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11 Attorneys for Plaintiffs

12
13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

15 FISHER & PAYKEL HEALTHCARE
16 LIMITED, a New Zealand corporation

17 Plaintiffs,

18 v.

19 RESMED CORP., a Minnesota corporation,

20 Defendant.

21
22 RESMED INC., a Delaware Corporation,
23 RESMED CORP, a Minnesota Corporation,
24 and RESMED LTD, an Australian
25 Corporation,

26 Counterclaimant,

27 v.
28

CASE NO: 16CV2068 GPC WVG

**ANSWER OF RESMED CORP
TO COMPLAINT FOR PATENT
INFRINGEMENT AND
COUNTERCLAIMS**

JURY TRIAL DEMANDED

1 FISHER & PAYKEL HEALTHCARE
2 CORPORATION LIMITED, a New Zealand
3 Corporation, FISHER & PAYKEL
4 HEALTHCARE LIMITED, a New Zealand
5 Corporation, FISHER & PAYKEL
6 HEALTHCARE INC., a California
7 Corporation, and FISHER & PAYKEL
8 HEALTHCARE DISTRIBUTION INC., a
9 California Corporation,

Counterclaim-Defendants.

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1 Defendant ResMed Corp (“ResMed Corp”) hereby files this Answer and
2 Affirmative Defenses in response to the Complaint for Patent Infringement filed by
3 Plaintiff Fisher & Paykel Healthcare Limited (“FPH”). In addition, ResMed Inc.,
4 ResMed Corp, and ResMed Ltd (collectively, “ResMed”) file Counterclaims against
5 Counterclaim-Defendants Fisher & Paykel Healthcare Corporation Limited, Fisher
6 & Paykel Healthcare Limited, Fisher & Paykel Healthcare Inc., and Fisher & Paykel
7 Healthcare Distribution Inc. (collectively, “F&P”) as follows:

8 ResMed Corp denies all allegations not expressly admitted herein.
9

10 **I. THE PARTIES**

11 1. On information and belief, ResMed Corp admits the allegations in
12 paragraph 1 of the Complaint.

13 2. ResMed Corp admits the allegations in paragraph 2 of the Complaint.
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15 **II. JURISDICTION AND VENUE**

16 3. ResMed Corp incorporates by reference its responses to paragraphs 1-2
17 as if repeated here verbatim.

18 4. On information and belief, ResMed Corp admits the allegations in
19 paragraph 4 of the Complaint.

20 5. On information and belief, ResMed Corp admits the allegations in
21 paragraph 5 of the Complaint.

22 6. ResMed Corp admits that the Complaint alleges a claim for patent
23 infringement arising under the Patent Laws of the United States. ResMed otherwise
24 denies the allegations in paragraph 6 of the Complaint.

25 7. ResMed Corp admits that this Court has subject matter jurisdiction
26 pursuant to 28 U.S.C. §§ 1331 and 1338(a).
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1 8. ResMed Corp admits that it is subject to personal jurisdiction in
2 California. ResMed Corp otherwise denies the allegations in paragraph 8 of the
3 Complaint.

4 9. ResMed Corp admits the allegations in paragraph 9 of the Complaint.

6 **III. THE PATENTS IN SUIT**

7 10. ResMed Corp admits that U.S. Patent 8,443,807 (“the ’807 Patent”) is
8 entitled “Breathing Assistance Apparatus.” ResMed Corp admits that the ’807
9 Patent issued on May 21, 2013 and that a copy of the ’807 Patent is attached to the
10 Complaint as Exhibit 1. ResMed Corp otherwise denies the allegations in paragraph
11 10 of the Complaint.

12 11. ResMed Corp admits that U.S. Patent 8,479,741 (“the ’741 Patent”) is
13 entitled “Breathing Assistance Apparatus.” ResMed Corp admits that the ’741
14 Patent issued on July 9, 2013 and that a copy of the ’741 Patent is attached to the
15 Complaint as Exhibit 2. ResMed Corp otherwise denies the allegations in paragraph
16 11 of the Complaint.

17 12. ResMed Corp admits that U.S. Patent 8,186,345 (“the ’345 Patent”) is
18 entitled “Apparatus for Supplying Gases to a Patient.” ResMed Corp admits that the
19 ’345 Patent issued on May 29, 2012 and that a copy of the ’345 Patent is attached to
20 the Complaint as Exhibit 3. ResMed Corp otherwise denies the allegations in
21 paragraph 12 of the Complaint.

22 13. ResMed Corp admits that U.S. Patent 8,453,641 (“the ’641 Patent”) is
23 entitled “Apparatus for Measuring Properties of Supplied Gases to a Patient.”
24 ResMed Corp admits that the ’641 Patent issued on June 4, 2013 and that a copy of
25 the ’641 Patent is attached to the Complaint as Exhibit 4. ResMed Corp otherwise
26 denies the allegations in paragraph 13 of the Complaint.

27 14. ResMed Corp admits that U.S. Patent 9,265,902 (“the ’902 Patent”) is
28 entitled “Apparatus for Measuring Properties of Gases Supplied to a Patient.”

1 ResMed Corp admits that the '902 Patent issued on February 23, 2016 and that a
2 copy of the '902 Patent is attached to the Complaint as Exhibit 5. ResMed Corp
3 otherwise denies the allegations in paragraph 14 of the Complaint.

4 15. ResMed Corp admits that U.S. Patent 8,550,072 (“the '072 Patent”) is
5 entitled “Apparatus for Delivering Humidified Gases.” ResMed Corp admits that
6 the '807 Patent issued on October 8, 2013 and that a copy of the '072 Patent is
7 attached to the Complaint as Exhibit 6. ResMed Corp otherwise denies the
8 allegations in paragraph 15 of the Complaint.

9 16. ResMed Corp admits that U.S. Patent 8,091,547 (“the '547 Patent”) is
10 entitled “Apparatus for Delivering Humidified Gases.” ResMed Corp admits that
11 the '547 Patent issued on January 10, 2012 and that a copy of the '547 Patent is
12 attached to the Complaint as Exhibit 7. ResMed Corp otherwise denies the
13 allegations in paragraph 16 of the Complaint.

14 17. ResMed Corp admits that U.S. Patent 7,111,624 (“the '624 Patent”) is
15 entitled “Apparatus for Delivering Humidified Gases.” ResMed Corp admits that
16 the '624 Patent issued on September 26, 2006 and that a copy of the '624 Patent is
17 attached to the Complaint as Exhibit 8. ResMed Corp otherwise denies the
18 allegations in paragraph 17 of the Complaint.

19 18. ResMed Corp admits that U.S. Patent 6,398,197 (“the '197 Patent”) is
20 entitled “Water Chamber.” ResMed Corp admits that the '197 Patent issued on June
21 4, 2002 and that a copy of the '197 Patent is attached to the Complaint as Exhibit 9.
22 ResMed Corp otherwise denies the allegations in paragraph 18 of the Complaint.

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