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7 Attorneys for Plaintiff/Counterdefendants,
8 FISHER & PAYKEL HEALTHCARE
9 LIMITED, FISHER AND PAYKEL
HEALTHCARE INC, and FISHER &
PAYKEL HEALTHCARE DISTRIBUTION INC.

10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

12 _____
 13 FISHER & PAYKEL HEALTHCARE
 LIMITED, a New Zealand corporation,

14 Plaintiff,
 15 v.
 16 RESMED CORP, a Minnesota
 corporation,
 Defendant.

17 _____
 18 RESMED INC., a Delaware corporation,
 19 RESMED CORP, a Minnesota
 corporation, and RESMED LTD, an
 Australian corporation,

20 Counterclaimants,
 21 v.

22 FISHER & PAYKEL HEALTHCARE
 CORPORATION LIMITED, a New
 Zealand corporation, FISHER &
 23 PAYKEL HEALTHCARE LIMITED, a
 New Zealand corporation, FISHER &
 24 PAYKEL HEALTHCARE, INC., a
 California corporation, and FISHER &
 25 PAYKEL HEALTHCARE
 DISTRIBUTION INC., a California
 corporation,

26 _____
 27 Counterdefendants.
 28 _____

Case No. 16-cv-02068 DMS WVG

**FISHER & PAYKEL
 HEALTHCARE LIMITED,
 FISHER & PAYKEL
 HEALTHCARE, INC., AND
 FISHER & PAYKEL
 HEALTHCARE
 DISTRIBUTION INC.'S
 ANSWER TO
 COUNTERCLAIMS AND
 COUNTERCLAIMS TO THE
 COUNTERCLAIMS**

DEMAND FOR JURY TRIAL

1 Counterclaim Defendants Fisher & Paykel Healthcare Limited, Fisher &
2 Paykel Healthcare, Inc., and Fisher & Paykel Healthcare Distribution Inc.
3 (collectively “F&P”) hereby respond to and answer the Counterclaim of
4 ResMed Inc., ResMed Corp, and ResMed Ltd (collectively “ResMed”) as
5 follows:

6 **I. PARTIES**

7 1. On information and belief, F&P admits the allegations in Paragraph
8 1 of the Counterclaim.

9 2. On information and belief, F&P admits the allegations in Paragraph
10 2 of the Counterclaim.

11 3. On information and belief, F&P admits the allegations in Paragraph
12 3 of the Counterclaim.

13 4. F&P lacks knowledge or information sufficient to form a belief as
14 to the truth of the allegations in Paragraph 4 of the Counterclaim and, therefore,
15 denies those allegations.

16 5. F&P admits the allegations in Paragraph 5 of the Counterclaim.

17 6. F&P admits the allegations in Paragraph 6 of the Counterclaim.

18 7. F&P admits the allegations in Paragraph 7 of the Counterclaim.

19 8. F&P admits the allegations in Paragraph 8 of the Counterclaim.

20 9. F&P admits that Fisher & Paykel Healthcare Inc. is a corporation
21 organized and existing under the laws of the state of California. F&P denies the
22 remaining allegations in Paragraph 9 of the Counterclaim.

23 10. F&P admits the allegations in Paragraph 10 of the Counterclaim.

24 11. F&P admits that Fisher & Paykel Healthcare Distribution Inc. is a
25 corporation organized and existing under the laws of the state of California.
26 F&P denies the remaining allegations in Paragraph 11 of the Counterclaim.

27 12. F&P denies the allegations in Paragraph 12 of the Counterclaim.

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II. JURISDICTION AND VENUE

13. F&P admits that RedMed’s Counterclaim purports to allege an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 100, et seq., including, 35 U.S.C. §§ 271 and 281. F&P denies the remaining allegations in Paragraph 13 of the Counterclaim.

14. F&P admits that this Court has subject matter jurisdiction over the causes of action asserted in the Counterclaim, but denies that there is any factual or legal basis for ResMed’s claims.

15. F&P admits that venue is proper in this district and that Fisher & Paykel Healthcare Limited has sued ResMed Corp in this judicial district. F&P denies the remaining allegations in Paragraph 15 of the Counterclaim.

16. Fisher & Paykel Healthcare Limited, Fisher & Paykel Healthcare, Inc., and Fisher & Paykel Healthcare Distribution Inc. admit they are subject to personal jurisdiction in California for the claims alleged and that Fisher & Paykel Healthcare, Inc. and Fisher & Paykel Healthcare Distribution Inc. are residents of California. F&P denies the remaining allegations in Paragraph 16 of the Counterclaim.

III. RESMED’S COUNTERCLAIMS OF INVALIDITY AND NONINFRINGEMENT
FIRST CLAIM FOR RELIEF

17. In response to Paragraph 17 of the Counterclaim, F&P incorporates by reference its answers to the allegations in Paragraphs 1 through 16 of the Counterclaim as though fully set forth herein.

18. F&P admits the allegations in Paragraph 18 of the Counterclaim.

19. F&P admits the allegations of Paragraph 19 as to Fisher & Paykel Healthcare Limited and ResMed Corp. F&P denies the remaining allegations in Paragraph 19 of the Counterclaim.

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1 32. Fisher & Paykel Healthcare Limited admits that it has alleged that
2 ResMed Corp has directly infringed, contributed to infringement of, and
3 induced infringement of the '741 Patent. F&P denies the remaining allegations
4 in Paragraph 32 of the Counterclaim.

5 33. F&P denies the allegations in Paragraph 33 of the Counterclaim.

6 34. F&P denies the allegations in Paragraph 34 of the Counterclaim.

7 **FOURTH CLAIM FOR RELIEF**

8 35. In response to Paragraph 35 of the Counterclaim, F&P incorporates
9 by reference its answers to the allegations in Paragraphs 1 through 34 of the
10 Counterclaim as though fully set forth herein.

11 36. F&P admits the allegations in Paragraph 36 of the Counterclaim.

12 37. F&P admits the allegations of Paragraph 37 as to Fisher & Paykel
13 Healthcare Limited and ResMed Corp. F&P denies the remaining allegations in
14 Paragraph 37 of the Counterclaim.

15 38. Fisher & Paykel Healthcare Limited admits that it has alleged that
16 ResMed Corp has directly infringed, contributed to infringement of, and
17 induced infringement of the '741 Patent. F&P denies the remaining allegations
18 in Paragraph 38 of the Counterclaim.

19 39. F&P denies the allegations in Paragraph 39 of the Counterclaim.

20 40. F&P denies the allegations in Paragraph 40 of the Counterclaim.

21 **FIFTH CLAIM FOR RELIEF**

22 41. In response to Paragraph 41 of the Counterclaim, F&P incorporates
23 by reference its answers to the allegations in Paragraphs 1 through 40 of the
24 Counterclaim as though fully set forth herein.

25 42. F&P admits the allegations in Paragraph 42 of the Counterclaim.

26 43. F&P admits the allegations of Paragraph 43 as to Fisher & Paykel
27 Healthcare Limited and ResMed Corp. F&P denies the remaining allegations in
28 Paragraph 43 of the Counterclaim.

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