

ESTTA Tracking number: **ESTTA292163**

Filing date: **06/27/2009**

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

Proceeding	91182396
Party	Defendant PWC Industries Inc.
Correspondence Address	William E. Noonan PWC INDUSTRIES INC. POB 07338 Fort Myers, FL 33919 UNITED STATES noonanatty@cobware.com
Submission	Testimony For Defendant
Filer's Name	William E. Noonan
Filer's e-mail	noonanatty@cobware.com
Signature	/William E. Noonan/
Date	06/27/2009
Attachments	Bootes Testimony Depo.txt (44 pages)(69057 bytes) BOSE v PWC BOOTES EXHIBITS.pdf (16 pages)(6193016 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
In the Matter of: Application Serial No. 77/158,037
For the Mark FULL WAVE AUDIO

)	
BOSE CORPORATION,)	
)	
Opposer/Plaintiff,)	Opposition No.
)	91,182,396
vs.)	
)	
PWC Industries, Inc.,)	
)	
Applicant/Defendant.)	
)	

DEPOSITION OF: TODD BOOTES
DATE TAKEN: Thursday, March 12, 2009
TIME: 1:00 PM - 2:00 PM
PLACE TAKEN: 8695 College Parkway
Fort Myers, Florida 33919
ON BEHALF OF: Counsel for

Applicant/Defendant

REPORTER: Gayle A. Leikam, RPR, FPR
Notary Public
State of Florida at Large
* * *

1 A P P E A R A N C E S:

2

Courtney M. Quish, Esquire (via speaker phone)
FISH & RICHARDSON, P.C.
225 Franklin Street
Boston, Massachusetts 02110
617.542.8906

5

Appearing on behalf of the Opposer/Plaintiff;

6

7

William E. Noonan, Esquire
Fountain Court
8250 College Parkway, Suite 202
Fort Myers, Florida 33919
239.481.0900

8

9

10

Appearing on behalf of the

10

Applicant/Defendant.

11

Also Present: Michelle Brownlee (via speaker phone),

12

Corporation

13

14

I N D E X

15

WITNESS: TODD BOOTES

PAGE 16

Direct Examination by Mr. Noonan

4

17

Cross Examination by Ms. Quish

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EXHIBITS

PAGE

REFERENCED

- 10 1 No. 1 Photo of FWA Waterproof Stereo Amplifier
- 10 2 No. 2 Photo of FWA Waterproof Stereo Amplifier Kit
- 11 3 No. 3 FWA Waterproof Audio Systems Flyer
- 15 4 No. 4 Photo of FWA Waterproof System Website Page
- 15 5 No. 5 Photo of FWA Waterproof System Website Page
- 17 6 No. 6 FWA Installation Instructions
- 20 7 No. 7 Photo of FWA System Installation
- 20 8 No. 8 Photo of FWA System Installation
- 20 9 No. 9 Photo of FWA System Installation
- 20 10 No. 10 Photo of FWA System Installation
- 23 11 No. 11 Photo of Ski-Doo RXT
- 23 12 No. 12 Photo of Ski-Doo RXT and Boat
- 25 13 No. 13 Photo of FWA System Website Page Depicting
Amplifier Submerged in Fish Tank and Photo of
Amplifier

* * *

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1 TODD BOOTES,
2 the witness, produced for and in behalf of the Applicant/
3 Defendant, having been first duly sworn, was deposed and

said

4 as follows:

5 DIRECT EXAMINATION

6 BY NOONAN:

7 Q Good afternoon, sir. Could you state your name,
8 please.

9 A Todd Bootes.

10 Q And, Mr. Bootes, what is your present occupation?

11 A I'm vice president and R & D director of PWC
12 Industries.

business are

13 Q What does PWC Industries do; what type of
14 they involved in?

15 A We manufacture waterproof products for personal
16 watercrafts or boats or kayaks.

that

17 Q Can you give me a list of the specific products
18 you manufacture and the brand names or trade names that
19 for each one?

you use

20 A We manufacture waterproof amplifiers for use--

It's a

21 submersible amplifier that's potted in plastic, and it's
22 designed for applications where it could be submerged or

waves

23 could hit it or whatnot in a jet ski primarily. We also

have a

24 safety alert system which is microprocessor-controlled

lights

25 that goes off when a rider of a personal watercraft

suddenly

1 slows down. And same products we're working on for boats.
2 That's about all we manufacture currently.

3 Q What name or trademark do you use for--

4 A For the waterproof--

5 Q What name or trademark do you use for the
waterproof
6 system?

7 A Full Wave Audio for the amplifier.

8 Q And what name are you using for the light warning
9 system?

10 A Safety Alert System.

11 Q Does PWC Industries currently own any patents?

12 A Yes. We have a braking--jet ski brake system, we
have
13 a deceleration light for personal watercraft, we have a
power
14 boarding ladder for jet skis or boats. And we have a
couple
15 pending.

16 Q What are the pending patents for?

17 A The pending one is for the waterproof amplifier;
the
18 other one is for--I believe it's an amendment to the
Safety
19 Alert System.

20 Q Mr. Bootes, could you tell me what the subject
matter
21 of this legal proceeding is, to your understanding?

22 A It's an objection to our use of Full Wave Audio
23 trademark.

24 Q And do you know who has raised that objection?

25 A Bose Corporation.

1 Q Are you familiar with Bose Corporation?

2 A Yeah, I've heard of them. I've seen their

commercials

3 years ago, although I don't watch TV much anymore.

4 Q Are you familiar with the Bose Wave Radio?

5 A I've heard of it and I've seen it on TV.

6 Q And what is your understanding of what that

product

7 constitutes?

8 A It's a little tabletop radio for use in your

house or

9 kitchen or garage. It's a nice-looking little unit.

10 Q And have you heard of the product Bose Acoustic

Wave

11 Radio?

12 A Not really. I don't recall a specific acoustic

wave

13 radio, no.

14 Q So would you know specifically what that product
15 constitutes?

16 A I would guess it's a tabletop radio.

17 Q Can you tell me how you conceived of the name--
18 trademark Full Wave Audio?

19 A Well, I wanted to design an amplifier so I could

use

20 my iPod out while riding the jet ski, so we designed an

21 amplifier. And I wanted to give it a name, so since it's

used

22 out in wavy conditions where half the time you're

submerged

23 when you hit big waves and there's salt spray and

everything

24 else, a traditional amplifier would be destroyed; and you

25 couldn't have that high of a current draw on the

traditional.

1 So I designed my own and made it waterproof and gave it
that
2 name.

3 Q After you came up with that name, did you conduct
any
4 type of searching to determine if anybody was using the
same
5 name for any other product?

6 A Oh, yeah. I searched to see if anybody had the
domain
7 name, and nobody did. I searched the patent trademark
office
8 using "Full Wave Audio," and I didn't find anything. And
I
9 ordered a full search, and it came back in the form of a
book;
10 and I didn't see anything in there. There was a million
11 different names in there.

12 Q Who did you order that from, do you know?

13 A LegalZoom.

14 Q Has PWC Industries, Inc. sought any type of
15 registrations for Full Wave Audio?

16 A You mean filing for the-- Yeah, I filed for Full
Wave
17 Audio at the patent--trademark, yes.

18 Q Who filed that application?

19 A I did.

20 Q And who owns the application, do you know?

21 A PWC Industries.

22 Q Is it your understanding that that application is
the

23 one that's the subject of this legal proceeding?

24 A Yes.

25 Q Do you recall when PWC Industries, Inc. began
using

1 the trademark for its product, the trademark for Full Wave
2 Audio?

3 A I think I started it about February of '07, if
I'm not
4 mistaken.

5 Q And does that use continue until the present?

6 A Yes.

7 Q Could you describe how PWC Industries is using
the
8 trademark presently?

9 A We have it on every single amplifier; it's

10 stamped.
We have it on the boxes, and we have it on some flyers,

and I
11 believe we've got a little logo up on the website as well.

12 MR. NOONAN: Okay. Counsel, I'm now going to

start
13 with discussing the exhibits that I have. And just for

your
14 prior reference, you should have all of the exhibits. I

have a
15 total of--between the two depositions today, I believe a

total
16 of fourteen different exhibits and, in addition, will

refer to
17 one of the exhibits that you had previously submitted in

your
18 deposition of Mr. Snelling. And that is the--I believe

it's
19 the Bose Wave System II operator's manual or owner's

manual.
20 MS. QUISH: Okay. I'm not sure I have anywhere

near
21 fourteen. But perhaps as you move through, we can

identify
22 what those are.

23 MR. NOONAN: Yes. And I believe every one of

them
24 I've either referred to, Ms. Quish, or in my e-mails to

you
25 that will be on the--

9

1 MS. QUISH: I have five from your e-mails.

2 MR. NOONAN: Okay. I sent you one additional

one--two

3 additional ones this morning. No, three. I'm sorry. And

then

4 there was one additional one I sent about an hour ago.

That's

5 another photo from the website.

6 MS. QUISH: Okay.

7 MR. NOONAN: And that was definitely the last

one. We

8 can go through each of them. And if there's a problem,

we'll

9 make arrangements to get it to you.

10 MS. QUISH: Okay. That's fine.

11 Q (By Mr. Noonan) Okay. Mr. Bootes--

12 MR. NOONAN: First off, I would ask that the

reporter

13 please mark for identification plaintiff's exhibits-- I

don't

14 know whether it would be applicants or defendants; did you

15 folks use "plaintiff's" in yours, Ms. Quish?

16 MS. QUISH: No, I believe it says "Snelling." We

just

17 used his last name.

18 MR. NOONAN: Okay. I have no preference one way

or

19 the other. To keep it consistent, do you want me to just

use

20 "Mr. Bootes" or "Bootes"?

21 MS. QUISH: That's fine. Or "applicant."

Either.

22 MR. NOONAN: Okay. Just to maybe narrow it down,

23 we'll just use "applicant" and mark these Applicant's

Exhibit

24 Numbers 1 through 3. And they are the two exhibits that I

25 believe I sent you yesterday, one of which is a scanned

copy of

10

1 the product that says "Full Wave Audio waterproof stereo
2 amplifier" on the label across the top. That went

yesterday.

3 The second one is the box that has the amplifier and two
4 speakers in it.

5 MS. QUISH: Yes.

6 MR. NOONAN: And the third one is the one I sent

you

7 this morning that's two sides of a flyer that says "Full

Wave

8 Audio" on one side, and on the other side it has "system
9 features, fully waterproof, mounts anywhere, can be

exposed to

10 weather," that wording.

11 MS. QUISH: Uh-huh.

12 MR. NOONAN: So those are Exhibits 1 through 3,
13 Applicant's Exhibits 1 through 3 respectively.

14 (Applicant's Deposition Exhibits 1
15 through 3 marked for

identification.)

16 Q (By Mr. Noonan) Mr. Bootes, I want to show you a
17 document that's been labeled Applicant's Exhibit 1. And I
18 would ask that you look at that, please, and tell me if

you

19 recognize it.

20 A Yeah. It's one of our amplifiers.

21 Q And I would also like to show you Applicant's
22 Exhibit 2, which has been marked, and ask if you recognize

and

23 can identify that document.

24 A Yeah. That's one of our kits that has a pair of
25 speakers and one of our amplifiers in the box.

11

1 Q And can you-- And it's difficult to point when
2 Counsel is on the phone. But what are the speakers in

there,

3 if you can explain just in very simple terms; what are the
4 speaker components?

5 A They're just two, four-inch speakers.

6 Q Where are they located in the--

7 A They're on either side of the amplifier, which

the

8 amplifier is located in the middle.

9 Q And the amplifier has the printed wording or

label on

10 it?

11 A Exact same wording that's on the box, yes.

12 Q Now, are the speakers the marine waterproof

speakers

13 that are referred to in your trademark application?

14 A Yes.

15 Q And is the amplifier the waterproof amplifier

that's

16 referred to in the trademark application?

17 A Yes, it is.

18 Q Does this system or any other system that you

sell

19 under the name Full Wave Audio include a radio or CD

player

20 integrated with the system?

21 A No.

22 Q Mr. Bootes, I'd like you to refer to a document

which

23 has been labeled Applicant's Exhibit 3, please. Could you

24 identify that document, please?

25 A This is a flyer that we have to show people the

1 product specifications, basically just a little handout.

2 Q Does that flyer also depict the product?

3 A Yes, it does.

4 Q Okay. If you could, Mr. Bootes, with regard to
5 Applicant's Exhibits 1 through 3, could you refer to the
6 material that's printed on the box and on the top of the
7 amplifier and could you describe for us what that printed
8 material is?

9 A Yeah. It's a logo; it basically shows waves on

either
10 side of the words "Full Wave Audio." It says "waterproof
11 amplifier," which is what it is. It says "made in USA by

PWC
12 Industries," which that's us. And that's our domain name,
13 fullwaveaudio.com. And it has "patent pending," which is

also
14 true.

15 Q I know that on at least one or two of the
amplifiers
16 it states "waterproof audio system."

17 A Right.

18 Q Is that a change from the--

19 A I don't know. Some of the printing-- The
printing
20 person might have put that on there just to indicate that

we
21 have different side speakers: you could use six-inch
speakers

22 or six-by-nine. But all we have is an amplifier and
speakers.

23 Q Okay. On the box it says "waterproof stereo
24 amplifier"?

25 A Right.

1 Q And it says "waterproof stereo system." Is there
a reason for that?

2
3 A Yeah. We have different size boxes that would
have a larger size speaker in it. So you could have a four-inch
or you could have a six or a six-by-nine or a ten.

5
6 Q How is the logo printed on the top of the

amplifier?
7 A It's stamped with an industrial ink.

8 Q And how is it printed on the box?

9 A I think it's some type of ink printing. I'm not
sure how they do it.

10
11 Q And could you reiterate what the graphic design
of your logo represents?

12
13 A Waves in the Gulf or in the bays or lakes or
rivers, large waves.

14
15 Q How did you come up with that design?

16 A Well, we're all about being submersible and being
out in the water, in a kayak or a canoe, anything you want to
be out-- Mostly personal watercraft. And that's the name of
our company, PWC, which indicates personal watercraft.

19
20 Q Would you say that there is a common meaning

shared by
21 your name and your design?

22 A Sure.

23 Q What is that?

24 A That you can use our product out in the water.

25 Q Are all of your amplifiers labeled in accordance

with

1 what's shown in Exhibits 1 through 3?

2 A Every one of them.

3 Q Are all of the boxes that you use to package the
4 product labeled as shown in Exhibit 2?

5 A Every one of them.

6 Q Does every label include the words "Full Wave
Audio"?

7 A Yes.

8 Q Does every label include the ocean wave design?

9 A Yes.

10 Q Does every label on your products include the
words

11 "made in USA by PWC Industries, Inc."?

12 A Yes, it does.

13 Q Why did you put that designation on the label?

14 A Because we're trying to promote our business. We
want

15 people to know it's us that's making this.

16 Q Do all of the labels that you apply to your
amplifiers

17 and boxes employ the same font or typestyle?

18 A Yeah, uh-huh. I don't know what they call the
name of

19 the font. But every one of them are the same because we
want

20 people to recognize us.

21 Q Do you ever refer to your product simply as
"wave" or

22 "acoustic wave"?

23 A No.

24 MR. NOONAN: If I could next have the reporter
label

25 for identification Applicant's Exhibits 4 and 5. And,
Counsel,

1 that constitutes the two web pages that I believe I sent
to you 2 yesterday, one of which--

3 MS. QUISH: The installation instructions?

4 MR. NOONAN: No. This is from yesterday.

Exhibit 4 5 is the one that is printed sideways. It says: Special
moments 6 happen when the music arrives - it's finally here.

7 MS. QUISH: Yes.

8 MR. NOONAN: And Exhibit 5--it's the same

location-- 9 says "waterproof audio systems." It has a price list and
10 photographs of the products.

11 MS. QUISH: Sure.

12 (Applicant's Deposition Exhibit

Numbers 13 4 and 5 marked for

identification.)

14 Q (By Mr. Noonan) Okay. Mr. Bootes, I'm going to
show 15 you the exhibits that have been labeled Applicant's

Exhibit 4 16 and 5. And I would ask you if you recognize those.

17 A Yeah, that's our website.

18 Q How does the appearance of your Full Wave Audio

logo 19 on the website compare with its appearance on your

product? 20 A It's pretty much identical. I don't believe they
21 have-- Yeah, it's identical, except I don't think they

22 "patent pending" up there; it's probably somewhere else on

the 23 site.

24 Q One question I neglected to ask previously. The

flyer 25 in Exhibit 3-- The flyer that was marked as Applicant's

1 Exhibit Number 3, how is that distributed, where is that
2 distributed?

3 A We hand them out to people that are interested at
boat
4 shows, just people that are-- Most of our sales are by
5 word-of-mouth; people that have one on their jet ski, and
6 another friend sees it and they want one. And we hand
them
7 out; that's pretty much how they're distributed.

8 Q Are they handed out just by members of your
company or
9 employees of the company?

10 A Yeah. Sometimes people that have a jet ski will
take
11 a few of them and give them to their friends; sometimes
there
12 will be a jet ski rally where a whole bunch of people show
up
13 and go riding and they hand them out there. Stuff like
that.

14 Q As the logo appears on your product, is it
printed in
15 any consistent color?

16 A Well, the amplifier is blue to kind of show
water, and
17 the white blends out nice on the blue. And the waves are
on
18 each side to kind of, you know, signify water.

19 Q And on your label is the designation which you've
20 indicated "patent "pending." Do you know what that patent
21 pending refers to?

22 A The fact that it's submersible and 100 percent
23 waterproof and there's nobody else on the market that has
such
24 a product, so we have a patent pending on it.

25 MR. NOONAN: Okay. Next I'd like to have marked
as

1 Applicant's Exhibit 6 the sheet which I sent to counsel
this 2 morning, I believe. It's Full Wave Audio installation
3 instruction--or at least referred to it yesterday--printed
4 instructions.

5 MS. QUSH: Yes, I have it. You sent me that
6 yesterday or referred to them yesterday.

7 (Applicant's Deposition Exhibit
8 Number 6 marked for

identification.)

9 Q (By Mr. Noonan) Mr. Bootes, I'm going to show

you a

10 document that's been labeled Applicant's Exhibit 6, and I

ask

11 if you could look at it and tell me if you recognize it.

12 A Yeah. That's our installation instructions.

13 Q Could you give me a general description or

summary of

14 how your Full Wave Audio System is installed in a typical
15 watercraft?

16 A Well, in most cases, most applications are for

jet

17 skis. So you take a four-inch hole saw and you drill into

the

18 skis, because they're flush-mounted speakers. And then

you run

19 those wires back to the amplifier. To control the

actual-- We

20 don't have a music system; we have nothing more than an

21 amplifier. So one of them has got to go up to the glove

box or

22 somewhere where you locate your MP3 player, iPod, or

whatever;

23 could even be your cell phone. That would go into your

glove

24 box, and you plug that in.

25 Then you run one of the wires from the amplifier

1 directly attached to your battery; it's a twelve-volt
battery.
2 And then there's another multi-conductor cable that will
go up
3 on the dash or somewhere wherever it's convenient for you;
and
4 you drill three, half-inch holes and install switches,
which
5 are momentary switches that control the volume up, the
volume
6 down, or the amount of amplification. It's also called
7 attenuation. And also we have a mute feature in case you
get
8 up close to somebody you're riding with and you wanted to
say,
9 Hey, I'll meet you over there or whatnot. You can just
mute it
10 real quick instead of having to open up your glove box.
So
11 those wires are all soldered.
12 And then you put a liquid electrical tape on the
back
13 to prevent corrosion. That's really about it. The
speakers
14 are screwed down, and you apply silicone prior to screwing
them
15 all the way down so that you don't have any water
intrusion
16 into the hole. And you mount the amplifier wherever you
want,
17 because the water is not going to hurt it.
18 MR. NOONAN: Next I'd like to have marked as
19 Applicant's Exhibits 7 through 10 a sequence of four
20 photographs from the website. And to be specific for
Counsel,
21 this is the--I chose one of the series of installation
22 photographs which relate to the use of the Full Wave Audio
23 System on a Yamaha personal watercraft.
24 (Applicant's Deposition Exhibit Numbers
25 7 through 10 marked for
identification.)

1 MS. QUISH: May I ask, the installation
instructions
2 that you were just speaking about, it's just a single-page
3 document without any photographs on it?
4 MR. NOONAN: That's correct.
5 MS. QUISH: Okay.
6 MR. NOONAN: This one, Ms. Quish, is-- Along the
7 bottom, if you printed the pages out, it will have
8 www.watercraftinnovations.com, slash, images, slash,
gallery,
9 slash, Yamaha, slash, DSC, with some numbers. But the
Yamaha
10 will sort of be a designator.
11 MS. QUISH: Okay. I don't have that part. But I
do
12 have-- It has pictures along the left-hand side, is that
13 correct, and it's two pages long or no?
14 MR. NOONAN: These were in-- If you went to the
link,
15 and I don't have my PC with me, but if you went to the--
16 MS. QUISH: I'm sorry. What I pulled up when I
did
17 that was-- It has a series of-- It's two pages long,
five
18 pictures on the front page and four on the second.
19 MR. NOONAN: Yeah. There are probably four or
five
20 different installation depictions. One with a kayak, two
or
21 three with jet skis: a Ski-Doo, a Yamaha, and there was
a--
22 THE WITNESS: A Kawasaki probably.
23 MR. NOONAN: --a Kawasaki probably.
24 THE WITNESS: This is the Yamaha.
25 MR. NOONAN: Well, let me just finish with Ms.
Quish.

1 MS. QUISH: You can feel free to go ahead.

2 MR. NOONAN: Okay. Yes, it's basically showing

3 personal watercraft; there's four views of it. Basically,

4 of the views show the outside of the craft. Well, let me

5 Mr. Bootes testify rather than myself, and then you can
6 certainly ask any questions. And I'll certainly make sure

7 get a copy of it and try to go from there. But I don't

8 it should be unduly complicated.

9 Q (By Mr. Noonan) Mr. Bootes, I want to show you a
10 sequence of four pages which have been labeled Applicant's
11 Exhibits 7 through 10, and I ask if you could identify and
12 describe those, please.

13 A These are photographs of a Yamaha VX deluxe
14 installation that we did. There's speakers on the top of

15 foot-well, which is where we install them so that they aim

16 up towards your ears so you can hear the music while

17 riding. The second picture just shows the left side; you

18 see the speaker a little bit more clear on the left side.

19 first photograph shows the speaker on both foot-wells.

20 Q And what shape or what do the speakers look like

21 purposes of the deposition?

22 A They're round, four-inch speakers, one on each

23 And they mount just above where-- If you're sitting on

24 and you have your feet planted down into the foot-well,

25 just above where your feet go, one on the left and one on

1 right. Then the front is a picture with the hood open.

And
2 the front, there's like a little compartment in most jet
skis
3 up in the front of the ski where you can throw clothing
and
4 other belongings. And there's a picture of where we
installed
5 the amplifier.

6 Q Excuse me, Mr. Bootes. You're referring to

Exhibit 9?

7 A Yes. And the amplifier is mounted up front

there,
8 nice and neat, on the inside of the luggage area. And
then
9 typically because when you're riding you want to be able
to
10 adjust the volume or hit the mute or power the amp on and
off,
11 we pulled the steering apart and mounted the buttons up
there.
12 And that's a picture of the underside of the steering
column,
13 you may want to say, showing where we've run the wires to
mount
14 the switches so that the user can easily take their thumb
and
15 press the button.

16 Q What is playing the sound or the music to the
17 speakers, to the amplifier?

18 A It could be a cell phone, could be a-- Whatever
music
19 player the person happens to have. We only have an
amplifier;
20 we can't play anything.

21 Q Okay. But that player is supplied by the

customer?

22 A The customer, yeah. Well, a lot of people use an
23 iPhone now or a cell phone, they get their own MP3, or

they

24 have an iPod.

25 Q Mr. Bootes, could you explain to us how you make

the

1 amplifier and speakers waterproof?

2 A The amplifier itself, the very first version, we

3 build the amplification circuits on a PCB board; they

4 inserted down into an aluminum housing that was filled

5 epoxy. As the epoxy cured, it basically encapsulates all

6 circuitry so that saltwater won't get in and destroy it.

7 We're now over-molding, where the boards are

8 inside a cavity. PVC plastic material is injected into

9 mold, and it's popped out of the mold and accomplishes

10 basically the same task. But the molded product now

11 the body of the amplifier. So it still remains as an

12 over-molded and encapsulated product impervious to water.

13 got about a 100-foot depth range.

14 The speakers contain a Ferrofluid, which is like

15 magnetic oil, that clings to the voice coil so that when

16 does get down inside there it can't mix with the oil. So

17 oil displaces the water so you don't destroy the voice

18 which is the most critical part of a speaker.

19 MR. NOONAN: Next I'd like to mark as

20 Exhibit 11 and 12 two photographs, again from the website,

21 which reflect a personal watercraft being operated. And I

22 believe, Counsel, I sent you these two photographs earlier

23 today.

24 (Applicant's Deposition Exhibit

25 11 and 12 marked for

identification.)

would
would be
full of
the
placed
the
serves as
It's
a
water
the
coils,
Applicant's
Numbers
identification.)

1 MS. QUISH: Are these marked on the bottom

IMG3616 and

2 the other one says Gallery 17240?

two.

3 MR. NOONAN: Yes, that's correct. It's those

4 MS. QUISH: Okay.

and

5 Q (By Mr. Noonan) Mr. Bootes, could you identify

6 tell me if you recognize Applicant's Exhibits 11 and 12,
7 please?

watercraft;

8 A Yeah. It's a photograph of our personal

ski and

9 it's a Ski-Doo RXT. And then the other one is the same

10 there's a boat in the photograph as well.

Audio

11 Q Okay. Where are the components of the Full Wave

12 System; are they evident?

speakers

13 A Well, in the first-- Yeah, you can see the

inside

14 above--way above his feet. And the other stuff is down

15 the ski; you can't see it.

circle

16 MR. NOONAN: Would it be possible--and if Counsel
17 doesn't have any objections--for me to ask Mr. Bootes to

in

18 the parts of the Full Wave Audio System that are apparent

19 the photograph?

20 MS. QUISH: That's fine.

those

21 MR. NOONAN: Thank you. Mr. Bootes has marked

22 with small circles.

23 Q (By Mr. Noonan) Can you tell me, Mr. Bootes, do

24 Exhibits 11 and 12, the photographs of those exhibits,

Wave

25 represent to you the typical conditions to which the Full

1 Audio System is subjected?

battering of
riding.
2 A Absolutely. It's constantly subjected to
3 saltwater or fresh water, depending on where you're

your
4 Q What kind of contact do the respective parts of
5 system encounter with the water?

6 A They're submerged in it usually.

7 Q Is that both the speakers and the amplifier?

8 A Oh, yeah.

your
9 Q And how does that contact with the water affect
10 speakers and amplifier?

little
water.
11 A The speakers are prone to-- I mean, they're a
12 more troublesome. The amplifier will never have an issue
13 because it's over-molding and 100 percent impervious to

saltwater.
14 The speakers last as long as we can get them to. But
15 eventually they will fail, especially if used in

can
16 But both of them hold up quite well, about as long as you
17 expect.

18 Q Have you had any water failures of the amplifier?

19 A None.

your
shown
20 Q How would you generally rate the performance that
21 system displays when it's operated under the conditions

22 in Exhibits 11 and 12?

23 A Excellent.

24 MR. NOONAN: Next I'd like to have marked as
25 Applicant's Exhibit 13 a page from the applicant's website

1 which includes two photographs.
2 (Applicant's Deposition Exhibit
3 Number 13 marked for

identification.)

4 MR. NOONAN: And this is one, Counsel, that I
just
5 sent you approximately an hour before the deposition. It
shows
6 apparently an amplifier below and a depiction of--you'll
see
7 two fish swimming in a tank.

8 MS. QUISH: Yes, we have it.

9 Q (By Mr. Noonan) Okay. Mr. Bootes, do you
recognize
10 Applicant's Exhibit 13?

11 A I sure do.

12 Q And could you tell us what that is?

13 A That's a photograph of the fish tank in our shop;
we
14 have an amplifier running twenty-four hours a day in a

fish
15 tank with goldfish swimming around. And basically it
16 demonstrates the fact that we have a waterproof solution.

17 Q How long has that been in that tank?

18 A A few months.

19 Q And that's continuous?

20 A This one. We started using it at the occasional
boat
21 show or whatnot. But, yeah, the fish are still swimming,

still
22 alive.

23 Q And referring to the lower photograph of what
you've
24 testified, I believe, is the amplifier--

25 A Correct.

1 Q --that includes, again, the full label or full
logo?
2 A Yes.
3 Q Do you ever apply the words "Full Wave Audio" to
your
4 product or packaging without the ocean wave design?
5 A No.
6 Q How would your system work, do you feel, if the
7 amplifier and the speakers were not waterproof?
8 A It wouldn't work, period, for my applications and
what
9 we use it for.
10 Q What would happen?
11 A It would be destroyed. Saltwater or any water,
for
12 that matter, would render it useless.
13 Q How is the Full Wave Audio System powered?
14 A Twelve-volt source.
15 Q And how do you connect to that twelve-volt
source?
16 A Two ring terminals attach to the battery posts.
17 Q Specifying the twelve-volt source, what do you
mean in
18 the context of a watercraft or--
19 A The vessel's battery, on-board battery that
starts the
20 engine.
21 Q Can you use the Full Wave Audio System in indoor
22 applications?
23 A No.
24 Q Why not?
25 A Well, I guess if you had-- It's not practical.

It

1 has to be installed, for one thing; there's wiring to do.

And

2 it has to have a twelve-volt--constant twelve-volt source,

and

3 there's not any real batteries suitable to hook it up to.

4 Q Can you power the Full Wave Audio System from an

AC

5 power source?

6 A No. You'd destroy it.

7 Q Why would that occur?

8 A Well, it can only handle twelve volts. 110 is a
9 little high.

10 Q Can you plug the Full Wave Audio System into a
11 standard electrical receptacle?

12 A No.

13 Q Can you plug the Full Wave Audio System into a
14 twelve-volt adaptor, similar to the type you'd use in an

auto

15 cigarette lighter?

16 A No. You could rig something up, but there's not

any

17 adaptor that we have. I mean, no, not the way that we

sell it.

18 Q So your system is typically hardwired to the
19 batteries; is that fair?

20 A Yes, 100 percent of the time.

21 Q Mr. Bootes, where do you advertise your Full Wave
22 Audio System?

23 A Mostly at like jet ski rallies; word-of-mouth;

and we

24 have occasional ads in magazines, jet ski magazines. Ride

25 Magazine is all the members of the Personal Watercraft

1 Association who purchase that magazine, and it's all about
the
2 newest watercraft available and things like that. So we
3 advertise there. And we sponsor an occasional jet ski
rally
4 where they have raffles to raise money for charities and
5 whatnot.

6 Q Any other boating or watercraft publications?

7 A No.

8 Q Do you do any TV advertising?

9 A No.

10 Q Any radio advertising?

11 A No.

12 Q Do you advertise on pandora.com?

13 A No, never heard of them.

14 Q Do you advertise in Parade Magazine?

15 A No.

16 Q Do you advertise in U.S.A. Today?

17 A No.

18 Q Do you advertise in Forbes?

19 A No.

20 Q Do you advertise in Fortune Magazine?

21 A No.

22 Q Do you advertise in Guidepost?

23 A No.

24 Q Mr. Bootes, where do you sell your items; where

do the
25 sales occur?

1 A From our shop or from any of the power sport
dealers.
2 We have some dealers that sell motorcycles and personal
3 watercrafts; we refer to them as a power sport or a motor
sport
4 dealer. They sell them to consumers that come in and buy
a
5 personal watercraft.
6 Q Where is your shop located?
7 A Fort Myers, Florida.
8 Q And what type of business or sales do you do out
of
9 that shop?
10 A We're a fairly small facility. We have a handful
of
11 people working there. We ship out daily to various
dealers,
12 and we ship out to our customers that buy our product on
your
13 website.
14 Q Do you do manufacturing at the shop as well?
15 A Mostly shipping. I mean, all of our components
are
16 built by various vendors.
17 Q Where are they assembled?
18 A Ohio mostly.
19 Q And then they're shipped individually to you?
20 A Well, we have one that builds the-- Well,
printed
21 circuit boards are built at a board house that makes
boards,
22 and then they're populated with the surface mount
components at
23 another location. And that location provides them to our
24 over-molder. We also have another company that
manufactures
25 speakers. And then we package and distribute from Fort
Myers.

1 Q Do you sell at any general retail stores?

2 A No.

3 Q Do you sell at any electronic stores?

4 A No.

5 Q Do you sell at any military outlets?

6 A No.

7 Q Do you sell over QVC or Home Shopping Network?

8 A No.

9 Q Do you produce any infomercials?

10 A No.

11 Q Do you sell by direct mail?

12 A No.

13 Q Mr. Bootes, who are your target customers for the

Full

14 Wave Audio System?

15 A Pretty much personal watercraft users or any

small

16 application where there's a very, very limited battery

capacity

17 and somebody that's going to be using it outdoors, on a

beach,

18 or around water.

19 Q How much, if any, advertising or promotion do you

do

20 to the general public at large?

21 A Not much. It's too expensive.

22 Q Can you tell me if the Bose Wave System or

Acoustic

23 Wave System, as you understand them, would be suitable for

use

24 in place of your Full Wave Audio System?

25 A No, it would be impossible. You couldn't plug it

into

1 a 110-volt source, and it's not waterproof. It would be
2 destroyed if you took it on a jet ski.

3 Q Could you replace your system with a Bose Wave

System?

4 A No.

5 Q Why not?

6 A It's not possible. You couldn't operate it the

minute

7 you got water in it or submerged it. You wouldn't be able

to

8 use it anymore. It would die. It would be shorted out.

Water

9 shorts out electronics.

10 Q Do you understand the Bose Wave System to be
11 submersible?

12 A No. No way.

13 Q Do you understand the Bose Wave System to be
14 waterproof?

15 A No, not at all.

16 Q How do you understand the Bose Wave System to be
17 powered?

18 A I believe it's powered from a 110-volt source.

And if

19 you got it wet, you could be electrocuted.

20 Q To the best of your knowledge, is the Bose Wave

System

21 ever hardwired to a battery?

22 A Not that I know of.

23 Q What components do you understand are in the Bose

Wave

24 System?

25 A I believe it's definitely a player of some sort.

It

1 has a music source, either an FM tuner or CD player or
some
2 other type of music source. It plays over two speakers,
on a
3 little tiny table or something. And from what I
understand, it
4 sounds pretty nice.

5 Q Do you know what kind of environment the Bose
Wave
6 System is intended to be used in?

7 A I would think typically indoors, in your home
8 somewhere or in your garage or somewhere that's sheltered
and
9 away from the elements.

10 Q And what type of environment is your Full Wave
Audio
11 System intended to be used in?

12 A In a water environment where it's going to be
wet.
13 It's also low voltage so you couldn't get electrocuted.

14 Q Okay. Mr. Bootes, can you briefly explain how

you
15 believe your advertising for the Full Wave Audio System is
16 different from the advertising of the Bose Wave System?

17 A They, I think, mostly use television advertising
to
18 the masses and direct mailing and whatnot in very large
19 publications. I don't do any of that.

20 Q And how do your trade sales distribution channels
21 compare with those of the Bose Wave Radio?

22 A Two totally different markets. I don't appeal
to, I
23 believe, any of their consumers. My consumers are just
motor
24 sport people. Their consumers would be people wanting
25 something for the inside of their home.

1 MR. NOONAN: Okay. Next, Counsel, I'm going to
ask
2 Mr. Bootes about--it was Mr. Snelling's Exhibit 13. It
was the
3 Wave Music System owner's guide.
4 MS. QUISH: Yes.
5 MR. NOONAN: And I don't believe that we would
have to
6 submit this as a separate exhibit. Do you agree with
that,
7 since it's already in evidence?
8 MS. QUISH: Well, we plan to use it as an
exhibit.
9 MR. NOONAN: That's correct. Yeah, it was
already
10 marked as an exhibit from yours, so I didn't know
whether-- I
11 mean, I have no great objection to admitting it separately
as
12 an exhibit; but I don't know whether the board is going to
find
13 that to be superfluous. Okay. So I will just go ahead
and ask
14 him about that, assuming that it's already in as an
exhibit.
15 Q (By Mr. Noonan) Okay. Mr. Bootes, if you could,
turn
16 to page six of the owner's manual and read to yourself
17 the upper section that's labeled "a brief introduction to
some
18 special features," please.
19 A Okay.
20 Q In laymen's terms, can you tell me your
understanding
21 or give me a brief explanation of what that passage means?
22 A Yeah. According to this, they're saying that
they
23 have got a demonstration CD here to put in, play, and
24 demonstrate or show you that you're achieving a certain
type of
25 wave sound, the way that they have--or sound wave, the way
that

1 they project it through these special baffles; it looks
like a
2 baffle to me. So they're just kind of saying that these
wave
3 guides make a certain kind of sound.

4 Q Okay. Please give me as many meanings as you can
for
5 the word "wave."

6 A Well, I mean, everybody owns a microwave; there's
7 light waves; there's sound waves; waves in the ocean;

there's
8 waving to a friend to say hello or goodbye. Dozens, I
would
9 imagine, or hundreds.

10 Q Which, if any, of these meanings do you think of
in
11 connection with the Bose Wave Radio?

12 A Well, they're clearly sound waves.

13 Q And does the passage that you read from Mr.

Snelling's

14 Exhibit 13 reinforce that meaning?

15 A Oh, absolutely. It talks about low frequency.

It

16 would have to be a sound wave.

17 Q What is your understanding of the phrase

"acoustic

18 wave"?

19 A Acoustic wave is indicative of a sound wave.

Acoustic

20 is sound.

21 Q Which, if any, of the meanings of "wave" that you

just

22 ran through come to mind in connection with your mark,

Full

23 Wave Audio?

24 A None. We're not projecting sound waves.

25 Q What meaning are you projecting?

1 A Just like it shows. We have water waves, like
the
2 environment we use ours in is in the water.

3 Q Mr. Bootes, are you aware of any instances of
customer
4 confusion between your Full Wave Audio products and Bose
Wave
5 or Acoustic Wave products?

6 A No. Impossible.

7 Q Have you ever been mistakenly contacted by
anyone--
8 A No.
9 Q --looking for Bose products?
10 A No, I have not.
11 Q Have you ever received any calls?
12 A No.
13 Q Any misdirected e-mails?
14 A No.
15 Q Any regular mail?
16 A No.
17 Q Or any faxes--
18 A No.
19 Q --that are directed to Bose?
20 A No.
21 Q Are you aware of any of your customers who
mistakenly
22 called Bose when they were actually attempting to reach
you?
23 A No. They clearly know that we made ours.
24 Q In your opinion, how likely is it that a customer
or a
25 potential customer would believe that the Full Wave Audio

1 System originates from Bose or is licensed or authorized
by 2 Bose?

3 A I think it's impossible.

4 Q What would you base your opinion on?

5 A It's not the same size, it's not the same shape,

6 not the same color. It doesn't perform any-- It doesn't

7 a player in it. It merely is an amplifier, the color of

8 water with waves on it, and clearly states it's made in

9 by PWC Industries. You would have to be a moron to think
10 otherwise.

11 MR. NOONAN: That's all the questions I have.

12 MS. QUISH: All right. I just have a few more.

13 CROSS EXAMINATION

14 BY MS. QUISH:

15 Q Mr. Bootes, you said that you ordered a full set

16 of the mark, right?

17 A Yes, I did.

18 Q And what did you search; what was the term that

19 you searched for?

20 A Full Wave Audio.

21 Q The word "mark" only?

22 A Yes.

23 Q And that was conducted by something called

24 LegalZoom; is that right?

25 A Yes.

1 Q Did you consult an attorney when you reviewed the
2 results of that search report?

3 A No.

4 Q After reviewing that search report, how did you

5 to the conclusion that Full Wave Audio was available?

6 A I looked through it for hours to find anything

7 had "Full Wave" or "Wave Audio" or "Full Wave Audio,"

8 And none of those-- There was nothing out there that had

9 three names that had "waterproof audio." In fact, I was

10 to find anything that had "waterproof" or "submersible

11 Nobody had anything for it, so I felt-- And so I went

12 and applied for it.

13 Q Did you come across the Bose mark during that

14 A I did not.

15 Q And did you learn through that search or did you
16 identify any wave marks that had already been opposed by

17 in conducting your search?

18 A No. I didn't look under oppositions. I didn't

19 anything about Bose. They actually granted the mark. And

20 didn't hear anything until it was published like, I don't

21 I guess six months later or so is the first time I heard

22 anything about Bose. And then somebody e-mailed me and

23 that they were going to oppose and they would like to also

24 extend three more months or something. And that's when I

25 our paperwork to our attorney, Bill Noonan.

1 Q Now, Attorney Noonan was asking you a little bit
about
2 the Bose system.

3 A Uh-huh.

4 Q You stated your understanding of the Bose system.
5 What's the basis for your knowledge of the Bose speakers?

6 A The Bose speakers?

7 Q I mean you were just describing the Bose system

and
8 your understanding of why it wouldn't work in the water,
9 etcetera. I'm wondering on what you base your opinion.

10 A Well, it plugs into a 110-volt source. If you

put a
11 110-volt source near--and I'm standing in water and I

touch
12 that 110-volt source or if I put your radio into water, I

would
13 kill myself with electrocution. You can't do that with my
14 product; it's low voltage.

15 Q On what basis-- I'm just wondering how you've

learned
16 of the Bose system.

17 A I've seen the ads on TV, a friend of mine has

one.
18 Q Are you aware that Bose has speakers for outdoor

use?
19 A I've seen-- Yeah, I've seen something a few

years
20 back. I don't see your advertisements on TV much anymore.

I
21 used to, but I don't watch TV anymore either right now.

So I
22 don't see the ads that you use that Bose had at one time.

They
23 were on the TV quite a bit, but--

24 Q Are you aware that Bose sells speakers to use on
25 boats?

1 A I haven't seen them, no.

2 Q Okay.

3 A I go into West Marine on a regular basis; I don't

see

4 them there. They have got numerous speakers. There's

hundreds

5 of speakers on the market. I do not manufacture speakers.

I

6 have them made just so that we have something to pair up

with

7 our amplifier.

8 Q One final question. You said that the speakers

will

9 eventually fail in your system because of the saltwater?

10 A It's possible, yes.

11 Q And I think you stated that you were trying to

get

12 them to last as long as you could?

13 A Uh-huh.

14 Q I'm just wondering what is your--what is the

15 measurement of how long they currently last?

16 A What is the measurement?

17 Q I mean, you know, I don't want to ask years,

because I

18 understand that it depends on the use of your jet ski. Or

if

19 someone only used it once a year, it probably would last a

lot

20 longer, but--

21 A It depends. Like if you're in fresh water,

they'll

22 last for probably four or five years easily. If you're in

23 saltwater, there's an enormous difference. And it depends

24 where the speakers come from too. If they're coming from

China

25 and the actual speaker back is made out of steel, the

saltwater

1 will start to corrode that, and it will be just eaten away
2 rust, and it will fail probably within a year. If you use
3 speakers that have a nylon basket and have an e-coating on
4 magnet and they have Ferrofluid around the voice coil,
5 probably can pull off maybe two to three years.

6 You know, either way, it depends on how the
7 takes care of them too. You can rinse the salt off of
8 once in a while, but most people don't bother.

9 Q Okay. So your current speakers probably two to
10 years?

11 A Roughly, yes.

12 MS. QUISH: All right. I think that's it. Those
13 all my questions. Thank you very much.

14 MR. NOONAN: I have nothing further for Mr.

15 THE REPORTER: Would you like to read or waive
16 signature?

17 MR. NOONAN: Could we waive signature on this,
18 Counsel?

19 MS. QUISH: Yes, certainly.

20 MR. NOONAN: Okay. Thank you.

21 (Whereupon the witness waived reading the

22 and the deposition was concluded at 2:05 PM.)

23 * * *

41

CERTIFICATE OF OATH

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STATE OF FLORIDA)
COUNTY OF LEE)

I, GAYLE A. LEIKAM, Notary Public, State of
Large, certify that TODD BOOTES appeared before me and was
sworn.

WITNESS my hand and official seal in the State of
Florida, County of Lee, this 3rd day of April, 2009.

Gayle A. Leikam
Notary Public - State of Florida
Commission No. DD 451219
Expires: 10/27/2009

* * *

Florida at
duly

REPORTER'S DEPOSITION CERTIFICATE

STATE OF FLORIDA)
COUNTY OF LEE)

I, GAYLE A. LEIKAM, RPR, FPR, certify that I was authorized to and did stenographically report the

TODD BOOTES; that a review of the transcript was not

and that the transcript is a true and complete record of

stenographic notes to the best of my ability and

I further certify that I am not a relative,

attorney, or counsel of any of the parties; nor am I a

or employee of any of the parties' attorney or counsel

connected with the action; nor am I financially interested

the action.

Dated this 3rd day of April, 2009.

Gayle A. Leikam, RPR, FPR

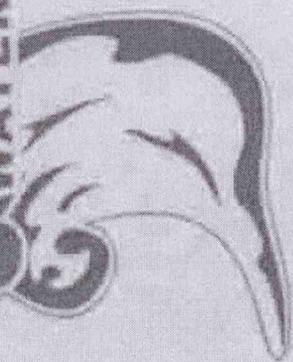
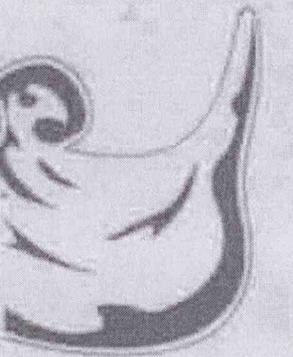
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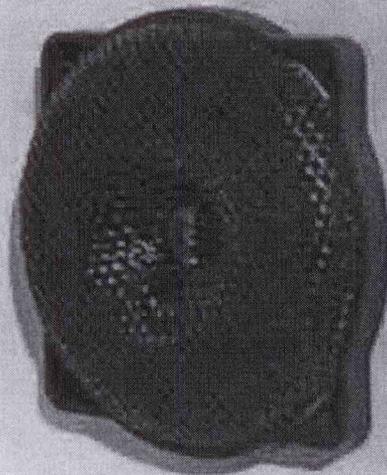
FULL WAVE AUDIO

WATERPROOF STEREO AMPLIFIER



MADE IN USA BY
PWC INDUSTRIES INC.

fullwaveaudio.com
Patent Pending



DEPOSITION
EXHIBIT
App #2
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FULL WAVE AUDIO

WATERPROOF AUDIO SYSTEMS

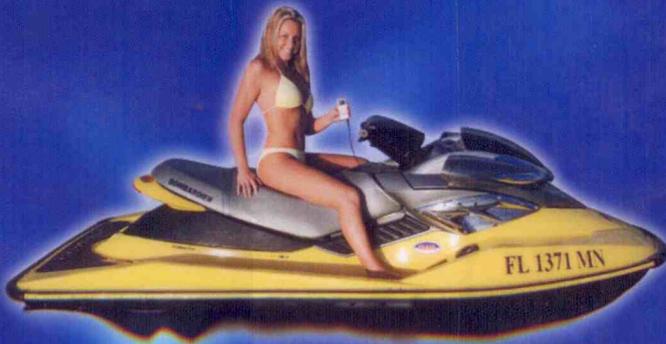
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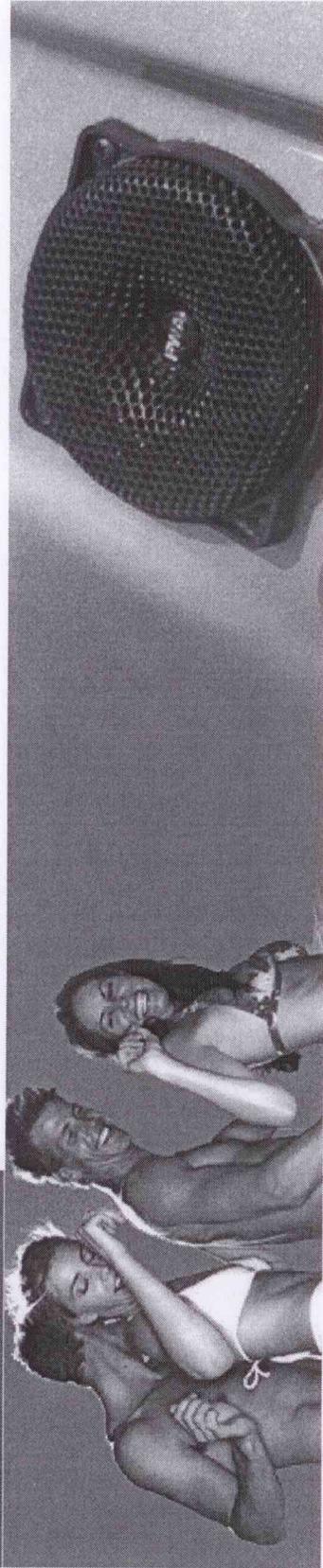
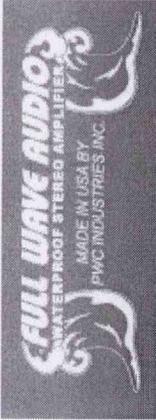
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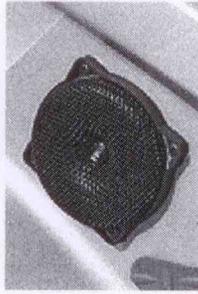
Special Moments Happen When the Music Arrives...It's Finally Here!



Waterproof Audio Systems



Waterproof MP3/FM and Accessories



Waterproof Speaker Systems

Finally, high quality, dependable waterproof audio systems for your boat or PWC. A full range audio experience that delivers great bass as well as a pure mid-range voice (as it was recorded). We didn't like the options available for our watercraft... so we invented our own! This clear and crisp single cone voice coil eliminates cross over phase and time distortion with a deep speaker coil that delivers a fantastic sound. You have to hear it, to believe it.

Our products are not only water resistant, they're WATERPROOF! We actually recommend that you hose down or even rinse your speakers periodically in a bucket of water.

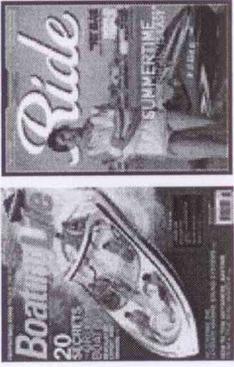
The encapsulated AMP is both WATERPROOF and vibration resistant and is the ONLY IP68-rated AMP on the market today.

Talk about dependability.... The Audio System only draws an average of 1.5 Amps (with a maximum of 3 Amps) so you can play your system for hours without worrying about starting your boat or PWC.

The system plays your MP3 music from your I-Pod, or MP3 player, in a watertight case. This is

DEPOSITION EXHIBIT App #4

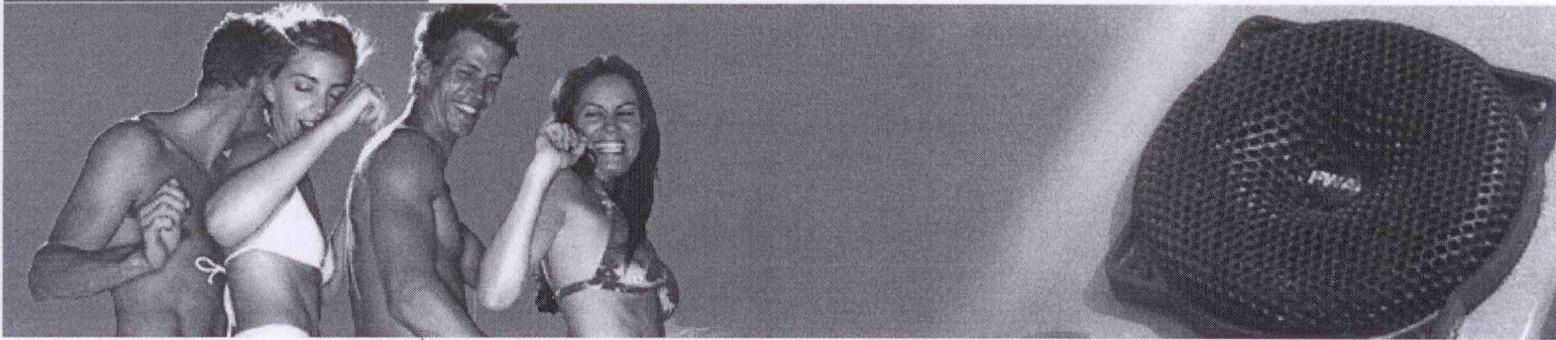
done remotely through our 4 push buttons you use to control your sound.



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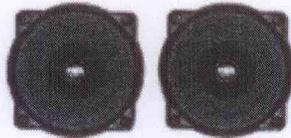


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4 Ohm 80W cont/300 W max 90 dB 50Hz -19kHz Freq +/- 3dB



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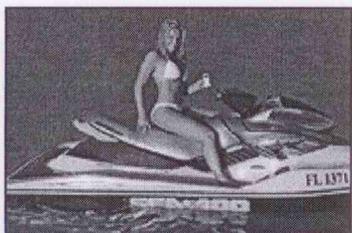
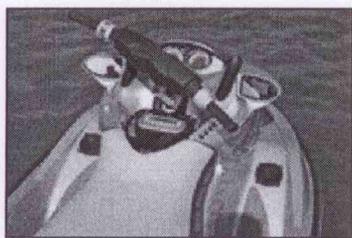


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Select Color: Black

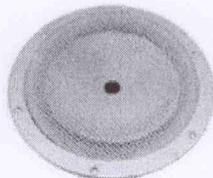
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Product Information



Boat 7 inch Premium Model with Amplifier - \$742.50

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Product Information





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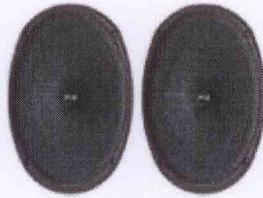
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Boat 6x9 inch Premium Model with Amplifier - \$742.50

4 Ohm 80W cont/300 W max 92 dB 35Hz -19kHz Freq +/- 3dB



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Product Information



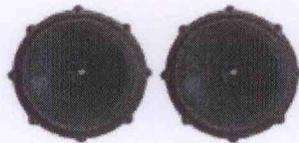
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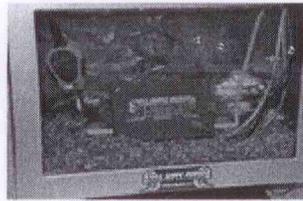
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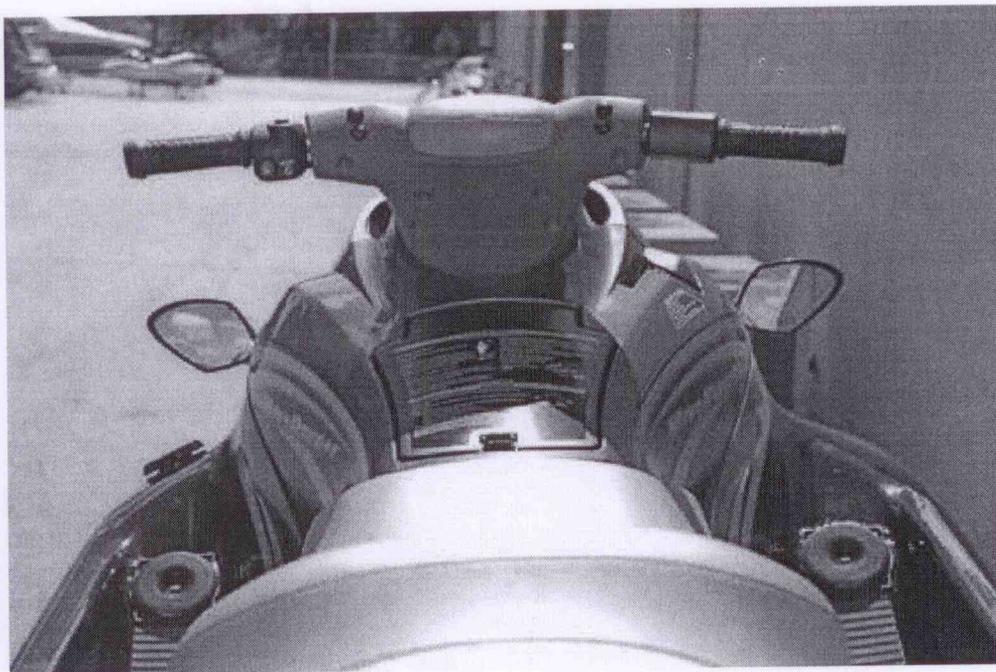


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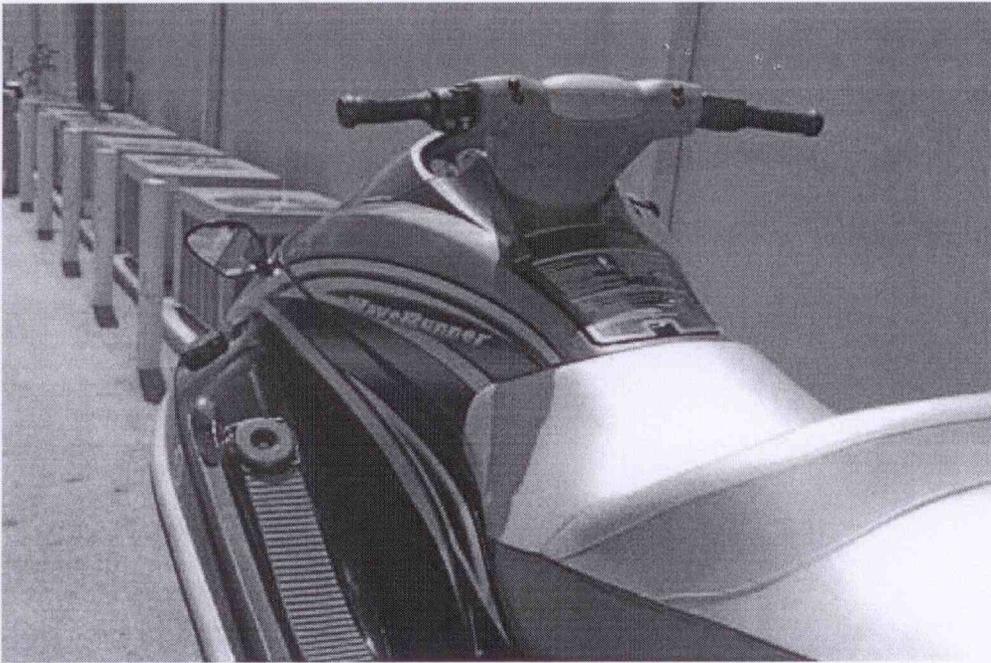
FULL WAVE AUDIO INSTALLATION INSTRUCTIONS

1. Determine a location suitable for mounting the remote switches and speakers, paying close attention to clearance or obstructions.
2. Strip $\frac{1}{4}$ " insulation from one end of both 8 ft. speaker wires and pre-solder each wire.
3. Pre-solder both terminals of each speaker, leaving a slight excess of solder.
4. Place Red pre-soldered wire against the small pre-soldered speaker terminal and flow the solder together with your iron. Repeat the process on the other speaker, and then attach the black conductors to each speaker's larger terminal using the same method.
5. Place masking tape over the desired speaker location and mark a center point. For larger speakers, use the template and draw your cut out location.
6. Using a 4" hole saw, drill holes for each speaker. For larger speakers, use a jig saw.
7. Place a small bead of clear or black silicone around the inner lip of each speaker and install into the hole. Drill $\frac{1}{16}$ " pilot holes at screw locations and install screws until speaker is snug. Do not over tighten. Wipe excess silicone from speaker with cloth.
8. Pre-solder all switches leaving a slight excess of solder on each terminal.
9. Drill a $\frac{1}{2}$ " hole at desired location for the Power on/off switch. (black switch with white base) Insert switch into hole and tighten backing nut. Locate 8 ft. gray-jacketed wire with Red/Black conductors. Strip $\frac{3}{4}$ " of outer jacket from one end, then $\frac{1}{4}$ " insulation from each wire and pre-solder. Solder both wires to the power switch, it does not matter which terminals they are soldered to.
10. Volume Up / Down / Mute: These switches all use a common wire (Black) and each switch uses one signal wire. Apply masking tape to the intended location and draw a straight line, which will keep them looking uniform. Mark locations for each switch leaving room for a small space in between each one, and drill $\frac{1}{2}$ " holes. Install switches and tighten backing nut.
11. Locate gray-jacketed wire with 4 conductors: Black, Red, Green & White. Strip 4" of outer jacket to expose wires. Hold wires up next to switches and remove $\frac{1}{4}$ " insulation from the Black wire where it lines up with a terminal from each switch. Pre-solder wire at all three of these locations, then solder to one terminal of each switch.
12. Hold remaining colored wires next to each switch and cut to length (one wire goes to each switch) Use Red for volume down; White for mute; and Green for volume up.
13. Remove $\frac{1}{4}$ " insulation from each wire and pre-solder. Solder each wire to the remaining switch terminals for desired function.
14. Attach all wires to the amplifier: The large Red/Black wire attaches to your battery. Red is positive (+) and Black is Negative (-). The Black cable with 3.5 mm jack should be routed to a location where the music source will be located. Power switch: (Red wire to 12V OUT & Black wire to RMTE). Right speaker wire: (Red to R+ & Black to R-) Left speaker wire: (Red to L+ & Black to L-) Multi-Conductor Wires: White wire: (MUTE) Red wire: (DOWN) Green wire: (UP) Black wire: (COM)
15. Secure Amplifier at desired location with four #6 x $\frac{1}{2}$ " stainless steel screws, or heavy bead of silicone.
16. Secure all wiring with cable ties.
17. If installing for use with existing marine stereo: Connect RCA Y adapter to music source cable and plug into Low Level outputs of the stereo. Do NOT use the included power switch. Attach Amp Remote wire from stereo (usually blue/white wire) to RMTE terminal of the amplifier. The amplifier will now be turned on and off by your stereo.





DEPOSITION
EXHIBIT
App # 7
3-12-09 *gmc*



DEPOSITION
EXHIBIT
App # 8
3-12-09 *gpc*



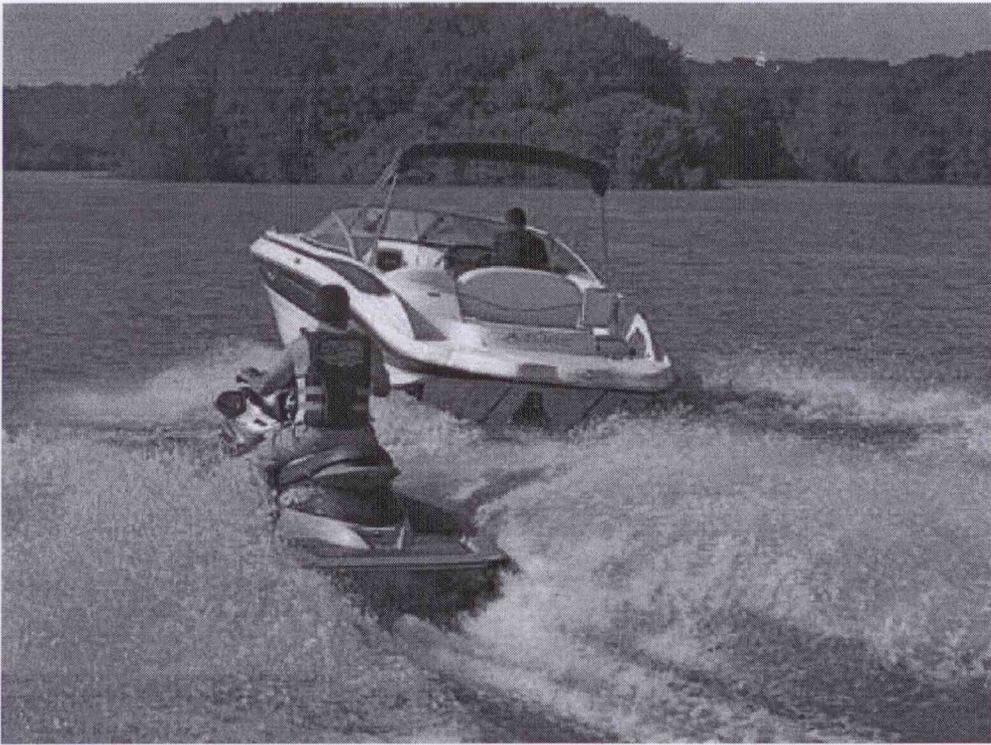
DEPOSITION
EXHIBIT
App # 9
3-12-09 *JAC*



DEPOSITION
EXHIBIT
App # 10
3-12-09 gke



DEPOSITION
EXHIBIT
App # 11
3-12-09 gae



DEPOSITION
EXHIBIT
App # 12
3-12-09 gmc



DEPOSITION
EXHIBIT
App #13
3-12-09 gke