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RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PAPST LICENSING GMBH & Co. KG,  
German corporation

Plaintiff,

vs.

CORNICE, INC., a Delaware  
corporation; SAE MAGNETICS  
LIMITED, a company located in Hong  
Kong; and TDK CORPORATION, a  
company located in Japan

Defendants.

No. **05 3880**  
**COMPLAINT FOR PATENT  
INFRINGEMENT**

**[JURY TRIAL DEMANDED]**

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A limited liability partnership formed in the State of Delaware.

1 Plaintiff Papst Licensing GmbH & Co. KG, for its complaint for patent infringement  
2 against Cornice, Inc., SAE Magnetics Limited, and TDK Corporation, states as follows.

3 **Parties**

4 1. Plaintiff Papst Licensing GmbH & Co. KG, referred to herein as "Papst  
5 Licensing," is a corporation existing under the laws of The Federal Republic of Germany, and has  
6 a principal place of business at Bahnhofstrasse 33, 78112 St. Georgen, Germany.

7 2. Upon information and belief, defendant Cornice, Inc., referred to herein as  
8 "Cornice," is incorporated under the laws of the State of Delaware, and has a principal place of  
9 business at 1951 South Fordham Street, Suite 105, Longmont, Colorado 80503.

10 3. Upon information and belief, defendant SAE Magnetics Limited, referred to herein  
11 as "SAE," is a company that has a principal place of business located at 12F SAE Twr, 38-42  
12 Kwai Fung Crescent, Kwai Chung, New Territories, Hong Kong.

13 4. Upon information and belief, defendant TDK Corporation, referred to herein as  
14 "TDK," is a Japanese Corporation, and has a principal place of business at 1-13-1, Nihonbashi,  
15 Chuo-ku, Tokyo, 103-8272, Japan.

16 **Jurisdiction And Venue**

17 5. In Count I of this Complaint, paragraphs 16-22, Papst Licensing asserts that the  
18 Defendants infringe numerous Papst Licensing patents. This Court has federal question  
19 jurisdiction of these patent infringement claims pursuant to 28 U.S.C. §1331 and 1338(a) because  
20 this action arises under the patent laws of the United States. 35 U.S.C. §§ 1, et seq.

21 6. Venue over Cornice, SAE, and TDK is proper in this district pursuant to 28 U.S.C.  
22 §§ 1391(c) and 1400(b).

23 7. Moreover, in Count II of this Complaint, paragraphs 23-29, Papst Licensing  
24 asserts that TDK is in breach of a patent license agreement with Papst Licensing that has an  
25 effective date of March 31, 1999 (the "TDK Agreement"). This Court has jurisdiction over this  
26 breach of contract claim pursuant to 28 U.S.C. §1367(a).

### Patents At Issue

8. Papst Licensing is the lawful owner, by assignment, of the entire right, title, and interest in and to the United States Patents identified in paragraphs 9-15.

9. United States Patent No. Re. 38,722 (the "Re. '722 patent") duly and legally issued on August 9, 2005.

10. United States Patent No. Re. 38,662 (the "Re. '662 patent") duly and legally issued on November 30, 2004.

11. United States Patent No. Re. 38,178 (the "Re. '178 patent") duly and legally issued on July 8, 2003.

12. United States Patent No. 6,271,988 (the "'988 patent") duly and legally issued on August 7, 2001.

13. United States Patent No. 5,877,916 (the "'916 patent") duly and legally issued on March 2, 1999.

14. United States Patent No. 5,801,900 (the "'900 patent") duly and legally issued on September 1, 1998.

15. United States Patent No. 5,557,487 (the "'487 patent") duly and legally issued on September 17, 1996.

### FIRST CLAIM FOR RELIEF

(Patent Infringement – Against Cornice, TDK and SAE)

16. Papst Licensing repeats and realleges each and every allegation in the foregoing paragraphs as though fully set forth herein.

17. Upon information and belief, Cornice, TDK and SAE have made, used, sold, or offered to sell to customers in the United States, or imported into the United States, products that embody the elements of one or more claims of the patents set forth in paragraphs 9-15 and, therefore, infringe those patents under the U.S. patent laws, 35 U.S.C. §271.

18. Upon information and belief, a reasonable opportunity for further investigation is likely to provide evidentiary support that Cornice, TDK and SAE are liable to Papst Licensing

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1 under 35 U.S.C. §271(b) by actively inducing others to infringe one or more claims of the patents  
2 identified in paragraphs 9-15 by importing into, offering for sale in, and/or selling in the United  
3 States products that embody the elements of one or more claims of the patents set forth in  
4 paragraphs 9-15 and, therefore, infringe those patents under the U.S. patent laws, 35 U.S.C. §271.

5 19. Upon information and belief, a reasonable opportunity for further investigation is  
6 likely to provide evidentiary support that Cornice, TDK and SAE are liable to Papst Licensing  
7 under 35 U.S.C. §271(c) as contributory infringers with regard to others' direct infringement of  
8 one or more claims of the patents identified in paragraphs 9-15 that arises from said others  
9 importing into, offering for sale in and/or selling in the United States products that embody the  
10 elements of one or more claims of the patents set forth in paragraphs 9-15 and, therefore, infringe  
11 those patents under the U.S. patent laws, 35 U.S.C. §271.

12 20. Upon information and belief, a reasonable opportunity for further investigation is  
13 likely to provide evidentiary support that Cornice, TDK and SAE committed the said  
14 infringements willfully.

15 21. Upon information and belief, Cornice, TDK and SAE have been and still are  
16 committing the said infringements and will continue to do so unless enjoined by this Court.

17 22. These actions by Cornice, TDK and SAE have damaged Papst Licensing in an  
18 amount to be determined at trial and have caused, and will continue to cause Papst Licensing  
19 irreparable injury for which Papst Licensing has no adequate remedy at law.

20 WHEREFORE, Papst Licensing prays for relief as set forth below.

21 **SECOND CLAIM FOR RELIEF**

22 (Breach of Written Contract – Against TDK)

23 23. Papst Licensing repeats and realleges the allegations contained in the foregoing  
24 paragraphs 1-15 as though fully set forth herein.

25 24. In the TDK Agreement, certain of Papst Licensing's patents are licensed to TDK  
26 for products covered by the TDK Agreement.

27 25. Papst Licensing has performed all conditions, covenants and promises required by  
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1 it on its part to be performed in accordance with the terms and conditions of the TDK Agreement.

2 26. Pursuant to the terms of the TDK Agreement, TDK is obligated to make periodic  
3 reports and payments to Papst Licensing concerning worldwide sales of products covered by the  
4 TDK Agreement, which sales are made by TDK and/or its subsidiaries such as SAE.

5 27. Upon information and belief, TDK has not properly reported to Papst Licensing  
6 pursuant to the terms of the TDK Agreement.

7 28. By reason of TDK's failure to report properly to Papst Licensing pursuant to the  
8 terms of the TDK Agreement, TDK has materially breached its obligations under the TDK  
9 Agreement.

10 29. As a direct and proximate result of TDK's breaches of the TDK Agreement, Papst  
11 Licensing has incurred damages in an amount to be proven at the time of trial.

12 WHEREFORE, Papst Licensing prays for relief as set forth below.

13 PRAYER FOR RELIEF

14 WHEREFORE, Papst Licensing prays the Court for the following relief:

15 1. That judgment be entered in favor of Papst Licensing and against Cornice, TDK  
16 and SAE, and each of them, on all counts;

17 2. That the Court order and decree that Cornice, TDK and SAE, and each of them,  
18 have infringed the Re. '722 patent, the Re. '662 patent, the Re. '178 patent, the '918 patent, the  
19 '916 patent, the '900 patent, and the '487 patent, by making, using, offering for sale, and/or  
20 selling to customers in the United States, or importing into the United States, products that  
21 embody the elements of one or more claims of those patents;

22 3. That the Court order and decree that the infringement of the Re. '722 patent, the  
23 Re. '662 patent, the Re. '178 patent, the '918 patent, the '916 patent, the '900 patent, and the '487  
24 patent by Cornice, TDK and SAE, and each of them, was willful;

25 4. An award of damages arising out of Cornice, TDK and SAE's acts of  
26 infringement, contributory infringement, and active inducement of infringement of the Re. '722  
27 patent, the Re. '662 patent, the Re. '178 patent, the '918 patent, the '916 patent, the '900 patent,  
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1 and the '487;

2 5. An award of treble damages pursuant to 35 U.S.C. Section 284, due to the willful  
3 and deliberate character of the infringement by Cornice, TDK and SAE, and each of them;

4 6. That the Court preliminarily and permanently enjoin Cornice, TDK and SAE, and  
5 each of them, their officers, directors, principals, agents, servants, employees, successors and  
6 assigns, and all those in active concert or participation with Cornice, TDK and SAE, or any of  
7 them, or under any of Cornice, TDK or SAE's authority, jointly and severally, from making,  
8 using, offering for sale, and/or selling to customers in the United States, or importing into the  
9 United States, products that embody the elements of one or more claims of the Re. '722 patent,  
10 the Re. '662 patent, the Re. '178 patent, the '918 patent, the '916 patent, the '900 patent, or the  
11 '487, and from otherwise infringing, contributing to the infringement of, or actively inducing  
12 infringement of, each of those patents;

13 7. That the Court order and decree, pursuant to 35 U.S.C. Section 285, that this an  
14 exceptional case entitling Papst Licensing to an award of its reasonable attorneys' fees and costs;

15 8. That judgment be entered in favor of Papst Licensing and against TDK for all  
16 damages sustained by Papst Licensing due to TDK's breaches of the TDK Agreement;

17 9. That Papst Licensing be awarded its costs and reasonable attorneys' fees incurred  
18 in this action

19 10. That Papst Licensing be awarded prejudgment interest and post-judgment interest  
20 on the above damages awards;

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11. That Papst Licensing be awarded such other and further relief as the Court may deem just and proper.

DATED: September 26, 2005.

REED SMITH LLP

By

  
John S. Siamas  
Attorneys for Plaintiff  
Papst Licensing GmbH & Co. KG

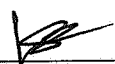
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**DEMAND FOR JURY TRIAL**

Plaintiff Papst Licensing hereby demands a jury trial as to all triable issues in this  
action.

DATED: September 26, 2005.

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John S. Siamas  
Attorneys for Plaintiff  
Papst Licensing GmbH & Co. KG

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**CERTIFICATION OF INTERESTED ENTITIES OR PERSONS**

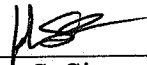
**PURSUANT TO CIVIL LOCAL RULE 3-16**

Pursuant to Civil Local Rule 3-16, the undersigned certifies that as of this date, other than the named parties, there is no such interest to report.

DATED: September 26, 2005.

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Attorneys for Plaintiff  
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