C	ase 3:16-cv-02072-JLS-MDD Document 1 File	d 08/16/16 F	PageID.1	Page 1 of 65
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11	Attorneys for Plaintiffs			
12	IN THE UNITED STATES DISTRICT COURT			
13	FOR THE SOUTHERN DISTRICT OF CALIFORNIA			
14	RESMED INC., a Delaware Corporation,	CASE NO: '16CV2072 JAH MDD		
15	RESMED CORP, a Minnesota Corporation, and RESMED LTD, an Australian	<b>COMPLAINT FOR PATENT</b>		
16	Corporation,	INFRINGEMENT		
17	Plaintiffs,	JURY TRI	AL DEM	IANDED
18	V.			
19	FISHER & PAYKEL HEALTHCARE			
20	CORPORATION LIMITED, a New Zealand			
21	Corporation, FISHER & PAYKEL HEALTHCARE LIMITED, a New Zealand			
22	Corporation, FISHER & PAYKEL			
23	HEALTHCARE INC., a California Corporation, FISHER & PAYKEL			
24	HOLDINGS INC., a California Corporation,			
25	and FISHER & PAYKEL HEALTHCARE DISTRIBUTION INC., a California			
26	Corporation			
27	Defendants.			
28				

**DOCKET A L A R M** Find authenticated court documents without watermarks at <u>docketalarm.com</u>. Plaintiff ResMed Inc, Plaintff ResMed Corp., and Plaintiff ResMed Ltd
 hereby complains of Defendant Fisher & Paykel Healthcare Corporation Limited,
 Defendant Fisher & Paykel Healthcare Limited, Defendant Fisher & Paykel
 Healthcare Inc., Defendant Fisher & Paykel Holdings Inc., and Fisher & Paykel
 Healthcare Distribution Inc. and alleges as follows:

#### PARTIES

 Plaintiff ResMed Inc. is a corporation organized under the laws of the state of Delaware with its principal place of business in this district in San Diego, California.

Plaintiff ResMed Corp is a corporation organized under the laws of the
 state of Minnesota with its principal place of business in this district in San Diego,
 California.

3. Plaintiff ResMed Ltd is a corporation organized under the laws ofAustralia, having its principal place of business in Bella Vista, New South Wales,Australia.

16 4. ResMed Corp and ResMed Ltd are, respectively, direct and indirect
17 subsidiaries of ResMed Inc.

18 5. As used herein, the term "Plaintiffs" or "ResMed" means individually
19 and/or collectively ResMed Inc., ResMed Corp, and ResMed Ltd.

6. On information and belief, Defendant Fisher & Paykel Healthcare
Corporation Limited ("F&P Healthcare Corp. Ltd") is a corporation organized under
the laws of the country of New Zealand and is the overall parent company of Fisher
& Paykel Healthcare entities.

7. On information and belief, F&P Healthcare Corp. Ltd has its principal
place of business at 15 Maurice Paykel Place, East Tamaki, Auckland 2013, New
Zealand.

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On information and belief, Defendant Fisher & Paykel Healthcare 8. 1 Limited ("F&P Healthcare Ltd") is a New Zealand subsidiary of F&P Healthcare 2 Corp. Ltd. 3

9. On information and belief, F&P Healthcare Ltd is a corporation organized under the laws of the country of New Zealand.

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10. On information and belief, F&P Healthcare Ltd has its principal place of business at 15 Maurice Paykel Place, East Tamaki, Auckland 2013, New Zealand.

On information and belief, Defendant Fisher & Paykel Holdings Inc. 11. ("F&P Holdings Inc.") is a U.S. subsidiary of F&P Healthcare Corp. Ltd.

On information and belief, F&P Holdings Inc is a corporation 10 12. organized under the laws of the state of California.

On information and belief, F&P Holdings Inc. is a corporation with its 13. principal place of business at 15365 Barranca Parkway, Irvine, CA 92618.

On information and belief, Defendant Fisher & Paykel Healthcare Inc 14. ("F&P Healthcare Inc.") is a U.S. sales entity and subsidiary of F&P Holdings Inc.

15. On information and belief, F&P Healthcare Inc. is a corporation organized under the laws of the state of California.

16. On information and belief, F&P Healthcare Inc. is a corporation with its principal place of business at 15365 Barranca Parkway, Irvine, CA 92618.

On information and belief, Fisher & Paykel Healthcare Distribution 17. Inc. ("F&P Healthcare Dist.") is a U.S. distribution entity and subsidiary of F&P Holdings Inc.

23 18. On information and belief, F&P Healthcare Dist. is a corporation organized under the laws of the state of California. 24

25 19. On information and belief, F&P Healthcare Dist. is a corporation with its principal place of business at 15365 Barranca Parkway, Irvine, CA 92618. 26

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20. As used herein, the term "Defendants" or "F&P" means individually
 and/or collectively F&P Healthcare Corp. Ltd., F&P Healthcare Ltd., F&P Holdings
 Inc., F&P Healthcare Inc., and F&P Healthcare Dist.

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## JURISDICTION AND VENUE

21. This Court has subject matter jurisdiction over the claims pleaded herein under 28 U.S.C. §§ 1331 and 1338(a) because the actions below concern a federal question arising under the patent laws of the United States, including 35 U.S.C. § 271.

22. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), (c) and 1400(b) because, among other reasons, F&P is subject to personal jurisdiction in this judicial district and has committed acts of infringement in this judicial district or will imminently commit acts of infringement in this judicial district.

23. Upon information and belief, F&P has placed infringing products and/or will place infringing products into the stream of commerce by shipping those products into this judicial district and/or by knowing that such products would be shipped into this judicial district.

17 24. F&P's established distribution network distributes sleep-disordered
18 breathing treatment systems and products directly to customers located in this
19 district.

25. For those products soon to be released in the United States, F&P's established distribution network would distribute the sleep-disordered breathing treatment systems and directly to customers located in this district.

23 26. For example, upon information and belief, F&P is a manufacturer and
24 distributor of durable medical equipment, including systems and components thereof
25 for the treatment of sleep-disordered breathing, such as obstructive sleep apnea.

26 27. On information and belief, F&P develops, manufactures, and markets
27 sleep-disordered breathing treatment systems and components thereof that infringe
28 one or more claims of the Patents-in-Suit, as defined below.

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28. On information and belief, F&P's sleep-disordered breathing treatment
 systems and components thereof are manufactured, assembled, packaged, and/or
 tested outside of the United States.

29. On information and belief, F&P then imports the accused sleepdisordered breathing treatment systems and components thereof into the United States, sells them for importation, or sells them in the United States after importation.

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30. Upon information and belief, F&P distributes the products nationally, including in this district.

31. 10 By importing into the United States, shipping into, selling, offering to sell, and/or using products that infringe the patents-in-suit in this district, or by 11 inducing or causing those acts to occur, F&P has transacted and continues to 12 13 transact business and perform work and services in this district, has supplied and continues to supply services and things in this district, has caused and continues to 14 cause injury and damages in this district by acts and omissions in this district, and 15 has caused and continues to cause injury and damages in this district by acts or 16 omissions outside of this district while deriving substantial revenue from services or 17 18 things used or consumed within this district, and will continue to do so unless enjoined by this Court. 19

### THE PATENTS

32. ResMed Ltd is the owner by assignment of all right, title, and interest in and to United States Patent No. 8,944,061 patent entitled "Cushion To Frame Assembly Mechanism," (hereinafter "the '061 patent"), which was duly and legally issued on February 3, 2015.

33. The '061 patent is valid, enforceable, and currently in full force and effect. A copy of the '061 patent is attached as Exhibit A.

27 34. ResMed Inc. is the exclusive licensee of the '061 patent and has
28 exclusively sublicensed the patent to ResMed Corp., the U.S. sales subsidiary.

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