

Bryan K. Churchill, OSB #960502  
**WILLIAMS, KASTNER & GIBBS PLLC**  
1515 SW Fifth Avenue, Suite 600  
Portland, OR 97201-5449  
Tel: (503) 228-7967  
Fax: (503) 222-7261  
Email: [bchurchill@williamskastner.com](mailto:bchurchill@williamskastner.com)

*Attorneys for Plaintiffs NORBIT US, Ltd. and  
SEAHORSE Geomatics, Inc.*

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

**NORBIT US, LTD., a Delaware corporation,  
and SEAHORSE GEOMATICS, INC., an  
Oregon corporation,**

Plaintiffs,

v.

**R2SONIC, LLC, a Delaware corporation,**

Defendant.

Case No.

**PLAINTIFFS' COMPLAINT FOR  
DECLARATORY JUDGMENT**

**28 U.S. Code § 1332**

**I. NATURE OF THE ACTION**

1. This is an action for a declaratory judgment of non-infringement arising under the patent laws of the United States, 35 U.S.C. § 1, et seq., and the Declaratory Judgment Act, 28 U.S.C. § 2201. Each of SEAHORSE Geomatics, Inc. ("SEAHORSE") and NORBIT US, Ltd. ("NORBIT") seeks relief because Defendant R2SONIC, LLC ("R2SONIC") has made clear

through its actions that it intends to assert at least one claim of United States Patent No. 10,132,924 (the “Patent-in-Suit”) (Exhibit A) which describes “[a] survey system that performs multiple measurement functions per multifrequency ping, the survey system including a multibeam echo sounder system installed on a water going vehicle.”

2. SEAHORSE is a vendor of NORBIT’S Wideband Multibeam Sonar equipment which employs a curved array sonar using the latest in analog and digital signal processing. SEAHORSE directly competes with R2SONIC.

3. Neither NORBIT (through sales or offers to sell NORBIT products) nor SEAHORSE has infringed, nor is the NORBIT equipment infringing, any claims of the Patents-in-Suit. Each of NORBIT and SEAHORSE, thus, seeks a declaratory judgment that, through its actions or through the normal, advertised and expected use of its products, services or technology, it has not infringed, induced others to infringe, or contributed to the infringement by others of any claim of the Patent-in-Suit.

4. This relief is appropriate because Defendant R2SONIC has alleged in this district that SEAHORSE and NORBIT infringe the Patents-in-Suit in part because of the ability of NORBIT to survey at benthic habitat with multiple frequencies of sonar in a single pass over any given swath.

5. In a Protest (a redacted copy of which is attached hereto as Exhibit B) lodged with the General Accounting Office (“GAO”), R2SONIC protested a U.S. Army Corps of Engineers’ (“USACE”) award of a contract to R2SONIC on the ground that R2SONIC was the only offeror capable of supplying an item with the specifications described in the solicitation upon which the USACE made the award. The Protest states, “[t]he Solicitation describes a sonar system that can

survey with multiple frequencies simultaneously. R2Sonic owns U.S. patent 10,132,924 which describes “[a] survey system that performs multiple measurement functions per multifrequency ping, the survey system including a multibeam echo sounder system installed on a water going vehicle.” This activity by R2SONIC, including R2SONIC’s claims and references to the NORBIT product, have placed a cloud over each of SEAHORSE and NORBIT and its products and have created a substantial, definite, concrete and immediate justiciable controversy between SEAHORSE and NORBIT, on one hand, and R2SONIC, on the other, over whether NORBIT’s products and services infringe any of claims of the Patent-in-Suit.

## **II. PARTIES**

6. Plaintiff NORBIT is a Delaware corporation with its principal place of business located at 292 King Daniel Lane, Goleta, California 93117.

7. Plaintiff SEAHORSE is an Oregon corporation with its principal place of business located at 2923 NE Broadway Street, Suite A, Portland, Oregon 97232.

8. Upon information and belief, Defendant R2SONIC is a Delaware corporation with its principal place of business located at 5307 Industrial Oaks Blvd., Suite 120, Austin, Texas 78735.

## **III. VENUE AND JURISDICTION**

9. This action arises under the United States patent laws and includes a request for declaratory relief under 28 U.S.C. §§ 2201 and 2202.

10. The U.S. District Court in the District of Oregon has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, and 1338, and 35 U.S.C. § 1, *et seq.* There is complete diversity

between the parties, and based on information and belief, the amount in controversy exceeds \$75,000, exclusive of costs and interest.

11. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) as a substantial part of the events giving rise to the claim occurred in Multnomah County, Oregon.

#### IV. FACTUAL BACKGROUND

12. The USACE issued a solicitation for bids on August 31, 2020, seeking “a new multibeam sonar and peripheral equipment that can mount on and integrate with” the Sea Ark 27’ VC Commander vessel and Universal Sonar Mount mounting system. As minimum specifications, the sonar array had to be able to project an under 1°x 1 beam at 400 kHz and 0.75° x 0.75° at 700 kHz. The Solicitation contemplated award to the “lowest price technically acceptable quote conforming to this request for quote.”

13. R2Sonic purports to own U.S. patent 10,132,924 (Exhibit A) which describes “[a] survey system that performs multiple measurement functions per multifrequency ping, the survey system including a multibeam echo sounder system installed on a water going vehicle.” It also has a patent pending with the United States Patent and Trademark Office (2019/0154827), based upon the same disclosure.

14. On September 14, 2020, the USACE made award of the Contract to SEAHORSE. SEAHORSE is not now, nor has been an authorized representative for R2Sonic. NORBIT has supplied all equipment proposed by SEAHORSE to fulfill the awarded Contract. The equipment SEAHORSE designated and the SEAHORSE delivered to USACE pursuant to the Contract was entirely equipment manufactured, supplied, and imported by NORBIT. All training to the USACE will be conducted either by NORBIT or SEAHORSE.

15. In response to the award of the Contract, R2SONIC filed a protest with the GAO alleging, *inter allia*, the following:

R2Sonic holds patents on the only sonar technology capable of using multiple frequencies at the same time. It has not licensed its technology. The only way that Seahorse could have proposed a sonar device conforming to the Solicitation's specifications was to propose R2Sonic's product or misrepresent to the Agency that it has the rights sell the government the solicited technology. This puts Seahorse between the devil and the deep blue sea. If Seahorse proposed R2Sonic's product, it did so without being an authorized representative for R2Sonic, violating the Solicitation's terms. But if it proposed a product complying with the Solicitation's specifications that was not an R2Sonic product, it is misrepresenting its intellectual property rights to the solicited technology.

The solicited technology is covered by R2Sonic's patent. Seahorse cannot have submitted a responsive quote. As a result, GAO should sustain this protest.

16. Neither SEAHORSE nor NORBIT nor any of NORBIT's products, services or technology infringe or have infringed, directly or indirectly, any claim of the Patent-in-Suit. However, R2SONIC's claims, allegations and statements directed to the benthic survey industry generally and to the USACE specifically have placed a cloud of uncertainty over NORBIT and its products. This uncertainty has created a substantial, definite, concrete, and immediate justiciable controversy between SEAHORSE and NORBIT and R2SONIC regarding the Patent-in-Suit. R2SONIC's actions demonstrate that it intends to assert the Patent-in-Suit against either of NORBIT or SEAHORSE, or NORBIT products. The Patent-in-Suit that has not yet been asserted in court against any NORBIT product or customer.

17. Accordingly, R2SONIC's statements and actions show that there is a substantial controversy between each of SEAHORSE and NORBIT and R2SONIC of sufficient immediacy and reality conferring jurisdiction upon this Court pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

**V. CAUSE OF ACTION: DECLARATORY JUDGMENT**

18. Plaintiffs reallege each of the allegations contained in Paragraphs 1 through 17 as if fully set forth herein.

19. Neither SEAHORSE nor NORBIT nor its products, services or technology have infringed, directly or indirectly, any claim of the Patent-in-Suit. For example, no NORBIT product includes “[a] survey system including a multibeam echo sounder having a single projector array and a single hydrophone array constructs a multi-signal message and deconstructs a corresponding multi-signal echo to substantially simultaneously perform multiple survey missions.”

20. A substantial, definite, concrete, and immediate justiciable controversy exists between a substantial controversy between each of SEAHORSE and NORBIT and R2SONIC with respect to whether either of SEAHORSE or NORBIT infringes any claim of the Patent-in-Suit.

21. Each of SEAHORSE and NORBIT seeks a declaration that it does not infringe any claim of the Patent-in-Suit.

**VI. PRAYER FOR RELIEF**

Plaintiffs pray for the following relief:

1. Declaratory judgment that neither SEAHORSE nor NORBIT infringes, directly nor indirectly, the Patent-in-Suit.
2. For attorneys’ fees and costs allowed by statute and/or applicable law; and
3. Such other and further relief as the Court deems just and equitable.

**VII. DEMAND FOR JURY TRIAL**

Each of NORBIT and SEAHORSE, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury on any issues so triable by right.

DATED this 21st day of October, 2020.

*s/ Bryan K. Churchill*

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Bryan K. Churchill, OSB #960502

**WILLIAMS, KASTNER & GIBBS PLLC**

1515 SW Fifth Avenue, Suite 600

Portland, OR 97201-5449

Tel: (503) 228-7967

Fax: (503) 222-7261

Email: [bchurchill@williamskastner.com](mailto:bchurchill@williamskastner.com)

Mark Lawrence Lorbiecki, (*pro hac vice pending*)

Sean D. Leake, (*pro hac vice pending*)

**WILLIAMS, KASTNER & GIBBS PLLC**

601 Union Street, Suite 4100

Seattle, WA 98101-2380

Tel: (206) 628-6600

Fax: (206) 628-6611

Email: [mlorbiecki@williamkastner.com](mailto:mlorbiecki@williamkastner.com)

[sleake@williamskastner.com](mailto:sleake@williamskastner.com)

*Attorneys for Plaintiffs*

*NORBIT US, Ltd. and SEAHORSE Geomatics, Inc.*