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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,
15 RESMED CORP, a Minnesota Corporation,
and RESMED LTD, an Australian
16 Corporation,

17 Plaintiffs,

18 v.

19 FISHER & PAYKEL HEALTHCARE
20 CORPORATION LIMITED, a New Zealand
Corporation, FISHER & PAYKEL
21 HEALTHCARE LIMITED, a New Zealand
Corporation, FISHER & PAYKEL
22 HEALTHCARE INC., a California
23 Corporation, FISHER & PAYKEL
24 HOLDINGS INC., a California Corporation,
25 and FISHER & PAYKEL HEALTHCARE
26 DISTRIBUTION INC., a California
Corporation

27 Defendants.
28

CASE NO: **'16CV2072 JAH MDD**

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

CASE NO.

1 Plaintiff ResMed Inc, Plaintiff ResMed Corp., and Plaintiff ResMed Ltd
2 hereby complains of Defendant Fisher & Paykel Healthcare Corporation Limited,
3 Defendant Fisher & Paykel Healthcare Limited, Defendant Fisher & Paykel
4 Healthcare Inc., Defendant Fisher & Paykel Holdings Inc., and Fisher & Paykel
5 Healthcare Distribution Inc. and alleges as follows:

6 **PARTIES**

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

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

13 3. Plaintiff ResMed Ltd is a corporation organized under the laws of
14 Australia, having its principal place of business in Bella Vista, New South Wales,
15 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.

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

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

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

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

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

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

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

12 13. 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.

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

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

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

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

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

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

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28

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

4 29. On information and belief, F&P then imports the accused sleep-
5 disordered breathing treatment systems and components thereof into the United
6 States, sells them for importation, or sells them in the United States after
7 importation.

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

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

20 THE PATENTS

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

25 33. The '061 patent is valid, enforceable, and currently in full force and
26 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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