

ESTTA Tracking number: **ESTTA466649**

Filing date: **04/11/2012**

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

| | |
|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Proceeding | 91202802 |
| Party | Plaintiff R2Sonic, LLC |
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| Date | 04/11/2012 |
| Attachments | Binder1.pdf (33 pages)(905979 bytes) |

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

In the Matter of Application of:

Opposition No. 91202802

Serial No: 79099219

Mark: Design of a Sound Wave

OPPOSER’S MOTION FOR SUSPENSION OF OPPOSITION
PENDING THE DISPOSITION OF CIVIL LITIGATION

I. INTRODUCTION

This is Opposer’s Motion, brought pursuant to 37 CFR 2.117 (a) for a suspension of these proceedings because Opposer and Applicant are engaged in a civil action which may have a bearing on this Opposition. The civil action is pending in the Superior Court of the State of California for the County of Santa Barbara as Reson A/S, and Reson, Inc. v. R2Sonic, LLC et al. Superior Court of the State of California for the County of Santa Barbara, Anacapa Division Case No. 1342087, (“Civil Action”) Fact discovery does not close in the Civil Action until October 9, 2012. A copy of the Complaint is set forth as Exhibit A hereto.

A. The Parties

As alleged in its Opposition, Opposer is in the business of, *inter alia*, making and selling products for the underwater acoustics market. Its products are multibeam echosounders, which are commonly referred to as “sonars.” Sonars use acoustic waves to determine underwater distances and map underwater features. Applicant has identified itself

as a manufacturer of underwater acoustic systems. (Complaint Para. 2) The subject application depicts an acoustic wave:



The Applicant claims goods and services applicable to sonars. The Opposition seeks to oppose on the basis that the wave design is descriptive and ornamental of acoustic waves.

II. ARGUMENT

The Parties Are Engaged in a Civil Action Which May Have a Bearing on the Case.

Rule 37 CFR 2.117(a) provides that: “Whenever it shall come to the attention of the Trademark Trial and Appeal Board that a party or parties to a pending case are engaged in a civil action ... which may have a bearing on the case, proceedings before the Board may be suspended until termination of the civil action....”

The civil action “does not have to be dispositive of the Board proceeding to warrant suspension, it need only have a bearing on the issues before the Board. Trademark Rule 2.117(a). *Accord 6 McCarthy on Trademarks and Unfair Competition* Sec. 32:47 (4th ed. updated June 2011).” *New Orleans Louisiana Saints LLC and NFL Properties v. Who Dat?, Inc.* 99 U.S.P.Q. 2d 1550 (T.T.A.B. 2011)

In its lawsuit, the Plaintiff, being Applicant herein, has alleged, *inter alia*, unfair competition, including trademark infringement of the appearance of its RESON name by Opposer’s R2Sonic name. “Defendants adopted the name R2Sonic which is stylized in a manner designed to look confusingly similar to RESON’s name.” Complaint Paras. 27, and

“The Defendants are using a trade name which looks like that of RESON and confuses customers and the public into believing it is affiliated with RESON.” 28 (e), and Second Cause of Action, Trademark Infringement, commencing as Complaint Para 46. One embodiment of each of the parties’ respective “names” as presently displayed on the parties’ respective web sites are set forth here, reproduced here from: www.reson.com and www.r2sonic.com.¹



The design element of at least one embodiment of the RESON name at its web site includes the very mark herein sought to be registered. Opposer, being Defendant in the Civil Suit, expects to demonstrate its nondistinctiveness, among other things, consistent with the Notice of Opposition. Thus, it is apparent that the Civil Action may have a bearing on the Opposition.

Moreover, the Civil Action contains other broad allegations of confusing similarity, including in connection with Opposer's website and product design. For example, Complaint Para. 29(f) states: “The Defendants have created a website that is designed to model the web site of RESON and imply that it is affiliated with RESON and/or selling the same technology sold by RESON, and is therefore confusingly similar to (sic) website used by RESON, to customers and to the public.” Paragraph 74 accuses Defendants of

¹ Because fact discovery in the civil action remains open, the Applicant has yet to identify the exact name and embodiment(s) in suit that it asserts as its own, and the embodiment(s) of Opposer’s to which it objects.

"[p]roducing and selling a competing multi-beam sonar device which is designed to look like the device developed and sold by RESON, is intended to mislead customers and the public into believing that they are purchasing a RESON product, and violates the trade dress of the RESON multi-beam sonar product."

Applicant itself initiated the Civil Action claiming that Opposer has broadly appropriated its "assets." Given that those assets include indicia common to sonar technology, including acoustic wave designs among other indicia, and given that Defendant is entitled to demonstrate the improper scope of Plaintiff's claims of exclusivity, the Civil Action has a bearing on the issues in this Opposition pursuant to Trademark Rule 2.117 (a).

III. CONCLUSION

For the reasons set forth herein, the issues before the court in the Civil Action have a bearing on the Board's decision in the Opposition. Opposer therefore respectfully requests the Board to suspend this Opposition.

Dated: April 11, 2012

Respectfully submitted,

IRELL & MANELLA LLP

By: /s/ Jane Shay Wald

Jane Shay Wald
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PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 1800 Avenue of the Stars, Suite 900, Los Angeles, California 90067-4276.

On April 11, 2012, I served the foregoing document described as: OPPOSER’S R2SONIC, LLC’S MOTION FOR STAY OF OPPOSITION PENDING THE DISPOSITION OF CIVIL LITIGATION on each interested party, as follows:

Richard Lehv, Esq.
Ross Zelnick Lehrman & Zissu, P.C.
866 United Nations Plaza
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Attorneys for Applicant

- (BY MAIL) I placed a true copy of the foregoing document in a sealed envelope addressed to each interested party, as set forth above. I placed each such envelope, with postage thereon fully prepaid, for collection and mailing at Irell & Manella LLP, Los Angeles, California. I am readily familiar with Irell & Manella LLP's practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice, the correspondence would be deposited in the United States Postal Service on that same day in the ordinary course of business.

- (BY ELECTRONIC MAIL) I caused the foregoing document to be served electronically by electronically mailing a true and correct copy through Irell & Manella LLP's electronic mail system to the e-mail address(es), as set forth above, and the transmission was reported as complete and no error was reported.

Executed on April 11, 2012, at Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Jane Shay Wald (jwald@irell.com)
(Type or print name)

/s/ Jane Shay Wald
(Signature)

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FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

FEB 24 2010

GARY M. BLAIR, Executive Officer
BY *Merilee A. Jay*
Merilee A. Jay, Deputy Clerk

8 Attorneys for Plaintiffs Reson A/S and Reson, Inc.

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SANTA BARBARA
12 ANACAPA DIVISION

13 RESON A/S, and RESON, INC., a California
14 Corporation,

15 Plaintiffs,

16 v.

17 R2SONIC, LLC, a California Limited Liability
18 Company; JENS STEENSTRUP, an individual;
19 MARK CHUN, an individual; KIRK HOBART,
20 an individual; Cris SABO, an individual;
21 CHARLES BRENNAN, an individual; and
22 DOES 1 through 100, inclusive,

23 Defendants.

Case No.

1342087

COMPLAINT FOR COMPENSATORY
AND PUNITIVE DAMAGES FOR:

1. COPYRIGHT INFRINGEMENT;
2. TRADEMARK INFRINGEMENT;
3. MISAPPROPRIATION OF
TRADE SECRETS [CALIFORNIA
CIVIL CODE 3426 ET SEQ.];
4. INTERFERENCE WITH
PROSPECTIVE ECONOMIC
ADVANTAGE;
5. UNFAIR BUSINESS PRACTICES
[BUSINESS & PROFESSIONS CODE
17200 ET SEQ.];
6. REQUEST FOR PRELIMINARY
AND PERMANENT INJUNCTIONS

24 Plaintiffs RESON A/S and RESON, Inc. ("Plaintiffs" or "RESON") allege causes of
25 action against Defendants R2Sonic, LLC; Jens Steenstrup, an individual; Mark Chun, an
26 individual; Kirk Hobart, an individual; Cris Sabo, an individual; and Charles Brennan, an
27 individual ("Defendants") as follows:

THE PARTIES

- 28 1. RESON, Inc. is a corporation duly organized under the laws of the State of

1 California and does business in the City of Goleta, County of Santa Barbara. RESON A/S is the
2 holding company of the RESON Group, including RESON, Inc. RESON A/S headquarters are
3 located in Denmark. Subsidiaries are established in the United States, the United Kingdom,
4 Germany and the Netherlands. In addition, RESON A/S has representatives located in 25 other
5 countries. Hereafter, RESON A/S and RESON Inc. will be collectively referred to as RESON.

6 2. Defendant R2Sonic, LLC, is a limited liability company organized under the laws
7 of the State of California with its principal place of business in the City of Goleta, County of
8 Santa Barbara.

9 3. Defendant Jens Steenstrup is and at all times mentioned has been an individual
10 employed in, and upon information and belief, resides in the County of Santa Barbara, State of
11 California.

12 4. Defendant Mark Chun is and at all times mentioned has been an individual
13 employed in, and upon information and belief, resides in the County of Santa Barbara, State of
14 California.

15 5. Defendant Kirk Hobart is and at all times mentioned has been an individual
16 employed in, and upon information and belief, resides in the County of Santa Barbara, State of
17 California.

18 6. Defendant Cris Sabo is and at all times mentioned has been an individual
19 employed in the County of Santa Barbara, State of California. Upon information and belief, Sabo
20 is a resident of Ventura County, California.

21 7. Defendant Charles Brennan is and at all times mentioned has been an individual
22 employed in the County of Santa Barbara, State of California. Upon information and belief,
23 Brennan is a resident of the State of Florida.

24 8. Plaintiffs are ignorant of the true names and capacities of defendants sued herein
25 as Does 1 to 100, inclusive, and therefore sue those defendants by such fictitious names.
26 Plaintiffs will amend this complaint to allege the true names and capacities when they are
27 ascertained. Plaintiffs are informed and believe and, on such information and belief, allege that
28 each of the fictitiously named defendants is responsible in some manner for the events alleged

1 herein, and that Plaintiffs' damages were proximately caused by such Defendants.

2 9. Plaintiffs are informed and believe and, on such information and belief, allege that
3 at all times mentioned, each Defendant was the agent, employee, partner, principal and/or joint
4 venturer of each other Defendant, and in doing the things herein alleged, was acting within the
5 scope and purpose of such agency, employment, partnership or joint venture, thereby making
6 each Defendant liable for the actions of each of the others.

7 JURISDICTION AND VENUE

8 10. Jurisdiction is proper in this Court because the amount in controversy exceeds this
9 Court's jurisdictional minimum. Venue is proper in this Court because the acts giving rise to this
10 action caused harm in Santa Barbara County.

11 GENERAL ALLEGATIONS

12 11. RESON A/S is a leading manufacturer of high quality underwater acoustic
13 systems and has a global presence and service facilities around the world, including RESON,
14 Inc., a subsidiary located in Santa Barbara, California. RESON A/S and RESON, Inc. will be
15 collectively referred to as "RESON". RESON specializes in the design and development of
16 advanced multi-beam sonar systems, single beam echo sounders, transducers and hydrophones,
17 and underwater acoustic systems, as well as software. RESON provides high quality standard
18 tools for numerous underwater acoustic applications and survey requirements and is devoted to
19 the design and manufacture of marine technological solutions.

20 12. The range of products provided by RESON includes digital state of the art multi-
21 beam systems, the proprietary "SeaBat" technology, compact lightweight and flexible single
22 beam sensors, the NaviSound product line of underwater tools, PDS software, technological
23 systems for 3-D data collection and visualization, and other precision equipment for its core
24 business areas. Those core areas include offshore oil and gas industries, marine research
25 institutions, hydrographics and bathymetric surveyors, dredging operators, cable line companies,
26 harbor construction companies, naval surveillance and public environmental monitoring
27 activities.

28 13. RESON A/S was founded in 1976 and began to develop its first series of

1 transducers in 1982. In 1984 RESON, Inc. was formed and located in Santa Barbara, California.
2 RESON, Inc. began to manufacture a product line of hydrophones in 1985, and in 1989 designed
3 the first multi-beam sonar systems. RESON, Inc. further developed additional technology and
4 products, including but not limited to the proprietary SeaBat products. The development of these
5 products was the result of more than 21 years of research and development. RESON Inc's
6 business is based upon the development and sale of its proprietary products and the licensing of
7 its technology, described above, to customers seeking high-quality underwater acoustic products.

8 14. RESON has at all times taken action to protect the confidentiality of its information
9 and technology, including the technology described above, and the information and technology
10 constitutes the trade secrets of RESON. Such efforts include requiring all employees to sign the
11 Employee Handbook and the RESON Code of Conduct, each of which specifically provides for
12 the maintenance of the confidentiality of all aspects of the business of RESON and its trade
13 secrets, both during their employment at RESON and after departing from RESON. The
14 information and technology described above has been developed by RESON as a result of great
15 commitments of time and expense, and derives a great deal of value to RESON's business
16 because it is not generally known and belongs solely to RESON.

17 15. RESON has registered copyrights for its technology in connection with the automatic
18 gain process which controls the static gain of the sonar signal receiver; the beam-forming
19 technology which controls the signals from all channels of the acoustic array; the digital signal
20 processing of the acoustic signal; the bottom-detection technology which detects the distance
21 between the sonar and the bottom; the graphic user interface which connects to the sonar
22 software and provides the user with a series of controls; the quality flags used to measure the
23 reliability of the bottom detection; and the method of measuring the distance between the sonar
24 and the bottom.

25 16. Defendant Steenstrup was a founder of RESON, Inc. in 1984 and was employed
26 by RESON, Inc. until December 2005 as its President. In that capacity, Defendant Steenstrup
27 was intimately involved in the development and production of RESON products and technology,
28 including the multi-beam sonar technology and digital signal technology. Defendant Steenstrup

1 was also intimately involved in the marketing and business plans of RESON and the
2 development of its customer database and related customer information. Defendant Steenstrup
3 had a duty to maintain and preserve the confidentiality of the information belonging to RESON,
4 including its trade secrets, confidential business information, and technology.

5 17. In December 2005, Defendant Steenstrup left RESON and sold his interest in
6 RESON, and as part of that sale, agreed that for a period of 24 months following that sale, he
7 would not enter into any activity which would constitute competing with the business of RESON.
8 Notwithstanding that agreement, in February 2006, Steenstrup founded R2Sonic and began
9 immediately competing with RESON by founding a competing company; hiring RESON's
10 former engineers, Chun and Hobart, to work on a competing product line; and using the
11 technology and proprietary information belonging to RESON to develop a product line derived
12 from the trade secrets and proprietary information belonging to RESON. R2Sonic debuted its
13 competing multi-beam echo sounder in March 2008, barely two years after R2Sonic was
14 founded.

15 18. Defendant Mark Chun was hired by Steenstrup to join RESON in 1987. From
16 approximately July 1987 to May 11, 2005, Defendant Chun was employed by RESON as its
17 Senior Hardware Engineer and he worked closely with Defendant Steenstrup and Defendant
18 Hobart in the development and production of RESON products, including the proprietary multi-
19 beam sonar technology and digital signal processing technology. As Senior Hardware Engineer,
20 Defendant Chun was involved in RESON's product development, technology, and marketing
21 and had unfettered access to RESON's proprietary and confidential information and trade secrets,
22 including customer lists, supplier lists, and pricing information. Defendant Chun had a duty to
23 maintain the confidentiality of RESON's proprietary and confidential information and trade
24 secrets.

25 19. After leaving his employment with RESON, Defendant Chun went to work with
26 Steenstrup and R2Sonic in the same capacity in which Chun had worked for RESON. Upon
27 leaving RESON, Defendant Chun took with him technology belonging to RESON and upon
28 which RESON's business is based. Upon leaving RESON, Defendant Chun acknowledged his

1 obligations to refrain from using or disclosing any of the proprietary information and trade
2 secrets belonging to RESON, agreed to comply with those obligations in signing the Employee
3 Handbook and RESON Code of Conduct, and was legally obligated to comply with those
4 obligations. Upon moving to R2Sonic, Defendant Chun conveyed to R2Sonic proprietary
5 information and trade secrets belonging to RESON which had formed the basis for RESON's
6 business and products. R2Sonic misappropriated proprietary information and trade secrets
7 belonging to RESON and used the information to develop a highly similar competing product
8 which R2Sonic is selling as a direct competitor to RESON. Defendant Chun breached his legal
9 obligations to protect and refrain from disclosing to any person or entity the proprietary
10 information and trade secrets of RESON by disclosing that information to R2Sonic and using it
11 on behalf of R2Sonic to develop a competing product which is comparable to RESON's "Seabat"
12 product and which is being sold in competition with RESON's product. In his position at
13 R2Sonic, Defendant Chun used, and continues to use proprietary and confidential information
14 and trade secrets (including customer lists and pricing information) he was entrusted with while
15 at RESON to develop, market and sell R2Sonic products that unlawfully infringe upon RESON's
16 product line.

17 20. Defendant Kirk Hobart was hired by RESON in 1989 as Senior Engineer. From
18 approximately May 1989 to May 2005, Defendant Hobart was employed by RESON and worked
19 closely with Defendants Steenstrup and Chun in the development, production and sale of
20 RESON's technology and products, including but not limited to the proprietary bottom detection
21 technology, the automatic gain control technology and beam forming technology. As Senior
22 Engineer, Defendant Hobart was involved in RESON's product development, technology,
23 marketing and sales and had unfettered access to RESON's proprietary and confidential
24 information and trade secrets, including customer lists, supplier lists, and pricing information.
25 Defendant Hobart had a duty to maintain the confidentiality of RESON's proprietary and
26 confidential information and trade secrets.

27 21. After leaving RESON, Defendant Hobart went to work for R2Sonic in the same
28 capacity in which Hobart had worked for RESON. Upon leaving RESON, Defendant Hobart

1 took with him technology belonging to RESON and upon which RESON's business is based.
2 Upon leaving RESON, Defendant Hobart acknowledged his obligations to refrain from using or
3 disclosing any of the proprietary information and trade secrets belonging to RESON, and agreed
4 to comply with those obligations in signing the Employee Handbook and RESON Code of
5 Conduct, and was legally obligated to comply with those obligations..

6 22. Upon going to R2Sonic, Defendants Chun and Hobart conveyed to R2Sonic the
7 proprietary information and trade secrets belonging to RESON which had formed the basis for
8 RESON's business and products. R2Sonic misappropriated the proprietary information and trade
9 secrets belonging to RESON and used the information to develop a competing product which is
10 modeled after RESON's "Seabat" product and which R2Sonic is selling as a direct competitor to
11 RESON. Defendants Chun and Hobart breached their legal obligations to protect and refrain
12 from using or disclosing to any person or entity the proprietary information and trade secrets of
13 RESON by disclosing that information to R2Sonic and using it on behalf of R2Sonic to develop
14 a competing product which is being sold as a device which competes with RESON's device. In
15 their positions at R2Sonic, Defendants Chun and Hobart used, and continue to use proprietary
16 and confidential information and trade secrets (including customer lists and pricing information)
17 they were entrusted with while at RESON to develop, market and sell R2Sonic products that
18 unlawfully infringe upon RESON's product line. R2Sonic's website acknowledges that
19 Steenstrup, Chun and Hobart founded RESON, Inc. and personally developed the proprietary
20 SeaBat technology and product line for RESON, as well as other proprietary technology
21 developed by RESON, and that they are continuing the product line belonging to RESON now
22 that they are employed at R2Sonic.

23 23. Defendant Cris Sabo was hired by RESON in 2001. From 2001 to 2008,
24 Defendant Sabo was the Vice President of Sales at RESON and was involved in RESON's
25 product development and business and marketing plans and had, among other things, unfettered
26 access to RESON's customer lists, supplier lists, and pricing information. Defendant Sabo, like
27 Defendants Steenstrup, Chun and Hobart, was entrusted by RESON to protect RESON's
28 proprietary and confidential information and trade secrets, acknowledged his confidentiality

1 obligations under the Employee Handbook and RESON Code of Conduct, and was legally
2 obligated to comply with those obligations.

3 24. On February 29, 2008, Defendant Sabo left his position with RESON as Vice
4 President of Sales to work for R2Sonic as its Vice President of Sales. Upon departing from his
5 employment with RESON, Sabo took the proprietary and confidential information and trade
6 secrets, customer lists, supplier lists, and knowledge relating to RESON's business and
7 marketing plans and pricing information that he was entrusted with by RESON, and is
8 wrongfully using and disclosing that protected information on behalf of R2Sonic to unlawfully
9 advance the interests of R2Sonic to the direct detriment of RESON. Such use and disclosure of
10 RESON's information constitutes a violation of the Uniform Trade Secret Act, California Civil
11 Code section 3426 et seq. Although RESON sent cease and desist letters to Sabo and to
12 R2Sonic, asking them to discontinue inappropriate use and/or disclosure of RESON's trade
13 secrets, both Sabo and R2Sonic have refused to either respond or to comply with those requests.

14 25. Defendant Charles Brennan was hired by RESON in 1998. From approximately
15 1998 to 2008, Defendant Brennan was the Senior Hydrographer for RESON and was involved in
16 product development, technology and marketing of RESON's proprietary products, customer
17 lists, supplier lists, and pricing information. Defendant Brennan was entrusted by RESON with
18 RESON's proprietary and confidential information and trade secrets, and was legally obligated to
19 protect and not to use or disclose such proprietary information and trade secrets without
20 RESON's consent. Defendant Brennan acknowledged his confidentiality obligations under the
21 Employee Handbook and RESON Code of Conduct, and was legally obligated to comply with
22 those obligations.

23 26. After leaving his employment with RESON as Senior Hydrographer and (like
24 Defendants Steenstrup, Chun, Hobart and Sabo), Defendant Brennan went to work for R2Sonic
25 as its Chief Hydrographic Engineer. RESON is informed and believes that in his position at
26 R2Sonic, Brennan is unlawfully using and disclosing proprietary and confidential information
27 and trade secrets owned by RESON to help train, develop, market and sell products for R2Sonic
28 to the direct detriment of RESON. Such use and disclosure of RESON's information constitutes

1 a violation of the Uniform Trade Secret Act, California Civil Code section 3426 et seq.

2 Although RESON sent cease and desist letters to Brennan and to R2Sonic, asking them to
3 discontinue inappropriate use and/or disclosure of RESON's trade secrets, both Brennan and
4 R2Sonic have refused to either respond or to comply with those requests.

5 27. Defendants Steenstrup, Chun, and Hobart intentionally started R2Sonic with the
6 intent of misappropriating RESON's intellectual property, proprietary information, trade secrets,
7 and other assets in order to compete with RESON. Defendants adopted the name R2Sonic which
8 is stylized in a manner designed to look confusingly similar to RESON's name. The RESON
9 name is a trademark registered with the United States Patent and Trademark Office, and the
10 establishment of R2Sonic using a name that appears like RESON's name is a violation of the
11 RESON registered trademark.

12 28. Steenstrup, Chun, Hobart, Sabo, and Brennan took from RESON to R2Sonic
13 proprietary business information, technology, intellectual property, trade secrets, and other assets
14 of RESON (collectively "the RESON assets"). Steenstrup, Chun, Hobart, and R2Sonic have
15 used the RESON assets to develop a competing device which operates based upon the same
16 technology belonging to RESON. The competing device developed and sold by R2Sonic is the
17 product of R2Sonic's misappropriation of RESON's intellectual property.

18 29. Steenstrup, Chun, Hobart, Sabo, Brennan and R2Sonic have knowingly and
19 intentionally committed unfair business practices in which they have misappropriated
20 information and assets belonging to RESON in order to compete with RESON, and to mislead
21 the customers and the public into believing that they are affiliated with RESON, are selling the
22 same devices RESON sells, possess the same technology RESON possesses, has the same
23 personnel RESON had, and serves the same customers which RESON serves. The unfair
24 business practices include, but are not limited to, the following:

25 a) The Defendants' recruitment and hiring of critical managerial level engineering,
26 technical, marketing, and operations personnel formerly employed at RESON with the intention
27 of taking the proprietary and confidential information and trade secrets which the employees
28 were entrusted with at RESON, and which they had a duty to maintain as confidential, all to the

1 benefit of R2Sonic and in order to unlawfully compete against RESON.

2 b) The Defendants' unlawful use of the proprietary and confidential information and trade
3 secrets owned by RESON to unlawfully infringe on RESON's proprietary rights and to compete
4 with RESON by selling infringing products which infringe on RESON's devices and products.

5 c) The Defendants have intentionally created confusion amongst RESON's customers by
6 falsely representing in print advertising, in its web site, and in person and at trade shows that
7 there are corporate and product connections between RESON and R2Sonic.

8 d) The Defendants are producing and selling a competing multi-beam sonar device which
9 is designed to look like the device developed and sold by RESON, is likely to mislead customers
10 and the public into believing that they are purchasing a RESON product, and violates the trade
11 dress of the RESON multi-beam sonar products.

12 e) The Defendants are using a trade name which looks like that of RESON and confuses
13 customers and the public into believing it is affiliated with RESON.

14 f) The Defendants have created a website that is designed to model the web site of
15 RESON and imply that it is affiliated with RESON and/or selling the same technology sold by
16 RESON, and is therefore confusingly similar to website used by RESON, to customers and to the
17 public.

18 g) The Defendants are promoting their business by representing that Defendants
19 Steenstrup, Chun and Hobart of R2Sonic were the systems architects behind RESON's products
20 and RESON's success, and implying that they are continuing to market and sell the same
21 technology which they worked on at RESON, stating that they are now continuing at R2Sonic the
22 product lines that the Defendants developed while at RESON. Such representations create
23 confusion within the marketplace and with RESON's customers and the public by indicating
24 falsely that R2Sonic is a successor or affiliate of RESON and is using the same technology which
25 RESON developed.

26 h) The Defendants are targeting RESON's customers through the use of proprietary
27 customer lists and pricing information acquired while Defendants Steenstrup, Sabo and Brennan
28 were employed at RESON and which information constitutes the trade secrets of RESON.

1 Technology and is not disclosed to any other person or entity.

2 35. The Technology forms the basis for RESON's business products and the primary
3 source of RESON's revenues.

4 36. Since the Technology was developed, RESON has registered copyrights for the
5 Technology pursuant to the Copyright Act of 1976, 17 U.S.C. section 101 et seq.

6 37. RESON is informed and believes that upon departing from RESON, Defendants and
7 each of them took, disclosed, and used the confidential and proprietary information associated
8 with the Technology in order to enable R2Sonic to develop and manufacture competing sonar
9 and underwater acoustic devices which are substantially similar to the products sold by RESON
10 and which are based upon the misappropriation of the Technology belonging to RESON. The
11 Technology was developed by RESON after extensive efforts over a period of more than 21
12 years at great expense. Upon information and belief, the substantially similar competing
13 products produced and sold by R2Sonic were developed in barely two years, which could not
14 have been accomplished without the misappropriation of the Technology belonging to RESON.

15 38. RESON is informed and believes that R2Sonic knowingly and intentionally copied
16 and misappropriated the Technology in order to develop one or more products which are
17 substantially similar to those marketed and sold by RESON and which are derived from the
18 Technology belonging to RESON.

19 39. The natural and foreseeable result of Defendants' misappropriation of the
20 Technology has been and will continue to be that RESON is deprived of business and of the
21 licensing of the Technology, to deprive RESON of goodwill, to injure RESON's relations with
22 prospective customers, and to impose substantial expenses on RESON to resolve the conduct
23 described above.

24 40. RESON is informed and believes that it has lost license fees for the Technology, and
25 has sustained and will sustain damage as a result of the Defendants' wrongful conduct and their
26 marketing and sale of infringing products. Defendants' wrongful conduct has also deprived, and
27 will continue to deprive RESON of opportunities for expanding its good will.

28 41. RESON is informed and believes that because R2Sonic has not had to expend the

1 substantial research and development costs and other overhead expenses associated with
2 developing and improving the Technology, R2Sonic is able to market its infringing products at
3 lower cost than those RESON must charge for its own products. As a result, the marketing of
4 infringing products has and will continue to artificially erode the price that potential customers
5 will be willing to pay for RESON's products which incorporate its Technology.

6 42. Defendants have been unjustly enriched by their copying, use, and marketing of the
7 infringing products derived from the Technology.

8 43. RESON is informed and believes that unless enjoined by this Court, Defendants
9 intend to continue their course of conduct and wrongfully use, infringe upon, sell, license, and
10 otherwise profit from the devices it developed which are derived from the Technology belonging
11 to RESON. RESON has already suffered irreparable damage and lost profits, which damage will
12 continue unless the actions of Defendants are enjoined by this Court. RESON has no adequate
13 remedy at law to address all of the injuries the Defendants have caused and intend to cause by
14 their conduct.

15 44. RESON is entitled to an injunction restraining Defendants, and each of them, and
16 their officers, agents, and employees, and all persons acting in concert with them, from engaging
17 in further such acts in violation of the copyright laws.

18 45. RESON is further entitled to recover from Defendants and each of them the damages
19 it has sustained and will sustain as a result of Defendants' wrongful acts as alleged herein. The
20 amount of such damage cannot be determined at this time and will be proven at trial. RESON is
21 further entitled to recover from the Defendants the gains, profits, and advantages they have
22 obtained as a result of their wrongful conduct as alleged herein, which amount cannot yet be
23 ascertained, but which will be proven at trial.

24 **SECOND CAUSE OF ACTION**

25 **Trademark Infringement**

26 **[The Trademark Act of 1946, 15 U.S.C. section 1051 et seq.]**

27 **Against all Defendants**

28 46. RESON realleges and incorporates by reference paragraphs 1 through 45 inclusive

1 of this complaint as though fully set forth herein.

2 47. RESON A/S has been in business since 1976, and established RESON, Inc. in the
3 United States in 1984. RESON A/S has been using the name "RESON" continuously since 1976
4 and such use continues to the present time. On or about November 25, 2005, a registration of the
5 name RESON was filed with the United States Patent and Trademark Office and such registered
6 trademark is owned by RESON A/S and continues in effect, with a priority date of June 1, 2005.

7 48. RESON is informed and believes that when R2Sonic was formed by Defendant
8 Steenstrup, it was given a name which is stylized and designed to look confusingly similar to the
9 name "RESON". Defendants' ongoing use of the name of R2Sonic is a breach of RESON's
10 registered trademark.

11 49. R2Sonic is a direct competitor of RESON, and it develops and sells products which
12 look and function like, and are substantially similar to those of RESON, it targets the same
13 customers, it uses the same suppliers, and it relies on the same distributors. Defendants' use of
14 the R2Sonic name is intended to and does confuse those with whom RESON does business into
15 thinking that they may be doing business with RESON or its affiliate.

16 50. The natural and foreseeable result of Defendants' trademark infringement has been
17 and will continue to be that RESON is deprived of business and goodwill associated with its
18 name and will be injured in its relations with prospective customers, and will impose substantial
19 expenses on RESON to resolve the conduct described above.

20 51. RESON is informed and believes that it has sustained and will sustain damage as a
21 result of the Defendants' wrongful conduct and their infringement on its trademark name.
22 Defendants' wrongful conduct has also deprived, and will continue to deprive RESON of
23 opportunities for expanding its good will.

24 52. Defendants have been unjustly enriched by their infringement upon the RESON
25 trademark and have received benefits by those who may believe that the Defendants are in some
26 way affiliated with RESON.

27 53. RESON is informed and believes that unless enjoined by this Court, Defendants
28 intend to continue to continue their course of conduct and wrongfully infringe upon the

1 trademark belonging to RESON. RESON has already suffered irreparable damage and lost
2 profits, which damage will continue unless the actions of Defendants are enjoined by this Court.
3 RESON has no adequate remedy at law to address the injuries the Defendants have caused and
4 intend to cause by their conduct.

5 54. RESON is entitled to an injunction restraining Defendants, and each of them, and
6 their officers, agents, and employees, and all persons acting in concert with them, from engaging
7 in further such acts in violation of the trademark laws.

8 55. RESON is further entitled to recover from Defendants and each of them the damages
9 it has sustained and will sustain as a result of Defendants' wrongful acts as alleged herein. The
10 amount of such damage cannot be determined at this time and will be proven at trial. RESON is
11 further entitled to recover from the Defendants the gains, profits, and advantages they have
12 obtained as a result of their wrongful conduct as alleged herein, which amount cannot yet be
13 ascertained, but which will be proven at trial.

14 THIRD CAUSE OF ACTION

15 **Misappropriation of Trade Secrets**

16 **[Uniform Trade Secrets Act--Calif. Civil Code Section 3426 Et Seq.]**

17 **Against All Defendants**

18 56. RESON realleges and incorporates by reference paragraphs 1 through 55 inclusive
19 of this complaint as though fully set forth herein.

20 57. Defendants have misappropriated the proprietary and confidential information and
21 trade secrets owned by RESON by leaving their employment with RESON and forming R2Sonic,
22 disclosing RESON's trade secrets to R2Sonic, assisting R2Sonic in offering products developed
23 by using RESON's trade secrets, and using RESON's trade secrets for Defendants' own
24 economic benefit and to harm RESON even though the individual Defendants, while employed
25 by RESON, were entrusted with those trade secrets. In addition, Defendants had been provided
26 with access to RESON's proprietary and confidential information about RESON's business,
27 RESON's business plans, RESON's suppliers, RESON's existing and potential customers,
28 RESON's products and equipment, RESON's financial arrangements, and RESON's sales and

1 marketing plans and procedures. All of this information was developed and acquired by RESON
2 at its significant expense, was not generally known to the public, and was protected by RESON as
3 information having significant economic value to RESON. Such information constituted
4 RESON's trade secrets as defined by Civil Code section 3426(d).

5 58. Defendants acquired the proprietary and confidential information and trade secrets
6 of RESON through improper means since the individual Defendants were entrusted with the
7 information and secrets and: (1) were only to take and use such information and secrets as
8 authorized by RESON; (2) would hold all of the information and secrets provided in strict
9 confidence; (3) would use such information and secrets only in furthering the business interests
10 of RESON; and (4) would not use RESON's proprietary and confidential information and trade
11 secrets to solicit RESON's customers nor use RESON's information to deprive RESON of
12 business.

13 59. Defendants knew, at the time they acquired RESON's proprietary and confidential
14 information and trade secrets, that such information had been developed by RESON at its
15 expense and had significant economic value to RESON and that RESON was giving the
16 individual Defendants access to the information in reliance on Defendants' duty to maintain the
17 confidential nature and secrecy of RESON's proprietary information and trade secrets.
18 Defendants further knew that their improper, illegal and unauthorized use of RESON's
19 proprietary and confidential information and trade secrets would cause irreparable damage to
20 RESON and impair RESON's ability to compete in business.

21 60. RESON has contacted Defendants about the use and disclosure of RESON's trade
22 secret information, including but not limited to customers lists, their contact information, their
23 personnel, their business and purchase practices, its technical information about its equipment,
24 the services it provides, and the manner in which its equipment and services have been used by
25 its customers, as well as other protected information, and demanded that they cease and desist
26 from any use or disclosure of such protected information. Defendants have refused to respond or
27 to comply with these demands.

28 61. Defendants' wrongful conduct described above constituted a violation of the

1 Uniform Trade Secrets Act, Civil Code section 3426 et seq.

2 62. As a direct and proximate result of Defendants' wrongful conduct, RESON has
3 been damaged, including the following:

4 A. RESON has lost the proceeds from the sales of its products and services
5 which Defendants diverted from RESON for Defendants' own benefit.

6 B. RESON has lost the customers which Defendants diverted to their own
7 competing business through the use of RESON's proprietary and confidential information and
8 trade secrets, materials, business and sales plans and pricing information.

9 C. RESON's good will and credibility with its customers has been
10 detrimentally impacted as those customers have been given cause to question the veracity of
11 RESON and its sales personnel as a result of Defendants' deception and customers have been
12 confused by R2Sonic's representations concerning its connection to RESON and RESON's
13 product line.

14 63. RESON is entitled to recover from Defendants the damages suffered as a result of
15 Defendants' wrongful conduct, the precise amount of which will be proven at trial.

16 64. R2Sonic has misappropriated RESON's proprietary and confidential information
17 and trade secrets by using them in the development and design of its own products
18 notwithstanding its knowledge that it has obtained the proprietary and confidential information
19 and trade secrets in contravention of the duties of Defendants to RESON.

20 65. During their employment with RESON, Defendants Steenstrup, Chun, Hobart,
21 Sabo and Brennan were made aware of, used, and had access to RESON's confidential and
22 proprietary information and trade secrets concerning RESON's products, technology, and
23 business and marketing strategies. The trade secrets at issue include, but are not limited to, (a)
24 proprietary software that provides platforms for RESON's products, particularly its proprietary
25 SeaBat technology, (b) proprietary design schematics, specifications, and architecture taken from
26 RESON by Defendants and which are integral to R2Sonic products, and (c) certain proprietary
27 and confidential information about customers and potential customers of RESON, pricing
28 structures, and marketing and business plans.

1 66. RESON's proprietary and confidential information and trade secrets have economic
2 value insofar as they contain information not generally known within the industry, and represent
3 the product of years of research, investment and client communications. RESON made
4 reasonable efforts to ensure that its confidential information and trade secrets remained secret,
5 which included requiring all employees to sign the Employee Handbook and RESON Code of
6 Conduct containing obligations to maintain the confidentiality of RESON proprietary
7 information and trade secrets, both during their employment and after departing RESON.

8 67. As a proximate result of the aforementioned misappropriations of RESON's trade
9 secrets, RESON has suffered actual damages in an amount not yet ascertained but which RESON
10 reasonably believes is in excess of the jurisdictional limits of the court. In addition, Defendants
11 have been unjustly enriched in amounts to be proven at trial.

12 68. The aforementioned acts of the Defendants were willful and malicious in that the
13 Defendants misappropriated RESON's proprietary and confidential information and trade secrets
14 with a deliberate intent to injure RESON's business and to improve its own. RESON is therefore
15 entitled to punitive damages in an amount to be determined. RESON is also entitled to
16 reasonable attorney's fees in pursuing this action.

17 69. Defendants' wrongful conduct in misappropriating RESON's proprietary and
18 confidential information and trade secrets, unless and until restrained by order of this court, will
19 cause great and irreparable injury to RESON's business that RESON believes that it has lost
20 business and will continue to lose business to Defendants and that RESON's reputation and
21 goodwill has suffered and will continue to suffer as long as Defendants continue to use RESON's
22 confidential and proprietary information and trade secrets.

23 70. RESON has no adequate remedy at law for the on-going injuries to its business,
24 reputation and goodwill. Accordingly, RESON is entitled to preliminary and permanent
25 injunctive relief prohibiting Defendants from further misappropriation or use of RESON's
26 confidential and proprietary information and trade secrets.

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FOURTH CAUSE OF ACTION

Interference with Prospective Economic Advantage

Against all Defendants

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4 71. RESON realleges and incorporates by reference paragraphs 1 through 70 inclusive
5 of this complaint as though fully set forth herein.

6 72. At all pertinent times, including but not limited to the past 30 years, RESON has
7 been engaged in the business of selling high quality underwater acoustic systems to individuals,
8 businesses and public entities, and has used its efforts, skill, and financial resources to develop a
9 base of customers and potential customers for its products. In performing its business, RESON
10 sought out and entered into contractual relationships with customers who developed a positive
11 business relationship with RESON and an appreciation for the quality of RESON's products and
12 services.

13 73. Among RESON's business practices was the retention of engineering, technical
14 and sales personnel to develop and sell RESON's products on RESON's behalf. In order to do
15 so effectively, RESON fully educated the individual Defendants about RESON's products, about
16 the needs and identities of RESON's existing and potential customers, and about RESON's
17 business plans and sales and marketing plans and pricing strategies. Defendants were among the
18 employees which RESON retained and trained in order to enable Defendants to fulfill their
19 obligations to promote sales of products on RESON's behalf. RESON retained and trained
20 Defendants in reliance on their promises that they would use their best efforts to make sales on
21 RESON's behalf, and that they would use RESON's proprietary and confidential information and
22 trade secrets only to promote RESON's business and RESON's relationships with its customers.

23 74. Defendants have intentionally interfered with RESON's existing and prospective
24 business relationships with its customers and their conduct has included:

25 a) Inducing the departure of critical managerial level engineering, technical, marketing,
26 and operations personnel formerly employed at RESON with the intention of taking proprietary
27 and confidential information and trade secrets which the employees were entrusted with at
28 RESON, and which they had a duty to maintain as confidential, all to the benefit of R2Sonic and

1 in order to unlawfully compete against RESON.

2 b) Unlawfully using proprietary and confidential information and trade secrets owned by
3 RESON to unlawfully infringe on RESON's proprietary rights and to compete with RESON by
4 selling infringing products which infringe on RESON's devices and products.

5 c) Intentionally creating confusion amongst RESON's customers by falsely representing
6 in print advertising, in its web site, and in person and at trade shows that there are corporate and
7 product connections between RESON and R2Sonic.

8 d) Producing and selling a competing multi-beam sonar device which is designed to look
9 like the device developed and sold by RESON, is intended to mislead customers and the public
10 into believing that they are purchasing a RESON product, and violates the trade dress of the
11 RESON multi-beam sonar product.

12 e) Using a trade name which looks like that of RESON and is likely to confuse customers
13 and the public into believing it is affiliated with RESON.

14 f) Creating a website that is designed to model the web site of RESON and is confusingly
15 similar to website used by RESON, to customers and to the public.

16 g) Promoting and representing that Defendants Steenstrup, Chun and Hobart of R2Sonic
17 were the systems architects behind RESON's products and RESON's success, and implying that
18 they are continuing to market and sell the same technology which they worked on at RESON,
19 stating that they are now continuing at R2Sonic the product lines that the Defendants developed
20 while at RESON. Such representations create confusion within the marketplace and with
21 RESON's customers and the public by indicating falsely that R2Sonic is a successor or affiliate
22 of RESON and uses the same technology which RESON developed.

23 h) Targeting RESON's customers through the use of proprietary customer lists, business
24 plans, and pricing information acquired while Defendants Steenstrup, Sabo and Brennan were
25 employed at RESON and which information constitutes the trade secrets of RESON.

26 75. As a proximate result of Defendants' conduct stated above, including their
27 development of a website and use of a name confusingly similar to RESON's website and name,
28 RESON has been damaged in an amount that has not yet been ascertained but which RESON

1 reasonably believes is in excess of the jurisdictional limits of the court.

2 76. Defendants committed the foregoing interfering acts for the intended purpose of
3 interfering with and disrupting RESON's existing and potential economic business opportunities,
4 and in order to take and misappropriate for their own benefit the economic benefits to which
5 RESON was entitled as a result of the efforts and resources it had expended in developing those
6 economic sales opportunities. Defendants knew and intended that the foregoing interfering acts
7 would cause injury to RESON as a result thereof.

8 77. The interfering acts committed by Defendants have damaged RESON and caused
9 interference with RESON's relationships with its customers and have deprived RESON of the
10 existing and future economic benefit which would result from those relationships. Not only has
11 RESON lost the proceeds from the sales of the products misappropriated by Defendants, but its
12 customer relationships have been damaged and RESON has lost sales and business opportunities
13 as a result of Defendants' conduct.

14 78. As a direct, proximate and legal result of Defendants' interference, RESON has
15 been damaged by the following:

16 a) RESON has lost the proceeds from the sales of products and services which
17 Defendants diverted from RESON for Defendants' own benefit.

18 b) RESON has lost the customers which Defendants diverted to their
19 own competing business through the use of RESON's proprietary and confidential information
20 and trade secrets and other information, materials, and business and sales plans and pricing.

21 c) RESON's good will and credibility with its customers has been detrimentally
22 impacted as those customers have been given cause to question the veracity of RESON and its
23 sales personnel as a result of Defendants' deception and by creating confusion by its use of a
24 trade name and website confusingly similar to those of RESON.

25 79. RESON is entitled to recover from Defendants and each of them, jointly and
26 severally, the damage suffered as a result of Defendants' wrongful conduct, the precise amount
27 of which will be proven at trial.

28 80. The actions of Defendants alleged herein constitute intentional, malicious, and

1 oppressive conduct which subjected RESON to cruel and unjust financial hardship and expense
2 in conscious disregard of RESON's rights, and justifies an award of punitive and exemplary
3 damages.

4 81. Defendants continue their wrongful conduct and remain in possession of RESON's
5 proprietary and confidential information and trade secrets and continue to use them to RESON's
6 detriment unless an injunction issues, prohibiting violations of RESON's rights.

7 82. RESON's proprietary and confidential information is not readily susceptible of
8 valuation in terms of monetary damages and unless the injunction prayed for is granted,
9 Defendants will continue to violate RESON's rights, use and disclose RESON's trade secrets and
10 other proprietary and confidential information, and interfere with RESON's business
11 relationships, all to RESON's continuing damage.

12 83. RESON has no plain, speedy and adequate remedy available at law that will
13 adequately compensate it for the irreparable damage which Defendants have done and will
14 continue to do to RESON's business and economic relationships, and for the delayed and lost
15 business opportunities caused by Defendants' misconduct. RESON is entitled to injunctive
16 relief, as prayed for in this Complaint.

17 **FIFTH CAUSE OF ACTION**

18 **Unfair Business Practices**

19 **[Violation of Business and Professions Code 17200 et seq.]**

20 **Against all Defendants**

21 84. RESON realleges and incorporates by reference paragraphs 1 through 83 inclusive
22 of this complaint as though fully set forth herein.

23 85. California's unfair competition law prohibits acts of unfair competition, which
24 means and includes any unlawful, unfair or fraudulent business act or practice. Defendants have
25 engaged in a continuous pattern and course of conduct involving wrongful, illegal, and improper
26 conduct, as alleged above, all of which constitute unfair business practices in violation of
27 Business and Professions Code section 17200 et seq. This conduct includes, but is not limited
28 to, the following acts:

1 a) Defendants have hired critical managerial level engineering, technical, marketing, and
2 operations personnel formerly employed at RESON with the intention of taking the proprietary
3 and confidential information and trade secrets which the employees were entrusted with at
4 RESON, and which they had a duty to maintain as confidential, all to the benefit of R2Sonic and
5 in order to unlawfully compete against RESON.

6 b) Defendants have unlawfully used the proprietary and confidential information and
7 trade secrets owned by RESON to unlawfully infringe on RESON's proprietary rights and to
8 compete with RESON by selling infringing products which infringe on RESON's devices and
9 technology.

10 c) Defendants have intentionally created confusion amongst RESON's customers by
11 falsely representing in print advertising, in its web site, and in person and at trade shows that
12 there are corporate and product connections between RESON and R2Sonic.

13 d) Defendants are producing and selling a competing multi-beam sonar device which is
14 designed to look like the device developed and sold by RESON, is likely to mislead customers
15 and the public into believing that they are purchasing a RESON product, and violates the trade
16 dress of the RESON multi-beam sonar product.

17 e) Defendants are using a trade name R2Sonic in a manner which looks like that of
18 RESON and is likely to confuse customers and the public into believing it is affiliated with
19 RESON.

20 f) Defendants have created a website that is designed to model the web site of RESON
21 and is confusingly similar to website used by RESON, to customers and to the public.

22 g) Defendants are promoting their business by representing that Defendants Steenstrup,
23 Chun and Hobart of R2Sonic were the systems architects behind RESON's products and
24 RESON's success, and implying that they are continuing to market and sell the same technology
25 which they worked on at RESON, stating that they are now continuing at R2Sonic the product
26 lines that the Defendants developed while at RESON. Such representations create confusion
27 within the marketplace and with RESON's customers and the public by indicating falsely that
28 R2Sonic is a successor or affiliate of RESON and is using the same technology which RESON

1 developed.

2 h) Defendants are targeting RESON's customers through the use of proprietary customer
3 lists and pricing information acquired while Defendants Sabo and Brennan were employed at
4 RESON and which information constitutes the trade secrets of RESON.

5 i) Defendants interfered with RESON's prospective economic advantage by using
6 RESON's proprietary and confidential information and trade secrets, as well as using a
7 confusingly similar trade name and developing a website that is likely to create confusion as to
8 the relationship between R2Sonic and RESON, all of which are intended to confuse RESON's
9 customers and divert the profits from those sales for Defendants' own benefit.

10 86. The wrongful acts committed by Defendants have caused interference with
11 RESON's relationships with its customers and have deprived RESON of the existing and future
12 economic benefit which would result from those relationships. Not only has RESON lost the
13 proceeds of the sales to customers as a result of Defendants' misappropriation of RESON's
14 proprietary and confidential information and trade secrets but customer relationships have been
15 threatened as a result of Defendants' conduct, all to RESON's damage.

16 87. As a direct and proximate result of Defendants' wrongful conduct, RESON has
17 been damaged, including the following:

18 a) RESON has lost the proceeds from the sales of products and services which
19 Defendants diverted from RESON to Defendants' own benefit.

20 b) RESON has lost the customers which Defendants have diverted to their own
21 competing business through the use of RESON's proprietary and confidential information and
22 trade secrets, materials, and business and sales plans and pricing.

23 c) RESON's good will and credibility with its customers has been detrimentally
24 impacted as those customers have been given cause to question the veracity of RESON and its
25 sales personnel as a result of Defendants and their false representations that RESON has been
26 actually or effectively superceded corporately and technologically by R2Sonic and that R2Sonic
27 is simply continuing the same product line started by Defendants Steenstrup, Chun and Hobart
28 while they were employed at RESON.

1 88. RESON is entitled to restitution from Defendants for the damages suffered by
2 RESON as a result of Defendants' wrongful conduct, the precise amount of which will be proven
3 at trial.

4 89. Defendants' use of RESON's confidential and proprietary information and trade
5 secrets to create its products and to solicit its business, violates the unfair competition laws of
6 California. Defendants have created a competing business using confidential and protected
7 information and trade secrets owned by RESON, and which RESON had entrusted to
8 Defendants' care while they were employed at RESON, and which RESON took special care to
9 protect. RESON has been substantially damaged, and will be further irreparably harmed if
10 Defendants are permitted to continue to operate R2Sonic using RESON's confidential and
11 proprietary information and trade secrets, for which harm there is no adequate remedy available.

12 90. The actions of Defendants alleged herein constitute intentional, malicious, and
13 oppressive conduct which subjected RESON to cruel and unjust financial hardship and expense
14 in conscious disregard of RESON's rights, and justifies an award of punitive and exemplary
15 damages.

16 91. Defendants are in possession of RESON's proprietary and confidential information
17 and trade secrets and will continue to use it to RESON's detriment unless an injunction issues
18 prohibiting further violations of RESON's rights.

19 92. Business and Professions Code section 17203 provides for the granting of
20 injunctive relief to enjoin unfair competition, such as that which Defendants have engaged in.
21 Unless the injunction as prayed for in this complaint is granted, Defendants will continue their
22 unfair business practices for the purpose of competing and interfering with RESON's business
23 and economic relationships, all to RESON's continuing damage.

24 93. RESON has no plain, speedy and adequate remedy available at law that will
25 adequately compensate it for the irreparable damage resulting from Defendants' unfair and
26 unlawful business practices, nor for the damage which Defendants have done and will continue
27 to do to RESON's business and economic relationships, nor to compensate RESON for the
28 delayed and lost business opportunities caused by Defendants' misconduct. RESON is entitled

1 to injunctive relief, as prayed for in this complaint.

2 WHEREFORE, RESON prays as follows:

3 1. That RESON have judgment against Defendants and each of them on each cause
4 of action hereunder.

5 1. For compensatory and general damages according to proof at trial;

6 2. For punitive and exemplary damages in an amount sufficient to punish and deter
7 the intentional and malicious conduct of Defendants, to be determined at trial;

8 3. For a preliminary and permanent injunction requiring Defendants and each of
9 them, and their respective agents, servants and employees, and all persons acting
10 under and in concert with or for them to:

11 A. Discontinue and refrain from retaining in any form, any RESON
12 proprietary or confidential information or trade secrets, including product
13 design and architecture and business or sales plans, customer lists, and
14 pricing information.

15 B. Discontinue and refrain from using the trade name "R2Sonic" or
16 otherwise infringing upon the RESON trademark.

17 C. Discontinue and refrain from maintaining the current web site for
18 R2Sonic which was developed as a result of the use of proprietary or
19 confidential information or trade secrets belonging to RESON and which
20 suggests that R2Sonic's products are derived from technology belonging
21 to RESON and/or that R2Sonic is in any way affiliated with RESON.

22 D. Discontinue and refrain from representing in any way to any person or
23 entity, directly or indirectly, that there is any corporate, technological,
24 product or any other connection between R2Sonic and RESON or that
25 R2Sonic is the successor to or affiliate of RESON.

26 E. Discontinue and refrain from using RESON proprietary information
27 and trade secrets to contact or solicit RESON's customers for the purpose
28 of entering into any business relationship with them.

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F. Discontinue and refrain from using or disclosing RESON's proprietary or confidential information or trade secrets to engage in any competing activity with RESON.

G. Discontinue and refrain from maintaining, developing, using or misappropriating for their own personal benefit any economic, business or sales opportunities belonging to RESON or derived from RESON's proprietary information or trade secrets.

H. Compelling them to return all copies of RESON's source code, schematics and systems architecture and destroying all copies of software, drawings or other data developed from or derived from any of RESON's proprietary or confidential information, copyrights, or trade secrets;

I. Discontinue and refrain from using or disclosing, directly or indirectly, any of the Technology belonging to RESON, including the Technology protected by RESON's copyright registrations, and cease all marketing, manufacture, production, distribution, sale, licensing, and any other use of information or products based upon or derived from RESON Technology.

- 4. For an order of restitution, compelling Defendants and each of them to account for and to disgorge any and all benefits to which RESON is entitled as a result of the misconduct alleged in this Complaint;
- 5. For an order directing Defendants and each of them to file a verified report, under oath, setting forth in detail the manner in which Defendants have complied with the injunction;
- 6. For costs of suit incurred herein, including reasonable attorney's fees; and,
- 7. For such other and further relief as the court deems just and proper.

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1 Date: February 24, 2010

PRICE, POSTEL & PARMA, LLP

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3 By 
4 Melissa J. Fassett
5 J. Terry Schwartz
6 Craig A. Parton
7 Timothy E. Metzinger
8 Attorneys for Plaintiffs
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