

The Honorable Thomas S. Zilly
Trial Date: April 24, 2017

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RICHARD and LORIANN WILLIAMS, husband
and wife and the marital community
composed thereof,

No. 2:14-cv-00764-TSZ

AGREED PRETRIAL ORDER

Plaintiffs,

vs.

STARRAG GROUP HOLDING AG, a foreign
corporation; STARRAG AG,
a foreign corporation; STARRAG-HECKERT,
INC., a foreign corporation; STARRAG USA,
INC., a foreign corporation; DÖRRIES
SCHARMANN TECHNOLOGIE, GmbH, a
foreign corporation; and JOHN DOES 1-5,
residents of the State of Washington; and
JOHN DOES 6-10, residents of the State of
Washington,

Defendants.

I. JURISDICTION

Jurisdiction is vested in this Court because the matter in controversy exceeds the
sum or value of \$75,000 and is between citizens of different states and countries. See 28
U.S.C. 1332(a).

PRETRIAL ORDER- 1
No. 2:14-cv-00764-TSZ

Law Offices of Eugene N. Bolin, Jr., P.S.
144 Railroad Avenue, Suite 308
Edmonds, WA 98020
425-582-8165 / 425-582-2621
Toll Free / Fax: 888-527-2710

II. CLAIMS AND DEFENSES

A. The plaintiffs will pursue at trial the following claims:

1. The plaintiffs allege that on April 2, 2011, the plaintiff Richard Williams was injured while properly operating a DST Alpha 1000 M, in the course and scope of his work as a Boeing employee.
2. The plaintiff Richard Williams fell when a metal grate walkway collapsed while he was standing on the walkway, suffering various injuries.
3. The plaintiffs allege that defendant DST designed, manufactured, marketed and sold a DST Alpha 1000 milling machine to the Boeing Company identified with serial no. H-800231 ("Alpha 1000") in approximately 2007.
4. The plaintiffs also allege that the product was not reasonably safe as designed using either a risk-utility analysis or consumer expectation standard, under RCW 7.72.010(2).
5. The plaintiffs also allege that an alternative design existed which would have made the product safe.
6. The plaintiffs allege that the defendant DST is a "product seller" under RCW 7.72.010(2) of the Washington Product Liability Act, to the extent that either HCR or STACO actually designed or manufactured any relevant product related to the Alpha 1000.
7. The plaintiffs allege that DST is a product seller which held itself out as the manufacturer, even though DST did not itself directly manufacture the metal enclosure or the steel grate walkways.
8. The plaintiffs allege that nowhere on the DST Alpha 1000 M machine is HCR or STACO identified as a manufacturer.
9. The plaintiffs allege that Mr. Williams was unaware of the involvement of HCR or STACO in the design or manufacture of the DST Alpha 1000 M machine.
10. The plaintiffs allege Boeing is faultless with respect to the injuries Mr. Williams' sustained on April 2, 2011.

1 11. The plaintiffs allege the plaintiff Richard Williams is also faultless with respect
2 to the injuries he sustained on April 2, 2011.

3 12. The plaintiffs allege that virtually all of the medical care and treatment provided
4 to the plaintiff since April 2, 2011, was proximately caused by the fall he
5 suffered on that date.

6 **B. The defendant will pursue the following affirmative defenses and/or**
7 **claims:**

8 1. DST alleges it did not design or manufacture the relevant product in this action,
9 as defined by RCW 7.72.010(3).

10 2. DST alleges it did not hold itself out as the manufacturer of the relevant
11 product, as defined by RCW 7.72.010(3).

12 3. DST alleges it did not market or brand the relevant product under the DST
13 trade name.

14 4. DST alleges it is not a product seller with the liability of a manufacturer as
15 contemplated by RCW 7.72.040(2)(e).

16 5. DST alleges the DST Alpha 1000 M involved in Mr. Williams' workplace accident
17 was not and is not defective in any manner and at any point.

18 6. DST alleges the DST Alpha 1000 M involved in Mr. Williams' workplace accident
19 was reasonably safe as manufactured and designed at the time of Mr. Williams'
20 accident and at all points.

21 7. DST alleges that Mr. Williams' April 2, 2011 workplace accident was not caused
22 by any defective condition of the DST Alpha 1000 M machine.

23 8. DST alleges that the contributory negligence of Mr. Williams caused or
24 contributed to the April 2, 2011 workplace accident and subsequent medical
25 treatment.

9. DST alleges that the contributory negligence of Mr. Williams caused or
contributed to the re-aggravation of his right hip injury.

10. DST alleges that Mr. Williams' alleged injuries and damages were caused by
preceding and superseding causes.

11. DST alleges that Mr. Williams failed to mitigate his own damages.
12. DST alleges Mr. Williams' alleged injuries and damages were inevitable and unavoidable.
13. DST alleges that Mr. Williams claimed medical expenses are not reasonable and do not reflect treatment attributable to the April 2, 2011 workplace accident on a more probable than not basis.
14. DST alleges that Mr. Williams has already been compensated for any alleged lost wages and that his medical treatment has been paid for.
15. DST alleges that fault should be apportioned against third-parties to this action to the extent they are found liable by the finder of fact.
16. DST alleges that Mr. Williams' alleged injuries and damages, if any, were caused, in whole or in part, by parties over whom this answering defendant had no right of control or legal responsibility.

III. ADMITTED FACTS

The following facts are admitted by the parties:

	AGREED FACT	OBJECTION AS TO ADMISSIBILITY
1.	DST entered into a contract with The Boeing Company for the purchase of the DST Alpha 1000 M Serial No. H-800231.	N/A
2.	The contract documents for the DST Alpha 1000 M Serial No. H-800231 contained a one-year warranty after the date of acceptance.	N/A
3.	The Boeing Company was responsible for the implementation of and compliance with its own inspection protocol with regard to the operation and maintenance of the DST Alpha 1000 M Serial No. H-800231.	N/A
4.	DST provided documents to Boeing that addressed safety measures and operating procedures for the DST Alpha 1000 M machines, including but not limited to an Operating Manual, Programming Manual, and Maintenance and Inspection Manual.	N/A

	AGREED FACT	OBJECTION AS TO ADMISSIBILITY
5.	The metal enclosure of the DST Alpha 1000 M Serial No. H-800231 was manufactured by Heinrich Cremer GmbH (HCR).	Plaintiff Objection: <i>Johnson v. REI</i> , 159 Wn. App. 939, 247 P.3d 18 (2011)
6.	HCR was to deliver the metal enclosure according to DST specifications.	Plaintiffs' Objection: <i>Johnson v. REI</i> , 159 Wn. App. 939, 247 P.3d 18 (2011)
7.	The metal walkway grate included in the metal enclosure for the DST Alpha 1000 M Serial No. H-800231 was designed and manufactured by STACO.	Plaintiffs' Objection: <i>Johnson v. REI</i> , 159 Wn. App. 939, 247 P.3d 18 (2011)
8.	STACO performed the welds on the metal walkway for the DST Alpha 1000 M Serial No. H-800231.	Plaintiffs' Objection: <i>Johnson v. REI</i> , 159 Wn. App. 939, 247 P.3d 18 (2011)
9.	HCR provided a Certificate of Conformity to DST regarding the design and manufacture of the metal enclosure of the DST Alpha 1000 M Serial No. H-800231.	Plaintiffs' Objection: <i>Johnson v. REI</i> , 159 Wn. App. 939, 247 P.3d 18 (2011)
10.	DST paid HCR for its performance on the contract for it to design and manufacture a metal enclosure for the DST Alpha 1000 M Serial No. H-800231.	Plaintiffs' Objection: <i>Johnson v. REI</i> , 159 Wn. App. 939, 247 P.3d 18 (2011)
11.	HCR is not a subsidiary of DST.	Plaintiffs' Objection: <i>Johnson v. REI</i> , 159 Wn. App. 939, 247 P.3d 18 (2011)
12.	STACO is not a subsidiary of DST.	Plaintiffs' Objection: <i>Johnson v. REI</i> , 159 Wn. App. 939, 247 P.3d 18 (2011)
13.	DST is not aware of whether HCR is a party to any contracts with Boeing.	Plaintiffs' Objection: <i>Johnson v. REI</i> , 159 Wn. App. 939, 247 P.3d 18 (2011)
14.	DST clarified that HCR's delivered goods satisfied DST specifications.	Plaintiffs' Objection: <i>Johnson v. REI</i> , 159 Wn. App. 939, 247 P.3d 18 (2011)
15.	DST's quality department reviewed the enclosure for the DST Alpha when it was delivered by HCR to ensure it complied with DST specifications.	Plaintiffs' Objection: <i>Johnson v. REI</i> , 159 Wn. App. 939, 247 P.3d 18 (2011)

	AGREED FACT	OBJECTION AS TO ADMISSIBILITY
16.	DST had opportunities to inspect and test the walkways during and after the installation of the Alpha machine at Boeing.	DST Objection: FRE 401; FRE 402; FRE 403; FRE 404
17.	DST is not aware of whether HCR provided a separate warranty to Boeing.	DST Objection: FRE 401; FRE 402; FRE 403; FRE 404 Plaintiffs' Objection: <i>Johnson v. REI</i> , 159 Wn. App. 939, 247 P.3d 18 (2011)
18.	DST did not require Boeing to conduct investigations of the specific welds on the steel grate walkways.	DST Objection: FRE 401; FRE 402; FRE 403; FRE 404
19.	DST did not require Boeing to conduct maintenance of the specific welds on the steel grate walkways.	DST Objection: FRE 401; FRE 402; FRE 403; FRE 404
20.	Richard Williams was standing on the metal grate walkway at the time of his accident on April 2, 2011.	N/A
21.	Richard Williams did not exceed the load capacity for the walkway at the time of his fall on April 2, 2011.	DST Objection: FRE 401; FRE 402
22.	Welding repairs were made to one of the steel grates inside the DST Alpha 1000 M by Boeing after Mr. Williams fall.	DST Objection: FRE 401; FRE 402; FRE 403
23.	Boeing installed brackets under the metal walkway of the DST Alpha 1000 M after Mr. Williams fall.	DST Objection: FRE 401; FRE 402; FRE 403

IV. ISSUES OF LAW

The following are the issues of law to be determined by the court:

1. The Court will be asked to rule on the parties' motions in limine noted for consideration on March 31, 2017.
2. The Court will be asked to rule on the parties' requested jury instructions filed concurrent with this Pretrial Order.
3. The Court will be asked to decide whether DST is a "product seller" of the relevant product with the liability of a manufacturer under RCW 7.72.040(2)(e).

- 1 4. The Court will be asked to decide whether DST assumed the liability of the
2 manufacturer of the steel grate walkway by marketing the DST Alpha 1000 under
3 its name?
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5 5. The Court will be asked to decide, if DST is liable as the manufacturer pursuant to
6 RCW 7.72.040(2)(e), may it seek to allocate fault to either HCR or STACO?
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8 6. The Court will be asked to decide whether plaintiffs are precluded from calling any
9 witnesses or offering any exhibits, and thus whether defendants are entitled to
10 judgment as a matter of law, due to plaintiffs' failure to submit exhibit and witness
11 lists as required by this Court's Scheduling Order and the Civil and Local Rules.
12
13 7. The Court will be asked whether plaintiffs are precluded from calling Dr. Louis
14 Kretschmer at trial to offer expert opinions when plaintiffs did not timely identify
15 Dr. Kretschmer as a trial witness; did not identify Dr. Kretschmer as an expert
16 witness in discovery; and did not provide a written report in discovery.
17
18 8. The Court will be asked whether plaintiffs are precluded from offering the
19 confidential Incident Report produced by the Boeing Company at trial when it was
20 not timely identified as a trial exhibit by plaintiffs in accordance with the local and
21 Court rules; consists of inadmissible hearsay; contains inadmissible and speculative
22 lay opinions; and lacks foundation.

13 V. EXPERT WITNESSES

14 (a) Each party shall be limited to _____ expert witness(es) on the issues of _____.

15 (b) The names and addresses of the expert witnesses to be used by each party at the trial
16 and the issue upon which each will testify is:

17
18 **(1) On behalf of plaintiff:**

19 None.

20
21 **(2) On behalf of defendant:**

22 Keith G. Cline, P.E.
23 Senior Consultant and Manager of Washington Operations
24 Engineering Systems, Inc.
25 700 South Industrial Way
Seattle, WA 98108

1 Mr. Cline will testify on the issue of whether the DST Alpha M 1000 machine was
2 and is reasonably safe as designed and manufactured. He will testify on the issue of
3 whether the metal grate walkway had or has any manufacturing or design defects. He
4 will testify on the issue of whether Mr. Williams claimed injuries were caused because of
5 an alleged defect in the metal grate walkway or because any aspect of the DST Alpha
6 1000 machine was not reasonably safe. He will testify regarding all of plaintiffs' claims as
7 to liability and causation. Mr. Cline reserves the right to testify to other issues to the
8 extent the Court allows plaintiffs to present any testimonial or documentary evidence.

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Todd Ulmer, M.D.
Providence Health & Services
10101 SE Main, Suite 3008
Portland, OR 97216

To the extent plaintiffs are allowed to present any evidence of injury and claimed
damages, Dr. Ulmer will testify on the issue of Mr. Williams' history of chronic injuries,
including chronic history of right hip pain. He will testify on the issue of whether the April
2, 2011 injury was the cause of Mr. Williams' labral tear. Dr. Ulmer will testify on the issue
of whether the cartilage injury in Mr. Williams' right hip predates the work injury on April
2, 2011 and was chronic in nature. He will also testify on the issue of whether Mr.
Williams' recovery from his May 2012 hip surgery was aggravated by his road trip to
Montana in August 2012. He will testify on whether there are clear deficiencies evidenced
in the right hip replacement arthroplasty performed on May 7, 2013. Dr. Ulmer will testify
on whether Mr. Williams' status in a worker's compensation claim places him in the
position of being a cohort, who generally reports worse outcomes after surgery. Dr. Ulmer
reserves the right to testify to other issues to the extent the Court allows plaintiffs to
present any testimonial or documentary evidence.

Eric Kinder, M.D.
Via Radiology
11011 Meridian Avenue North, Suite 101
Seattle, WA 98133

To the extent plaintiffs are allowed to present any evidence of injury and claimed
damages, Dr. Kinder will testify on the issue of whether there is radiological evidence of

1 an acute injury to Mr. Williams' right hip following his workplace accident on April 2, 2011.
2 He will testify on the issue of whether the imaging shows the existence of pre-existing
3 and chronic injury. He will testify on whether the radiological imaging shows that Mr.
4 Williams superior labrum and articular cartilage damage was more probable than not a
5 sequela of femoro-acetabular impingement syndrome. Dr. Kinder will testify on the issue
6 of whether the damage from Mr. Williams' hip was from progressive degeneration rather
7 than from some acute traumatic event. Dr. Kinder reserves the right to testify to other
8 issues to the extent the Court allows plaintiffs to present any testimonial or documentary
9 evidence.

10 Michael Friedman, M.D.
11 Cabrini Medical Tower
12 901 Boren Ave., Suite 1910
13 Seattle, WA 98104

14 To the extent plaintiffs are allowed to present any evidence of injury and claimed
15 damages, Dr. Friedman will testify on the issue of Mr. Williams' pre-existing physical and
16 mental conditions. He will testify on the issue of whether Mr. Williams has a diagnosed
17 psychiatric condition due to the April 2, 2011 workplace injury. Dr. Friedman will testify
18 on the issue of whether Mr. Williams' workplace injury caused a worsening of Mr. Williams'
19 pre-existing psychiatric difficulties.

20 **Defense expert witness(es) who may possibly testify at trial.**

21 ~~Daniel A. Brzusek, D.O., M.Sc.
22 Director, Physical Medicine & Rehabilitation
23 Northwest Rehabilitation Associates, Inc.
24 1600 116th Avenue NE, Ste. 202
25 Bellevue, WA 98004~~

To the extent plaintiffs are allowed to present any evidence of injury, Dr. Brzusek
will testify on the issue of Mr. Williams' pre-existing arthritis in his hip. He will testify
regarding Mr. Williams' re-injury of his right hip in January 2013. He will testify regarding
whether Mr. Williams' right hip problems are quiescent. Dr. Brzusek will testify on the

1 issues regarding the efficacy of the course of treatment sought by Mr. Williams and
2 received from his providers.

3 **VI. OTHER WITNESSES**

4 The names and addresses of witnesses, other than experts, to be used by each party
5 at the time of trial and the general nature of the testimony of each are:

6 **(a) On behalf of plaintiff:**

- 7
8 1. Richard Williams
9 c/o Eugene N. Bolin, Jr.
10 Law Offices of Eugene N. Bolin, Jr.
11 144 Railroad Avenue, Ste. 308
12 Edmonds, WA 98020

13 This witness is expected to provide testimony which is consistent with his
14 deposition testimony.

- 15
16 2. Loriann Williams
17 c/o Eugene N. Bolin, Jr.
18 Law Offices of Eugene N. Bolin, Jr.
19 144 Railroad Avenue, Ste. 308
20 Edmonds, WA 98020

21 This witness is expected to provide testimony which is consistent with her
22 deposition testimony.

- 23
24 3. Joni Swift
25 c/o Ryan Archer
The Boeing Company
PO Box 3707
Seattle, WA 98124-2207

This witness is expected to provide testimony which is consistent with her
deposition testimony.

1 4. James Sharpe
2 c/o Ryan Archer
3 The Boeing Company
4 PO Box 3707
5 Seattle, WA 98124-2207

6 This witness is expected to provide testimony which is consistent with his
7 deposition testimony.

8 5. Michael Wright
9 c/o Ryan Archer
10 The Boeing Company
11 PO Box 3707
12 Seattle, WA 98124-2207

13 This witness is expected to provide testimony which is consistent with his
14 deposition testimony.

15 6. Christian Frisch
16 c/o William J. Leedom
17 c/o David M. Norman
18 Bennett Bigelow & Leedom, PS
19 601 Union Street, Suite 1500
20 Seattle, WA 98101

21 This witness is expected to provide testimony which is consistent with his
22 deposition testimony.

23 7. Rainer Burkhardt
24 c/o William J. Leedom
25 c/o David M. Norman
Bennett Bigelow & Leedom, PS
601 Union Street, Suite 1500
Seattle, WA 98101

This witness is expected to provide testimony which is consistent with his
deposition testimony.

1 8. Louis Kretschmer, MD
2 1165 14th Ave.
3 Fox Island, WA 98333

4 This witness is expected to provide testimony which is consistent with his
5 deposition testimony.

6 9. Rebecca Bolin
7 c/o Eugene N. Bolin, Jr.
8 Law Offices of Eugene N. Bolin, Jr.
9 144 Railroad Avenue, Ste. 308
10 Edmonds, WA 98020

11 This witness will provide testimony regarding the medical bills received and
12 paid on behalf of Richard Williams as a result of his injury on April 2, 2011.

13 **Plaintiffs' Witnesses Who May Testify at Trial**

14 10. Theresa McFarland, MD
15 OMAC, Objective Medical Assessments
16 401 Second Ave. S., Ste. 110
17 Seattle, WA 98104

18 This witness will testify about the medical care and treatment provided to
19 Richard Williams.

20 11. Joseph Carney, MD
21 Exam Works
22 3005 112th Ave. NE, Ste. 200
23 Bellevue, WA 98004

24 This witness will testify about the medical care and treatment provided to
25 Richard Williams.

12. James D. Bruckner, MD
1231 116th Ave NE #750
Bellevue, WA 98004

1 This witness will testify about the medical care and treatment provided to
2 Richard Williams.

3 13. Joshua A. Johnston, MD
4 11311 Bridgeport Way SW #205
5 Lakewood, WA 98499

6 This witness will testify about the medical care and treatment provided to
7 Richard Williams.

8 14. Frederic B. Joseph, MD
9 Via Radiology
10 11011 Meridian Ave. N, Ste. 101
11 Seattle, WA 98133

12 This witness will testify about the medical care and treatment provided to
13 Richard Williams.

14 15. Richard S. Tobin, MD
15 TRA Interventional & Neurointerventional Radiology
16 2202 S Cedar St #200
17 Tacoma, WA 98405

18 This witness will testify about the medical care and treatment provided to
19 Richard Williams.

20 16. Tod E. Wurst, MD
21 TRA Interventional & Neurointerventional Radiology
22 2202 S Cedar St #200
23 Tacoma, WA 98405

24 This witness will testify about the medical care and treatment provided to
25 Richard Williams.

1 17. Mark S. Yuhasz, MD
2 TRA-MINW
3 PO Box 1535
4 Tacoma, WA 98401

5 This witness will testify about the medical care and treatment provided to
6 Richard Williams.

7 18. Steven Brack, DO
8 Rainier Orthopedic Institute, PLLC
9 3801 5th Street SE #110
10 Puyallup, WA 98374

11 This witness will testify about the medical care and treatment provided to
12 Richard Williams.

13 19. G. Gordon Benjamin, MD
14 TRA-MINW
15 PO Box 1535
16 Tacoma, WA 98401

17 This witness will testify about the medical care and treatment provided to
18 Richard Williams.

19 **(b) On behalf of defendant: .**

20 Christian Frisch
21 c/o William J. Leedom
22 c/o David M. Norman
23 Bennett Bigelow & Leedom, P.S.
24 601 Union Street, Suite 1500
25 Seattle, WA 98101

Mr. Frisch is the Production Director of DST. He will testify regarding the design and production of the DST Alpha 1000 M machines, and the lack of complaints or other accidents involving the machines. He will testify regarding the specifications of the DST

1 Alpha 1000 M machine. Mr. Frisch will testify regarding the role of Heinrich Cremer GmbH
2 (HCR) and STACO with the design and manufacture of the metal enclosure of the DST
3 Alpha 1000 M and the metal grate walkway involved in Mr. Williams' accident. He will
4 testify regarding HCR's representations regarding the quality of the metal enclosure and
5 compliance with applicable machine standards. He will testify regarding STACO's
6 production and welding of the metal grate walkway. He will testify regarding the sale of
7 the DST Alpha 1000 to Boeing in 2006 and the terms of the purchase contract and related
8 documentation, including warranty agreements. Mr. Frisch will testify about the
9 documentation provided to and communications with The Boeing Company regarding the
10 installation, operation, and maintenance of the DST Alpha 1000M. Mr. Frisch will testify
11 regarding the corporate structure of DST and the Starrag entities, the purchase of DST
12 by the Starrag Group in January 2011, and the corporate independence of DST from the
13 Starrag entities. Mr. Frisch reserves the right to offer additional testimony, including in
14 rebuttal, with regard to any issue that arises at trial.

15 **Defense Witnesses Who May Testify at Trial.**

16 Rainer Burkhardt
17 c/o William J. Leedom
18 c/o David M. Norman
19 Bennett Bigelow & Leedom, P.S.
20 601 Union Street, Suite 1500
21 Seattle, WA 98101

22 Mr. Burkhardt is the Director of Finance and Accounting for defendant DST. Mr.
23 Burkhardt will testify regarding the corporate structure of DST and the Starrag entities,
24 the purchase of DST by the Starrag Group in January 2011, and the corporate
25 independence of DST from the Starrag entities. He will testify regarding the nature of
DST's business and company history. Mr. Burkhardt reserves the right to offer additional
testimony, including in rebuttal, with regard to any issue that arises at trial.

1 Heinz-Joachim Michel
2 c/o William J. Leedom
3 c/o David M. Norman
4 Bennett Bigelow & Leedom, P.S.
5 601 Union Street, Suite 1500
6 Seattle, WA 98101

7 Mr. Michel was the former manager of quality at DST at the time the DST Alpha
8 1000 M was designed and manufactured. Mr. Michel may testify regarding the
9 manufacturing standards applicable to DST machines, including the DST Alpha 1000 M.
10 He may testify regarding interactions with HCR and/or STACO, including but not limited
11 to confirmation that any sub-supplier is satisfying a DST specification. He may testify
12 regarding the inspections involved with the production of the DST Alpha 1000 M, and
13 other quality control measures in place at DST. Mr. Michel may testify regarding contracts
14 with HCR and/or STACO, and the material terms of the same. Mr. Michel reserves the
15 right to offer additional testimony, including in rebuttal, with regard to any issue that
16 arises at trial.

14 Tammy Iles
15 c/o William J. Leedom
16 c/o David M. Norman
17 Bennett Bigelow & Leedom, P.S.
18 601 Union Street, Suite 1500
19 Seattle, WA 98101

20 Ms. Iles is the Head of Finance at Starrag USA, Inc. Ms. Iles may testify regarding
21 the corporate structure of the Starrag entities, the purchase of DST by the Starrag Group
22 in January 2011, and the corporate independence of DST from the Starrag entities. She
23 may also testify regarding the nature of Starrag USA's business and company history.
24 Ms. Iles reserves the right to offer additional testimony, including in rebuttal, with regard
25 to any issue that arises at trial.

1 Harald Mueller
2 c/o William J. Leedom
3 c/o David M. Norman
4 Bennett Bigelow and Leedom
5 601 Union Street, Suite 1500
6 Seattle, WA 98101

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7 Mr. Mueller signed the Final Acceptance Protocol for the purchase of the Alpha
8 1000 M milling machine at issue on September 7, 2007 on behalf of DST. He was the
9 Application Engineer at the time. He may testify regarding the sale of the DST Alpha 1000
10 to Boeing in 2006 and the terms of the purchase contract and related documentation,
11 including warranty agreements. Mr. Mueller reserves the right to offer additional
12 testimony, including in rebuttal, with regard to any issue that arises at trial.

13 Waldemar Maly
14 c/o William J. Leedom
15 c/o David M. Norman
16 Bennett Bigelow and Leedom
17 601 Union Street, Suite 1500
18 Seattle, WA 98101

RZ

19 Mr. Maly is a testing engineer employed by DST in Germany. Mr. Maly may testify
20 regarding the manufacturing standards applicable to DST machines, including the DST
21 Alpha 1000 M. He may testify regarding interactions with HCR and/or STACO, including
22 but not limited to confirmation that any sub-supplier is satisfying a DST specification. He
23 may testify regarding the inspections involved with the production of the DST Alpha 1000
24 M, and other quality control measures in place at DST. Mr. Maly reserves the right to
25 offer additional testimony, including in rebuttal, with regard to any issue that arises at
trial.

21 Heiner Muhr
22 c/o William J. Leedom
23 c/o David M. Norman
24 Bennett Bigelow and Leedom
25 601 Union Street, Suite 1500
Seattle, WA 98101

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1 Mr. Muhr was the team leader of DS Technologie's design department. He may
2 testify regarding the design of the DST Alpha 1000 M. Mr. Muhr reserves the right to
3 offer additional testimony, including in rebuttal, with regard to any issue that arises at
4 trial.

4 Dr. Marcus Queins
5 c/o William J. Leedom
6 c/o David M. Norman
7 Bennett Bigelow and Leedom
8 601 Union Street, Suite 1500
9 Seattle, WA 98101

8 Dr. Queins is a Technology Director at Dörries Scharmann Technologie GmbH. He
9 may testify regarding the design and testing of the DST Alpha 1000 M. Mr. Queins
10 reserves the right to offer additional testimony, including in rebuttal, with regard to any
11 issue that arises at trial.

12 ~~Stefan Nethovel~~
13 ~~c/o William J. Leedom~~
14 ~~c/o David M. Norman~~
15 ~~Bennett Bigelow and Leedom~~
16 ~~601 Union Street, Suite 1500~~
17 ~~Seattle, WA 98101~~

16 Mr. Nethovel is the Head of Supply Chain at Dörries Scharmann Technologie
17 GmbH. He may testify regarding the sale of the DST Alpha 1000 M. Mr. Nethovel reserves
18 the right to offer additional testimony, including in rebuttal, with regard to any issue that
19 arises at trial.

20 Dr. Reinhard Synofzik
21 HCR-Heinrich Cremer GmbH
22 Oppelner Straße 37
23 D-41199 Monchengladbach

22 Dr. Synofzik is a Technical Director at Heinrich Cremer GmbH. He may testify
23 regarding the specifications, design, and manufacture of the enclosure of the DST Alpha
24 1000 M. He may also testify regarding communications with DST and STACO regarding
25

1 the DST Alpha 1000 M. DST reserves the right to call Dr. Synofzik to provide additional
2 testimony, including in rebuttal, with regard to any issue that arises at trial.

3 Josef Van Mierlo
4 HCR-Heinrich Cremer GmbH
5 Oppelner Straße 37
6 D-41199 Monchengladbach

7 Mr. Van Mierlo is an assembler at Heinrich Cremer GmbH. He may testify regarding
8 the manufacture of the enclosure of the DST Alpha 1000 M. He may also testify regarding
9 communications with DST and STACO regarding the DST Alpha 1000 M. DST reserves
10 the right to call Mr. Van Mierlo to provide additional testimony, including in rebuttal, with
11 regard to any issue that arises at trial.

12 Michael Wright
13 c/o Ryan Archer
14 The Boeing Company
15 PO Box 3707
16 Seattle, WA, 98124-2207

17 Mr. Wright is the Equipment Manager at The Boeing Company. He may testify
18 regarding the purchase and sale of the DST Alpha 1000 M at issue, and the terms of the
19 purchase contracts. He may testify to the purpose and use of the DST Alpha 1000 M at
20 issue. He may testify regarding the installation of the DST Alpha 1000 M at The Boeing
21 Company. He may testify regarding the training provided to Boeing by DST regarding the
22 use of the DST Alpha 1000 M. Mr. Wright may testify regarding the
23 inspection/maintenance responsibilities regarding the DST Alpha 1000 M machine at
24 issue. DST reserves the right to call Mr. Wright to provide additional testimony, including
25 in rebuttal, with regard to any issue that arises at trial.

21 **VII. EXHIBITS**

22 The parties intend on offering some exhibits to the jury in electronic format,
23 whether substantive evidence or for illustrative purposes.

The parties reserve the right to use any of the exhibits identified by the other party, either as part of their case in chief or in rebuttal.

The parties herein incorporate the arguments set forth in their pending Motions in Limine with regard to the admissibility of any evidence discussed therein.

The parties identify the following exhibits for use at trial:

No.	DESCRIPTION	Offering Party	Admissibility Stipulated	Authenticity Stipulated, Admissibility Disputed	Authenticity and Admissibility Disputed
1.	Incident Reporting System Incident Query.	Plaintiffs			X
2.	Photographs.	Plaintiffs	X		
3.	Medical Records produced at the 1/26/17 deposition of Louis Kretschmer, MD.	Plaintiffs		X	
4.	Billing Records produced at the 1/26/17 deposition of Louis Kretschmer, MD.	Plaintiffs			X
5.	Operative Reports produced at the 1/26/17 deposition of Louis Kretschmer, MD.	Plaintiffs		X	
6.	Sedgwick Payment Logs produced at the 1/26/17 deposition of Louis Kretschmer, MD.	Plaintiffs			X
7.	IME – Heritage Chiropractic Clinic, November 21, 2011.	Plaintiffs		X	
8.	IME – OMAC, August 31, 2012.	Plaintiffs		X	
9.	IME – Exam Works, March 15, 2013.	Plaintiffs		X	
10.	IME – MES Solutions, October 16, 2014, and December 2, 2015.	Plaintiffs		X	
DEFENSE EXHIBITS					
50 A-1	Boeing Electrical Addendum, Safety Environmental, dated November 30, 2009.	Defendant		X	

No.	DESCRIPTION	Offering Party	Admissibility Stipulated	Authenticity Stipulated, Admissibility Disputed	Authenticity and Admissibility Disputed
51 A-3	Boeing Mechanical Addendum, Safety Environmental.	Defendant		X	
52 A-3	Boeing EDAAS Specification for 5-Axis CNC Dual Pallet Machining Center.	Defendant		X	
53 A-4	DST Foundation and Installation Indications and Requirements for Medium and Big Size Horizontal Machining Centers and Ram Type Boring and Milling Machines.	Defendant	X		
54 A-3	Boeing Photographs of DST Alpha 1000 M.	Defendant	X		
55 A-6	Installation Procedure.	Defendant	X		
56 A-7	Minutes of Meeting, October 31, 2006.	Defendant		X	
57 A-8	Packing-/Colli-List.	Defendant		X	
58 A-9	Customs—Invoice.	Defendant		X	
59 A-10	Boeing Service Provider Manual.	Defendant		X	
60 A-11	Equipment List Change Request.	Defendant		X	
61 A-12	Down payment Invoice.	Defendant		X	
62 A-13	DST Machine Covering for Alpha M.	Defendant		X	
63 A-14	DST Spare Parts Factors—Guidelines Subcontractors.	Defendant		X	
64 A-15	DST Operating Instructions.	Defendant	X		
65 A-16	DST Priming Factory Standard.	Defendant		X	
66 A-17	DST Operating Instructions, Electrical Assembly.	Defendant		X	
67 A-18	DST Documentation to be Supplied.	Defendant		X	
68 A-19	HCR Invoices to DST.	Defendant	X		

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No.	DESCRIPTION	Offering Party	Admissibility Stipulated	Authenticity Stipulated, Admissibility Disputed	Authenticity and Admissibility Disputed
69 A-20	HCR Documentation for Machine Lining.	Defendant	X		
70 A-21	HCR's Declaration within the meaning of the EC Machinery Directive 98/37 / EC, Annex II B.	Defendant		X	
71 A-22	HCR Structure List.	Defendant		X	
72 A-23	HCR Design Drawings.	Defendant		X	
73 A-24	HCR Factory Certificate of Conformity.	Defendant	X		
74 A-25	DST Final Acceptance Protocol with Boeing.	Defendant	X		
75 A-26	DST Invoice to The Boeing Company.	Defendant	X		
76 A-27	Boeing SSG, Contract No. 19506.	Defendant	X		
77 A-28	HCR Structure List to Boeing.	Defendant		X	
78 A-29	STACO Specifications and Design Drawings.	Defendant		X	
79 A-30	Participation Structure chart for the Starrag Group.	Defendant			X
80 A-31	DST Copy of Contract 18052.	Defendant		X	
81 A-32	DST Quote for Scharmann Machining Center Alpha 1000 M.	Defendant		X	
82 A-33	PR 28782A and PR 28955A DST Procurement Summary.	Defendant		X	
83 A-34	DST Down payment Invoice.	Defendant		X	
84 A-35	Alpha 5-Axis Machining of Aluminum, Titanium, Steel and Cast Iron.	Defendant		X	
85 A-36	DST Operating Manual, Machining Centre, Alpha 1000 M.	Defendant	X		
86 A-37	HCR drawings for metal grate and enclosure.	Defendant		X	
87 A-38	HCR Documentation for enclosure.	Defendant		X	

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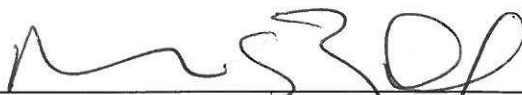
No.	DESCRIPTION	Offering Party	Admissibility Stipulated	Authenticity Stipulated, Admissibility Disputed	Authenticity and Admissibility Disputed
88 A-39	HCR Certificate of Conformity.	Defendant	X		
89 A-40	DST Operating Manual, Machining Centre, Alpha 1000 M.	Defendant	X		
90 A-41	DST Quotation for Scharmann Machining Center Alpha 1000 M.	Defendant		X	
91 A-42	DST Operating Manual, Machining Centre, Alpha 1000 M.	Defendant	X		
92 A-43	HCR Documentation, including Manufacturer Declaration.	Defendant			X
93 A-44	Burener Maschinenfabrik GmbH Operating and Servicing Instructions.	Defendant			X
94 A-45	HCR Documentation, including Manufacturer Declaration.	Defendant		X	
95 A-46	HCR Certificate of Conformity.	Defendant			X
96 A-47	HCR Parts Checklist.	Defendant		X	
97 A-48	HCR Design Drawings.	Defendant		X	
98 A-49	HCR Design Drawings for metal walkway.	Defendant		X	
99 A-50	EDAAS Specification for a 5-Axis CNC Dual Pallet Machining Center.	Defendant		X	
100 A-51	Machine Assembly Protocol.	Defendant		X	
101 A-52	Boeing Bid Specification.	Defendant		X	
102 A-53	Boeing Specification for 5-Axis CNC Dual Pallet Machining Center.	Defendant		X	
103 A-54	DST Invoice.	Defendant	X		
104 A-55	DST Operation Manual.	Defendant	X		
105 A-56	EDAAS Specifications for 5-Axis CNC Dual Pallet Machining Center.	Defendant		X	

No.	DESCRIPTION	Offering Party	Admissibility Stipulated	Authenticity Stipulated, Admissibility Disputed	Authenticity and Admissibility Disputed
106 A-57	Maintenance and Inspection Manual.	Defendant		X	
107 A-58	DST Contracts with Boeing.	Defendant	X		
108 A-59	Select Portions of Mr. Williams' Medical Records.	Defendant		X	

VIII. ACTION BY THE COURT

- a) This case is scheduled for trial before a jury on April 24, 2017, at 9:00 a.m.
- b) Trial briefs shall be submitted to the court on or before April 3, 2017.
- c) Jury instructions requested by either party shall be submitted to the court on or before April 3, 2017. Suggested questions of either party to be asked of the jury by the court on voir dire shall be submitted to the court on or before April 3, 2017.
- d) This order has been approved by the parties as evidenced by the signatures of their counsel. This order shall control the subsequent course of the action unless modified by a subsequent order. This order shall not be amended except by order of the court pursuant to agreement of the parties or to prevent manifest injustice.

DATED this 7th day of April, 2017.



 The Honorable Thomas S. Zilly

1 FORM APPROVED

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10 William J. Leedom, WSBA #2013

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