

Christopher E. Hawk, OSB #061635  
GORDON & REES LLP  
121 SW Morrison Street, Suite 1575  
Portland, OR 97204  
Phone: (503) 222-1075  
Email: chawk@gordonrees.com

Glenn E. Westreich (*pro hac vice*)  
Steve M. Levitan (*pro hac vice*)  
Clark S. Stone (*pro hac vice*)  
Inchan A. Kwon (*pro hac vice*)  
HAYNES AND BOONE, LLP  
2033 Gateway Place, Suite 300  
San Jose, CA 95110  
Phone: (408) 660-4120  
Email: glenn.westreich@haynesboone.com

Attorneys for Plaintiff FUTEK HOLDINGS LLC

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF OREGON**  
**PORTLAND DIVISION**

**FUTEK HOLDINGS LLC**, an Oregon  
limited liability company,

Plaintiff,

v.

**MAGNETIC SOLUTIONS LIMITED**, a  
Republic of Ireland limited company; **TOKYO**  
**ELECTRON LIMITED**, a Japan corporation;  
and **TOKYO ELECTRON AMERICA,**  
**INC.**, a Texas corporation,

Defendants.

Case No.: 3:12-cv-01269-ST

**AMENDED COMPLAINT FOR PATENT  
INFRINGEMENT  
DEMAND FOR JURY TRIAL**

Plaintiff, by its attorneys, alleges as follows:

## **I. THE PARTIES**

1. Plaintiff FUTEK HOLDINGS LLC (“Futek”) is a limited liability company organized and existing under the laws of the state of Oregon, with its principal place of business located at 1915 NW Amberglen Parkway, Suite 400, Beaverton, OR 97006-6900.

2. On information and belief, Defendant MAGNETIC SOLUTIONS LIMITED (“Magnetic Solutions”) is a private limited company organized and existing under the laws of the Republic of Ireland, with its principal place of business located in Dublin, Ireland, and with a U.S. office located at 12701 Welcome Lane, Burnsville, MN 55337.

3. On information and belief, Defendant TOKYO ELECTRON LIMITED (“TEL JAPAN”) is a corporation organized and existing under the laws of Japan, with its headquarters located at Akasaka Biz Tower, 3-1 Akasaka 5-chome, Minato-ku, Tokyo 107-6325, Japan. TEL JAPAN states on its website that it has multiple U.S. office locations, including an office located at 20175 NW Amberglen Court, Suite 140, Beaverton, OR 97006.

4. On information and belief, Defendant TOKYO ELECTRON AMERICA, INC. (“TEL USA”; together with TEL JAPAN, “TEL”) is a corporation organized and existing under the laws of the state of Texas, with its principal place of business located at 2400 Grove Blvd., Austin, TX 78741, and with multiple U.S. office locations, including an office located at 20175 NW Amberglen Court, Suite 140, Beaverton, OR 97006, and a registered agent for service of process at 285 Liberty St. NE, Salem, OR 97301.

## **II. JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 (federal question) and 1338(a) (action arising under an Act of Congress related to patents).

6. This Court has personal jurisdiction over Defendants Magnetic Solutions and TEL because Defendants have constitutionally sufficient contacts with Oregon to make personal jurisdiction proper in this Court. In particular, on information and belief, Defendants have purposefully directed activities to this judicial district, including offering for sale and/or selling and/or importing products which infringe one or both of the patents asserted in this Complaint.

7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) because a substantial part of the events giving rise to the claims occurred in this district, and Defendants have sufficient contacts with this district to subject them to personal jurisdiction.

8. Assignment of this case to the Portland Division is proper because a substantial part of the events giving rise to the claims alleged in this action occurred in the Portland Division.

### **III. BACKGROUND**

9. Futek, including its affiliated companies, is a leading manufacturer and seller of magnetic annealing systems and tools.

10. On information and belief, Magnetic Solutions is a major manufacturer and seller of magnetic annealing systems and tools.

11. Magnetic Solutions advertises a number of magnetic annealing systems or tools on its website, which it states are “used throughout the data storage and semiconductor industry in . . . the production of magneto-electronic devices.” Magnetic Solutions describes the process of magnetic annealing on its website as “annealing [a ferromagnetic] layer in a magnetic field at a specified temperature.”

12. On information and belief, TEL is a global supplier of semiconductor production equipment, including magnetic annealing systems and tools. On information and belief, TEL has

acted and/or is acting as an intermediary or agent for Magnetic Solutions in the offering for sale and/or selling of Magnetic Solutions' magnetic annealing tools in the United States.

13. On information and belief, Defendants Magnetic Solutions and TEL are involved in the business of offering to sell and/or selling magnetic annealing tools to customers in the United States or exporting and/or importing magnetic annealing tools into the United States.

**COUNT I  
PATENT INFRINGEMENT  
(‘661 Patent)**

14. Futek incorporates the allegations of paragraphs 1-12 as though fully set forth herein.

15. On August 3, 2002, United States Letters Patent No. 6,433,661 (hereinafter the “‘661 patent”) entitled “Magnetic-Field Thermal Treatment Apparatus Capable of Reducing Weight and Utility Consumption Thereof” was duly and legally issued in the name of the inventors, Junichi Mita, Kazuhito Yamamoto, and Hiroto Ueno. A true and correct copy of the ‘661 patent is attached to this Complaint as Exhibit A.

16. Futek is the assignee of the ‘661 patent. A true and correct copy of the Notice of Recordation of Assignment Document and assignment for the ‘661 patent is attached to this Complaint as Exhibit C.

17. The ‘661 patent is in full force and effect and Futek continues to own it.

18. Defendants, and each of them, have infringed and are currently infringing the ‘661 patent by importing, offering for sale, selling, and/or using certain magnetic annealing tools embodying the invention claimed in the ‘661 patent.

19. Each of Defendants' infringing activities is without the consent of, authority of, or license from Futek.

20. Defendants have contributed to and continue to contribute to acts of infringement of the ‘661 patent, and/or have actively and knowingly induced and continue to actively and knowingly induce customers to infringe the ‘661 patent by importing, offering to sell and/or selling magnetic annealing tools embodying the invention claimed in the ‘661 patent, or components specially made or adapted for use in magnetic annealing tools embodying the invention claimed in the ‘661 patent, to customers in the United States.

21. Defendants have been on notice of their alleged infringement of the ‘661 patent since before October 20, 2011, when, after discussions in which Futek notified TEL, Futek wrote a letter confirming such notice. In any event, Defendants were on notice no later than on or about July 16, 2012, when Futek served on TEL its originally filed Complaint with a copy of the ‘661 patent attached thereto. Defendants’ infringement is, has been and continues to be willful, knowing and deliberate.

22. As a direct and proximate result of Defendants’ infringement, Futek has suffered damages in an amount that cannot yet be fully ascertained, which will be proven at trial.

23. Unless preliminarily and/or permanently enjoined, Defendants, and each of them, will continue to engage in the aforementioned acts to Futek’s further and continuing damage. Such continuing acts, unless enjoined, will cause irreparable damage in that Futek will have no adequate remedy at law to compel Defendants to cease such acts.

**COUNT II**  
**PATENT INFRINGEMENT**  
**(‘416 Patent)**

24. Futek incorporates the allegations of paragraphs 1-23 as though fully set forth herein.

25. On February 20, 2007, United States Letters Patent No. 7,179,416 (hereinafter the “‘416 patent”) entitled “Heat Treatment Apparatus” was duly and legally issued in the name of

the inventor, Hiroto Ueno. A true and correct copy of the '416 patent is attached to this Complaint as Exhibit B.

26. Futek is the assignee of the '416 patent. A true and correct copy of the Notice of Recordation of Assignment Document and assignment for the '661 and '416 patents is attached to this Complaint as Exhibit C.

27. The '416 patent is in full force and effect and Futek continues to own it.

28. Defendants, and each of them, have infringed and are currently infringing the '416 patent by importing, offering for sale, selling, and/or using certain magnetic annealing tools embodying the invention claimed in the '416 patent.

29. Defendants have contributed to and continue to contribute to acts of infringement of the '416 patent, and/or have actively and knowingly induced and continue to actively and knowingly induce customers to infringe the '416 patent by importing, offering to sell and/or selling magnetic annealing tools embodying the invention claimed in the '416 patent, or components specially made or adapted for use in magnetic annealing tools embodying the invention claimed in the '416 patent, to customers in the United States.

30. Defendants have been on notice of their alleged infringement of the '416 patent since before October 20, 2011, when, after discussions in which Futek notified TEL, Futek wrote a letter confirming such notice. In any event, Defendants were on notice no later than on or about July 16, 2012, when Futek served on TEL its originally filed Complaint with a copy of the '416 patent attached thereto. Defendants' infringement is, has been and continues to be willful, knowing and deliberate.

31. Each of Defendants' infringing activities is without the consent of, authority of, or license from Futek.

32. As a direct and proximate result of Defendants' infringement, Futek has suffered damages in an amount that cannot yet be fully ascertained, which will be proven at trial.

33. Unless preliminarily and/or permanently enjoined, Defendants will continue to engage in the aforementioned acts to Futek's further and continuing damage. Such continuing acts, unless enjoined, will cause irreparable damage in that Futek will have no adequate remedy at law to compel Defendants to cease such acts.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Futek prays for judgment on the complaint as follows:

- A. Judgment in favor of Futek and against each and every Defendant for infringement of the '661 and the '416 patents;
- B. Entry of a preliminary and permanent injunction enjoining each and every Defendant, their affiliated entities, their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice thereof, from directly or indirectly infringing, or inducing the infringement of the '661 or the '416 patents;
- C. An award of Futek's damages for infringement by each and every Defendant in an amount adequate to compensate, but in no event less than a reasonable royalty;
- D. An award of treble damages for Defendants' willful, knowing, and deliberate infringement of the '661 and '416 patents.
- E. Entry of judgment for Futek's costs, interest, and reasonable attorneys' fees incurred herein; and
- F. Such other and further relief as the Court may deem just and appropriate.

### **DEMAND FOR JURY TRIAL**

Plaintiff demands trial by jury on all issues so triable.

Dated: August 3, 2012

/s/ Glenn E. Westreich

Christopher E. Hawk  
GORDON & REES LLP  
601 SW 2<sup>nd</sup> Avenue  
Suite 2300  
Portland, OR 97204  
Tel. (503) 222-1075  
Email: [chawk@gordonrees.com](mailto:chawk@gordonrees.com)

Glenn E. Westreich (*pro hac vice*)  
Steve M. Levitan (*pro hac vice*)  
Clark S. Stone (*pro hac vice*)  
Inchan A. Kwon (*pro hac vice*)  
HAYNES AND BOONE, LLP  
2033 Gateway Place, Suite 300  
San Jose, CA 95110  
Phone: (408) 660-4120  
Email: [glenn.westreich@haynesboone.com](mailto:glenn.westreich@haynesboone.com)

*Counsel for Plaintiff, Futek Holdings LLC*