

ESTTA Tracking number: **ESTTA1046896**

Filing date: **04/03/2020**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|------------------------|--|
| Proceeding | 91240198 |
| Party | Plaintiff Poreba Machine Tool Company LLC |
| Correspondence Address | NICK MARSICO HUCK BOUMA PC 1755 S NAPERVILLE ROAD #200 WHEATON, IL 60189 UNITED STATES nmarsico@huckbouma.com 630-344-1158 |
| Submission | Testimony For Plaintiff |
| Filer's Name | Eric J. Malnar |
| Filer's email | emalnar@huckbouma.com |
| Signature | /Eric J. Malnar/ |
| Date | 04/03/2020 |
| Attachments | Executed Rebuttal.pdf(302515 bytes) |

**IN THE UNITED STATES PATENT AND TRADEMARK
OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL
BOARD**

| | |
|---|-------------------------|
| In re Application Serial No.: | 79,196,339 |
| Mark: | POREBA 1798 |
| Published in the Official Gazette on: | February 20 , 2018 |
| Poreba Machine Tool Company LLC Opposer, v. Fabryka Obrabiarek RAFAMET Spółka Akcyjna, Applicant. | Opposition No. 91240198 |

RE-BUTTAL DECLARATION OF FRANK TURI

Frank Turi, being first duly sworn, on oath, deposes and states:

1. I am the President of Poreba Machine Tool Company LLC ("**Opposer**"), an Illinois limited liability company, in good standing. In that capacity, I have authority to make this affidavit on behalf of Opposer.

2. I am personally familiar with the material allegations of the Notice of Opposition, Statement of Claim as well as the Answer to the opposition.

3. Furthermore, I am familiar with Opposer's current business, its history and method of operation.

4. Since approximately 2006 to the Present, Opposer has sold approximately 180 of the following machines under the Mark in the United States:

- a. Horizontal Boring Mills;
- b. Manual Lathes;
- c. CNC Lathes;
- d. CNC Vertical Machining Center.

These machines and others have been and continue to be advertised on Opposer's website www.porebamachinetool.com as well as listed for sale on www.surplusrecord.com. See Attached. Moreover, Opposer sends out approximately 32,000 emails every two weeks to its various clients and prospects regarding the sale of the products containing the Mark.

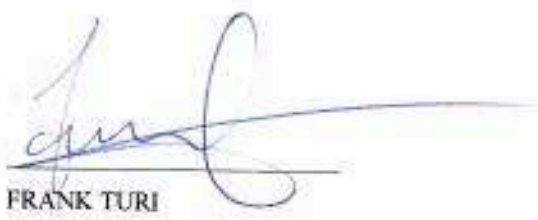
5. I have been in the business of manufacturing and selling of these high-end machines for 16 years and am familiar with Applicant's current and past business.

6. To my knowledge, I am not aware that Applicant has actually sold any products using the Mark or is currently selling any products with the Mark in the United States.

7. That if sworn as a witness at a trial of this cause, I could competently testify to all of the foregoing based upon my own personal knowledge and the books and records of Opposer, which have been made and kept in the ordinary course of its business.

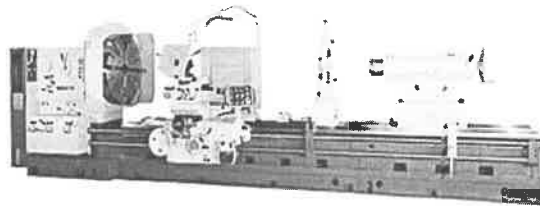
Further, Declarant saith not.



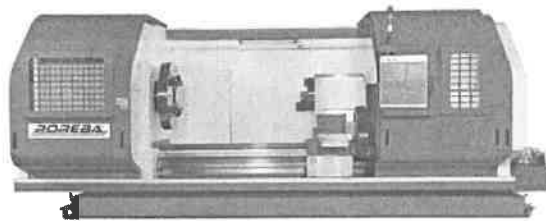


FRANK TURI

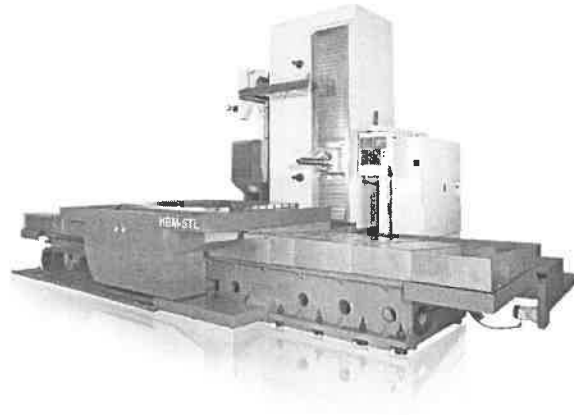
5



Manual Lathes



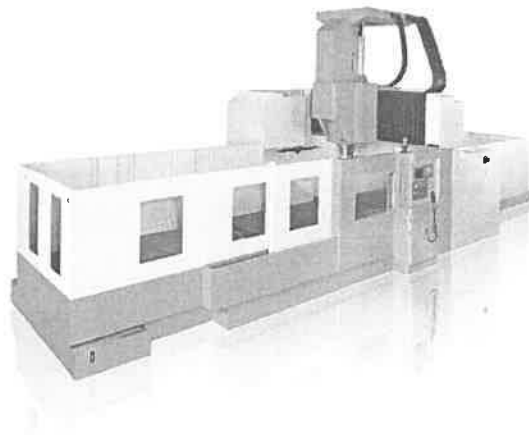
CNC Lathes



Horizontal Boring Mills



Vertical Boring Mills




Bridge Mills

POREBA MACHINE TOOL COMPANY LLC

358 Hollow Hill Road
Wauconda, Illinois USA 60084

CONTACT

 **Phone:** (847) 968-2000

 **Fax:** (847) 968-2001

[HOME](#)

[PRODUCTS](#)

[TRADE-INS](#)

[PARTS & SERVICE](#)

[ABOUT US](#)

[CONTACT US](#)

[PRIVACY POLICY](#)

[TERMS OF USE](#)

[TERMS OF SALE](#)

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing DECLARATION has been served on attorney for Applicant Fabryka Obrabiarek RAFAMET Spółka Akcyjna by forwarding a copy to:

Szymon Gurda
CHERSKOV FLAYNIK & GURDA, LLC
123 W. Madison St. Suite 400
Chicago, Illinois 60602
United States of America

via e-mail to sgurda@cherskov.com on April 3, 2020. A paper copy of the filing was also sent.

/s Eric J. Malnar

Eric J. Malnar (ARDC#6286782)
HUCK BOUMA PC
1755 S. Naperville Road, Suite 200
Wheaton, IL 60189
630-344-0810
emalnar@HuckBouma.com
Counsel for Opposer