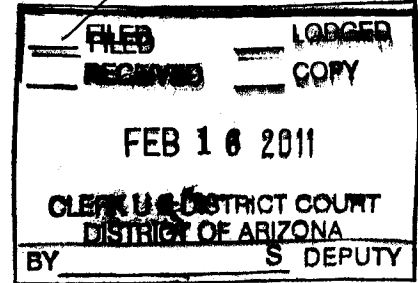


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Attorneys for Sound Design Technologies, Ltd.

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

SOUND DESIGN TECHNOLOGIES,
LTD.

Plaintiff,

v.

OTICON, INC.

Defendants.

CIV '11 031 1PHX
Civil Action No. _____

DKD

**SOUND DESIGN TECHNOLOGIES,
LTD.'S COMPLAINT FOR
DECLARATORY JUDGMENT OF
NON-INFRINGEMENT AND INVALIDITY
OF U.S. PATS. 5,365,233**

Plaintiff Sound Design Technologies, Ltd. ("Sound Design") alleges as follows for its
Complaint for Declaratory Judgment against Defendant Oticon, Inc. ("Oticon").

PARTIES

1. Plaintiff Sound Design is a corporation organized and existing under the laws of
Canada. Sound Design is headquartered in Burlington, Ontario, Canada and has design and
research and development facilities in Ottawa, Ontario, Canada.

2. On information and belief, Defendant Oticon is a California Corporation with its principal place of business located at 29 Schoolhouse Rd, Somerset, New Jersey.

JURISDICTION

3. Plaintiff Sound Design brings this action under Title 35 of the United States Code, and under 28 U.S.C. § 2201, to obtain a declaration of non-infringement and invalidity with respect to U.S. Patent No. 5,365,233 ("the '233 patent").

4. Because this action arises under the Patent Laws of the United States, this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Defendant Oticon. Defendant Oticon has regularly conducted business in and directed to Arizona, including, *inter alia*, operating at least eight "Hearing Care Centers" in Arizona¹, and conducting trade shows in Phoenix, Arizona as recently as 2010.

6. Defendant Oticon has previously sued Plaintiff Sound Design, on March 3, 2010 in the District Court for the District of New Jersey, Civil Action No. 8-cv-5489 alleging that Sound Design infringes the claims of the '233 patent. Sound Design has not yet answered in that case but instead, has filed a motion to dismiss for lack of personal jurisdiction. That motion is currently pending. Thus, a substantial controversy exists between the parties which is of sufficient immediacy and reality to warrant declaratory relief.

The Patent

7. The patent at issue in this litigation is U.S. Patent No. 5,365,233 entitled "Method for Digitizing a Band-Limited, Analog Signal, Analog-Digital Processing Unit to Implement the Method, a Method for Digital Filtering and a Filter for Its Implementation," purporting on its face to be issued on November 15, 1994.

¹ [http://hcl.oticonusa.com/\(S\(ipbi3xnwyph1kk2ud0hxyi55\)\)/viewMap.aspx](http://hcl.oticonusa.com/(S(ipbi3xnwyph1kk2ud0hxyi55))/viewMap.aspx)

8. Defendant Oticon claims to be the present assignee of the '233 patent by virtue of Defendant Oticon's assertion of the patent against, *inter alia*, Plaintiff Sound Design.

**COUNT I – DECLARATION OF NON-INFRINGEMENT
OF U.S. PATENT NO. 5,365,233**

9. Plaintiff Sound Design repeats and realleges the allegations of paragraphs 1-8 above as is fully set forth herein.

10. Plaintiff Sound Design has not infringed and does not infringe, directly or indirectly, literally or under the doctrine of equivalents any valid claim of the '233 patent.

**COUNT II – DECLARATION OF INVALIDITY
OF U.S. PATENT NO. 5,365,233**

11. Plaintiff Sound Design repeats and realleges the allegations of paragraphs 1-8 above as is fully set forth herein.

12. The claims of the '233 patent are invalid under one or more of 35 U.S.C. §§ 101, 102, 103, and/or 112.

PRAYER FOR RELIEF

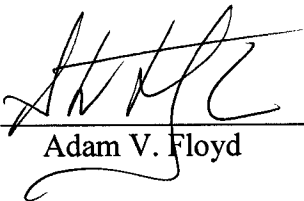
WHEREFORE, Plaintiff Sound Design respectfully requests that this Court:

- A. declare that Plaintiff Sound Design has not infringed and is not infringing any claims of the '233 patent;
- B. declare that the claims of the '233 patent are invalid;
- C. declare this case exceptional under 35 U.S.C. § 285 and award Plaintiff Sound Design its costs and reasonable attorney's fees; and
- D. award Plaintiff Sound Design such other and further relief as this Court may deem just and proper.

Dated: February 15, 2011

Respectfully Submitted,

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