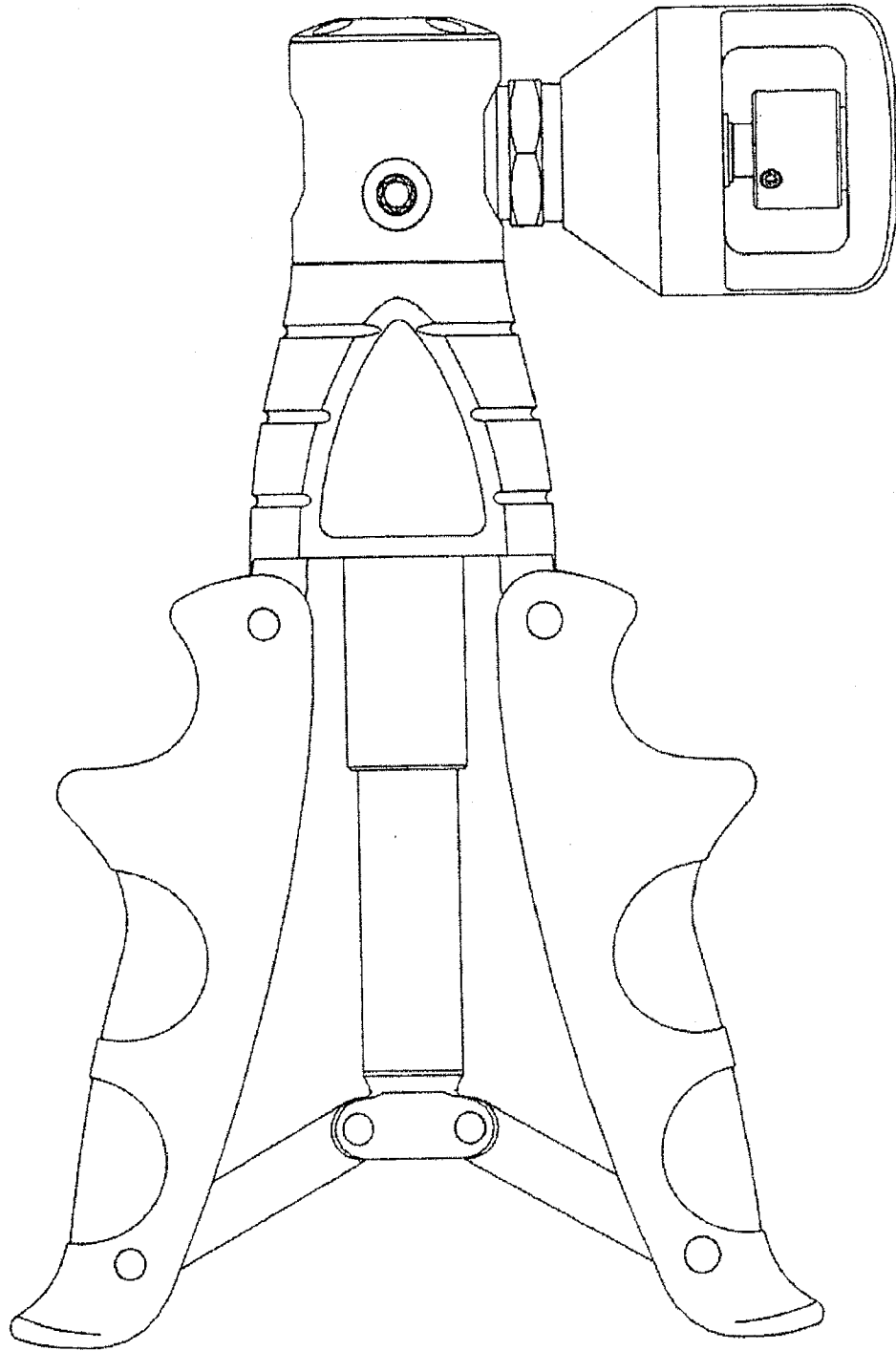


FIGURE 1

# EXHIBIT B

# CARY RATNER

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38 Overlook Terrace, East Hills NY 11577 ° 516 746 3300 ° fax 516 739 2600

November 25, 2007

JM Test Systems  
7323 Tom Drive,  
Baton Rouge, Louisiana 70806

Dear Sirs,

I am sending you this letter ask that you "Cease and Desist" from selling or offering for sale, the Martel Pumps incorporating the "bump on the handle". I hold Patent D554152, which is for the design that Martel is infringing upon.

Your help and understanding, in removing the infringing images and products is greatly appreciated.

Sincerely yours,



Cary Ratner

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<b>I. (a) PLAINTIFFS</b>  <p style="text-align: center;">Cary Ratner, pro se</p> <b>(b)</b> County of Residence of First Listed Plaintiff <u>Nassau County NY</u> <small>(EXCEPT IN U.S. PLAINTIFF CASES)</small>  <b>(c)</b> Attorney's (Firm Name, Address, and Telephone Number)  <p style="text-align: center;">38 Overlook Terrace, East Hills NY 11577 -516-746 3300</p>	<b>DEFENDANTS</b>  <p style="text-align: center;">JM Test Systems Inc, a.k.a. JM Test</p> County of Residence of First Listed Defendant <u>West Baton Rouge County</u> <small>(IN U.S. PLAINTIFF CASES ONLY)</small>  NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.  Attorneys (If Known)
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<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)																								
<input type="checkbox"/> 1 U.S. Government Plaintiff  <input type="checkbox"/> 2 U.S. Government Defendant  <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;"><small>(For Diversity Cases Only)</small></td> <td style="text-align: center;"><b>PTF</b></td> <td style="text-align: center;"><b>DEF</b></td> <td></td> <td style="text-align: center;"><b>PTF</b></td> <td style="text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated <i>or</i> Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated <i>and</i> Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>	<small>(For Diversity Cases Only)</small>	<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4	Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
<small>(For Diversity Cases Only)</small>	<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>																				
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Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

<b>IV. NATURE OF SUIT</b> (Place an "X" in One Box Only)				
<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act  <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN** (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. § 1331 and § 1338

Brief description of cause:  
Defendant infringed on Plaintiff's patent by distributing, selling and promoting and infringing product

**VII. REQUESTED IN COMPLAINT:**

<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	<b>DEMAND \$</b> 2,000,000.00	CHECK YES only if demanded in complaint: <b>JURY DEMAND:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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**VIII. RELATED CASE(S) IF ANY** (See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE: 10/27/2008 SIGNATURE OF ATTORNEY OF RECORD: \_\_\_\_\_

**FOR OFFICE USE ONLY**

RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____	MAG. JUDGE _____
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