

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**RELIEFBAND MEDICAL TECHNOLOGY,
LLC**, an Illinois limited liability corporation,

Plaintiff,

v.

**HYGEAN BIOTEK INTERNATIONAL,
INC.**, a California Corporation,

Defendant.

Civil Action No.: 08-cv-1971

Honorable Judge Ruben Castillo

JURY TRIAL DEMANDED

AMENDED COMPLAINT

Plaintiff ReliefBand Medical Technologies, LLC, by its undersigned attorneys, complains against defendant Hygean Biotek International, Inc. as follows:

NATURE AND STATUTORY BASIS OF ACTION

1. This action is for: (1) patent infringement under the Federal Patent Act (35 U.S.C. §§ 100, *et. seq.*); (2) false advertising and unfair competition under § 43(a) of the Lanham Act (15 U.S.C. § 1125(a)); (3) unfair competition and unjust enrichment under the common law of the State of Illinois; (4) deceptive trade practices under the laws of the State of Illinois, as provided for by 815 ILCS §§ 510/1, *et seq.*, and (5) consumer fraud under the laws of the State of Illinois, as provided for by 815 ILCS §§ 505/1, *et seq.*

THE PARTIES

2. Plaintiff ReliefBand Medical Technology, LLC (“ReliefBand”), d/b/a Neurowave Medical Technologies, LLC, is a limited liability company duly organized and existing under the laws of the State of Illinois, located and doing business at 200 E. Randolph Street, Suite 2200, Chicago, Illinois 60601. ReliefBand is engaged in the business of manufacturing, distributing,

and selling electro-acupuncture devices for the treatment of nausea throughout the United States and worldwide. ReliefBand acquired this business through an asset transfer from Woodside Biomedical, Inc., a subsidiary of Abbott Laboratories, Inc. (“Abbott”), on December 1, 2006. Before the acquisition of the business, Abbott and its predecessor had conducted the business since 1993.

3. On information and belief, defendant Hygean Biotek International, Inc. (“Hygean”) is a California corporation located at 44862 Osgood Road, Fremont, California 64539, and is engaged in the business of manufacturing, distributing, and selling purported nausea relief devices throughout the United States, including this district.

JURISDICTION AND VENUE

4. Subject matter jurisdiction is expressly conferred on this Court under 35 U.S.C. §§ 271 and 281, 15 U.S.C. §§ 1121 and 28 U.S.C. §§ 1331 and 1338(a) and the Court’s pendent and ancillary jurisdiction over state law claims.

5. Personal jurisdiction over Hygean is vested in this Court because Hygean has committed one or more of the acts complained herein within the United States and within this State and District pursuant to 735 ILCS §§ 5/2-201, *et seq.* In further support of jurisdiction, ReliefBand alleges as follows:

- a) Hygean committed tortious acts within the State of Illinois, and ReliefBand’s claims arise out of those tortious acts.
- b) Hygean has shipped and ships goods into the State of Illinois and this district, including the TravelMate 500 device, to a re-seller in Niles, Illinois, for the purpose of being re-sold and shipped to customers both in and out of Illinois from the Niles, Illinois facility.

- c) Approximately 70% of Hygean's dollar sales of the Travelmate 500 device were to Hygean's re-seller in Niles, Illinois.
- d) Hygean committed tortious acts outside of Illinois causing injury to ReliefBand within the Northern District of Illinois, and Hygean at all times relevant (i) regularly did or solicited business or derived substantial revenue from goods used or consumed or services rendered in the Northern District of Illinois or (ii) expected or should reasonably have expected the acts to have consequences in the Northern District of Illinois and derives substantial revenue from interstate or international commerce, and ReliefBand's claims arise out of those tortious acts.
- e) Hygean sells, distributes, and ships purported nausea relief devices nationwide, including in the Northern District of Illinois, over the Internet through its web-site www.healthdevice.com and through national retailers. *See Exhibits A and B.*
- f) Hygean's web-site, www.healthdevice.com, is a commercial website, where customers can directly purchase the infringing products from Hygean. *See Exhibit A.*

6. Venue is proper in the United States District Court for the Northern District of Illinois, Eastern Division, pursuant to 28 U.S.C. § 1391(b) and (c) because a substantial part of the activity complained of occurred in this district and Hygean is subject to personal jurisdiction herein. A majority of Hygean's sales were to a re-seller in the Northern District of Illinois.

BACKGROUND

7. ReliefBand manufactures, distributes, and sells nausea control devices. The ReliefBand device is a drug-free remedy worn like a bracelet for continuous relief from nausea due to a variety of reasons, for example, motion sickness, sea sickness, pregnancy morning sickness, chemotherapy and post-operative nausea.

8. The ReliefBand device uses gentle electrical signals to stimulate nerves in the wrist at what is known as the “P6 acupuncture point.” This wrist stimulation causes natural nerve impulses to travel up the arm into the spinal cord and brain. These natural nerve impulses interfere with the nausea messages going from the brain to the stomach. The ReliefBand device is a non-invasive device that is easy to use and has no drug-like side effects. The effects last as long as the device is worn on the wrist and electrically stimulates the P6 acupuncture point to restore and maintain normal stomach rhythm.

9. The ReliefBand device was the first “broad-spectrum” non-drug anti-nausea treatment, capable of treating nausea due to a variety of causes. In October 1998, the ReliefBand device received FDA clearance by prescription for the treatment of nausea and vomiting due to chemotherapy, pregnancy, and motion sickness. In February 1999, a version of the device was cleared for over-the-counter (OTC), non-prescription sale for the treatment of motion sickness. In December 1999, a version of the device was cleared as a non-invasive prescription treatment for reducing post-operative nausea when used as an adjunct to anti-emetic drugs.

10. On May 8, 2001, United States Patent No. 6,228,103 (“the ‘103 Patent”), entitled “Automatically Modulating Acupressure Device,” was duly and legally issued. A true copy of the ‘103 Patent is attached to this Complaint as Exhibit C and is incorporated herein by reference.

11. The '103 Patent was duly and legally assigned to ReliefBand as assignee on December 1, 2006, and since that date, ReliefBand has been the owner of this patent. The assignment was duly recorded with the United States Patent and Trademark Office ("USPTO") on February 27, 2007.

12. On July 10, 2007, United States Trademark Registration No. 3,260,073 for the mark RELIEFBAND for "medical device, namely, a wristband for the prevention and treatment of nausea," was registered on the Principal Register of the USPTO.

13. The RELIEFBAND trademark was duly and legally assigned to ReliefBand as assignee on December 1, 2006, and, since that date, ReliefBand has continuously used the RELIEFBAND trademark in interstate commerce. The RELIEFBAND registration is in full force and effect. ReliefBand uses the trademark registration symbol "®" in association with the RELIEFBAND trademark. A true and correct copy of the registration certificate for the RELIEFBAND trademark is attached as Exhibit D and is incorporated herein by reference.

14. Since as early as 1993 until 2006, ReliefBand's predecessors-in-interest expended substantial time, effort and money in advertising, promoting and marketing goods sold under or in connection with the RELIEFBAND trademark, throughout the United States and in foreign countries. Since acquiring the RELIEFBAND trademark and the business related thereto, ReliefBand has initiated marketing efforts with respect to the RELIEFBAND products. In addition, laudatory articles about ReliefBand's products have appeared in journals, magazines, and newspapers. As a result of such extensive use and advertising, the RELIEFBAND trademark has acquired valuable goodwill and is recognized as identifying goods provided exclusively by ReliefBand. The RELIEFBAND trademark and the goodwill represented thereby are valuable and important assets of ReliefBand.

15. ReliefBand and its predecessors-in-interest have sold in excess of 1 million nausea relief devices worldwide under the RELIEFBAND trademark. As a result, the RELIEFBAND trademark is famous among the purchasing public and trade as denoting ReliefBand as the source of high-quality nausea relief devices and, in particular, the devices which are the subject matter of this case.

16. As a result of the widespread and continuous use and promotion of the RELIEFBAND trademark, the RELIEFBAND trademark has achieved fame and distinctiveness, is widely known and recognized as a source-identifier for the goods in issue and serves to distinguish these goods from those of others.

17. Hygean manufactures, distributes and sells purported nausea relief devices that compete directly with the RELIEFBAND device, including the TravelMate 500 device, which is also identified as the TravelMate 200 device. On information and belief, Hygean also manufactures and is preparing to distribute, market and sell the TravelMate 700 device in the United States. The TravelMate 500 device and TravelMate 700 device are hereinafter collectively referred to as the “TravelMate Devices.”

18. Hygean began advertising and marketing the TravelMate 500 device through the Internet on its web-site www.healthdevice.com, as well as through third-party re-sellers such as www.amazon.com and www.promolife.com. See Exhibits A and B.

19. The text of the advertising appearing on the www.healthdevice.com web-site (“the Advertising Copy”) has contained false or misleading descriptions or representations of fact about the TravelMate 500 device, for example:

- a) “The TravelMate uses ... electrostatic pulses TravelMate gently stimulates nerves inside the left wrist known to affect the nerves stimulation [sic] the stomach and the brain.”
- b) “Clinical trials conducted at the Guangzhou University show that 70% of participants experienced relief after 30 minutes of wearing the TravelMate.”
- c) “The TravelMate uses advanced technology to stimulate the P6 nerve on the inside of your left wrist.”
- d) “Unlike the ReliefBand, the TravelMate does not cause tingling or pain – it is entirely pain free and has clinically proven efficacy.”
- e) “Discrete and painless motion sickness relief thanks to its advanced electrostatic pulsation technology”
- f) “Accurate & reliable measurement due to advanced sensor technology.”
- g) “TravelMate provides motion sickness relief by painless stimulation of the P6 nerve, situated between the 2 tendons under your left wrist. This stimulation has been shown to affect the nerves between the stomach and the brain, reducing nausea, dizziness and other motion sickness relief symptoms.”

See Exhibit A. These statements are literally false and/or materially misleading.

20. As of the date of the filing of the Amended Complaint, the www.healthdevice.com web-site contained false or misleading descriptions or representations of fact about the TravelMate 500 device, for example:

- a) “The TravelMate uses ... electrostatic field TravelMate gently stimulates nerves inside your wrist to decrease the activity of the sympathetic nerve system not to over react to the environment and cause the symptoms of motion sickness.”
- b) “Clinical trials conducted at the Guangzhou University show that 70% of participants experienced relief after 30 minutes of wearing the TravelMate.”
- c) “The TravelMate uses advanced technology to stimulate the P6 nerve on the inside of your wrist.”
- d) “The TravelMate uses a drugless process which (sic) to decrease the activity of the sympathetic nerve system not to over react to the environment and cause the symptoms of motion sickness.”
- e) “The TravelMate has clinically proven efficacy.”
- f) “Discrete motion sickness relief thanks to its advanced electrostatic field”
- g) “TravelMate provides motion sickness relief by stimulation of the P6, situated between the 2 tendons under your wrist. This stimulation has been shown to decrease the activity of the sympathetic nerve system not to over react to the environment and cause the symptoms of motion sickness.”

See Exhibit E. These statements are literally false and/or materially misleading.

21. Similar false and/or misleading advertising also appears on numerous third party web-sites, including www.amazon.com (product provided by Helio Health),

www.healdirect.com (HealDirect.com), www.promolife.com (Promolife), www.sportys.com (Sporty's Pilot Shop), and www.unbeatable.com (collectively, Exhibit B). This false and misleading advertising for the TravelMate 500 device appearing on the third-party web-sites emanated from or was caused by Hygean. At various times, the third-party web-sites have contained and still contain additional false or misleading descriptions or representations of fact about the TravelMate 500 device, for example:

- a) On www.promolife.com:
 - i. "The Popular Explorer Motion Relief Band is no longer available [The TravelMate] device emits a low-level electrical current across two small electrodes on its underside."
 - ii. "The TravelMate device is the first patented, commercially available Nausea-Vomiting device to reach the clinical marketplace."
 - iii. "Signals pulse rate every 2-3 seconds."
 - iv. "It is a patented, electronic medical device that provides drug free, non-invasive relief from nausea and vomiting due to motion sickness. It relieves the symptoms by gently stimulating nerves in the underside of the wrist."
 - v. "Specially engineered electrical pulse frequency and waveform. The TravelMate Motion Sickness device electrical signal has been designed to provide a reduction in nausea and vomiting with minimum side effects."

- vi. “Proven electrode design. Provides reliable current delivery to key nerves in a variety of patient wrist sizes and body weights.”
- vii. “The TravelMate is a Class II Medical device.”
- b) On www.unbeatable.com: “A clinically-tested device proven to get rid of motion sickness... [t]hrough the nerve stimulation points on the wrist.”

See Exhibit B. These statements are literally false and/or materially misleading.

22. The TravelMate 500 Device is packaged with a User Guide. The user guide contains false and misleading statements, for example:

- a) “The device gently stimulates the median nerves on the inside of the wrist through gentle electrostatic pulses. These median nerves (called P6 or Point 6 – Neiguan in acupuncture) have been shown to affect the nerve stimulation between the brain and the stomach.”
- b) “Stimulation method: Electrostatic Field.”
- c) “The TravelMate has been found to comply with the following safety requirements: IEC 601-1-2 /AS/NZS 3200.1.2.”
- d) “The TravelMate is CE certified.”

23. The TravelMate 700 Device is packaged with a User Guide and an Instruction Manual. The guide and manual contain false and misleading statements, for example:

- a) “A study was conducted in 1993 by the Southern Medical University and Guangzhou University of Chinese Medicine. A total of 120 subjects with reported motion sickness history used TravelMate on a trip. All subjects started wearing the device 30 minutes prior to boarding. At the end of the

trip, 23 subjects (19.2%) experienced no nausea and no discomfort. 80 subjects (70.8%) felt major improvements (significant reduction of nausea) and 12 subjects (10%) still suffered from the symptoms. The study concluded that TravelMate is 90% effective in the relief of motion sickness.”

- b) “The TravelMate is designed to help improve sleepiness as well as sleep quality and length. The electrostatic pulses and vibration act specifically on acupoints as suggested by Traditional Eastern Medicine, known to alleviate stress and sleep better. A double blind study showed that stimulating the acupressure point P6 may increase deep sleep up to 14% and extend the total sleeping time by up to 78 minutes. The combination of electrostatic pulses and vibration may also promote blood circulation.”
- c) “The TravelMate aims at being a drug free solution to sleeplessness and/or frequent awakening during the sleep cycle.”
- d) “The TravelMate stimulates the median nerves on the inside of the wrist through gentle electrostatic pulses and adjustable vibration. The median nerves (P6 or Point 6 Neiguan in acupuncture) have been shown to affect the nerve stimulation for relaxation.”
- e) “The device releases the electrostatic pulses through a window located under the device.”
- f) “The TravelMate has been found to comply with the following safety requirements: IEC 601-1-2 /AS/NZS 3200.1.2.”
- g) “The TravelMate is CE certified.”

24. Hygean has claimed that its TravelMate 500 device is a Class II medical device. *See*, www.promolife.com (Exhibit B). Hygean now admits that the TravelMate 500 device is not a Class II medical device and is not approved by the FDA. But the claims made by Hygean as to the benefits of the TravelMate 500 device require FDA approval, including relief of motion sickness, sea sickness, altitude sickness and nausea. *See, e.g.*, www.healdirect.com (Exhibit B).

25. The TravelMate 500 device contains no mechanical or electrical parts that can transmit electrical stimulation to the P6 acupuncture point or “nerve.” Rather, the TravelMate 500 device merely contains a common (non-proprietary) watch battery and an LED bulb that lights to show the battery still has power. Further, the TravelMate 500 device does not create “electrostatic pulses” to stimulate any nerves, has no advanced sensor technology, has no electrodes on its underside, is not patented in the United States, has no specially engineered electrical pulse frequency or waveform, is not a Class II medical device, is not approved by the FDA, and, on information or belief, is not clinically tested and has no clinically proven efficacy. The TravelMate 700 device contains no mechanical or electrical parts that can transmit electrical stimulation to the P6 acupuncture point or “nerve,” does not create “electrostatic pulses” to stimulate any nerves, and, on information or belief, is not clinically tested and has no clinically proven efficacy.

26. The use of these materially false or misleading descriptions of fact and/or representations of fact by Hygean as to the nature, characteristics and quality of both the TravelMate Devices and the RELIEFBAND device has had, or will have, an impact on ReliefBand’s customers’ and consumers’ purchasing decisions, through the diversion of sales, causing them to purchase the TravelMate Devices rather than the RELIEFBAND device, thereby resulting in irreparable injury to ReliefBand. Because the TravelMate Devices fail to function as

advertised, ReliefBand and its products have suffered, or will suffer, injury to their goodwill and reputation.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 6,228,103

27. ReliefBand incorporates the allegations of the foregoing paragraphs 1-26 as if fully set forth herein.

28. This count is based on patent infringement and arises under the Patent Laws of the United States, 35 U.S.C. §§ 100, *et seq.*

29. On information and belief, Hygean has been and is still infringing the '103 patent, including contributing to the infringement of and/or inducing others to infringe the '103 patent, by making, using, selling and/or offering for sale nausea relief devices covered by the claims of the '103 patent, including, but not limited to, Hygean's TravelMate 500 device. On information and belief, Hygean will continue to infringe the '103 patent unless enjoined by this court.

30. By reason of the aforesaid acts of infringement, ReliefBand has been, still is, and will continue to be irreparably harmed by Hygean's infringement. ReliefBand has no adequate remedy at law for Hygean's acts and conduct alleged herein. Unless Hygean is preliminarily and permanently enjoined, ReliefBand will continue to suffer irreparable harm.

31. On information and belief, Hygean's infringement has taken place with full knowledge of the '103 patent and, therefore, has been and is intentional, deliberate and willful.

COUNT II
FALSE ADVERTISING - VIOLATION OF LANHAM ACT

32. ReliefBand incorporates the allegations of the foregoing paragraphs 1 – 26 as if fully set forth herein.

33. Hygean has violated section 43(a)(1)(B) of the Lanham Act (15 U.S.C. § 1125(a)(1)) by using in commerce, in connection with goods, false or misleading descriptions of fact and representations of fact as described above in commercial advertising or promotion, which misrepresent the nature, characteristics, and qualities of its own goods, namely the TravelMate 500 device.

34. Hygean has violated section 43(a)(1)(B) of the Lanham Act (15 U.S.C. § 1125(a)(1)) by using in commerce, in connection with goods, false or misleading descriptions of fact and representations of fact as described above in commercial advertising or promotion, which misrepresent the nature, characteristics, and qualities of ReliefBand's goods, namely the RELIEFBAND device.

35. Hygean has knowingly and willfully caused its Advertising Copy containing the false and misleading statements and representations as described above to be disseminated in interstate commerce.

36. Hygean's knowing and willful misleading descriptions of fact and misrepresentations of fact, omissions, and deceptive advertising and promotion as described above have caused damage to ReliefBand in an amount to be proved at the time of trial, including, but not limited to, Hygean's profits, ReliefBand's actual damages, equitable damages including unjust enrichment, plus the costs of this litigation including reasonable attorneys' fees. 15 U.S.C. § 1117(a).

37. Hygean's knowing and willful false and deceptive advertising and promotion as described above is not mere puffery, is material, and has actually deceived and has the capacity to continue to deceive, a substantial segment of the advertising audience.

38. Hygean's knowing and willful false and deceptive advertising and promotion as described above have influenced and will likely continue to influence the purchasing decisions of persons to whom Hygean has advertised and advertises.

39. Hygean has profited from its false and deceptive advertising and promotion described above and will continue to profit from it.

40. Hygean has willfully engaged in the false and deceptive advertising and promotion and unfair competition as described above, knowing its actions to be deceptive.

41. By reason of the aforesaid acts, ReliefBand has been, still is, and will continue to be irreparably harmed. ReliefBand has no adequate remedy at law for Hygean's wrongful acts and conduct alleged herein. Unless Hygean is preliminarily and permanently enjoined, ReliefBand will continue to suffer irreparable harm.

COUNT III
UNJUST ENRICHMENT

42. ReliefBand incorporates the allegations of the foregoing paragraphs 1 – 26 as if fully set forth herein.

43. Hygean has been unjustly enriched by its false and misleading advertising, promotion and representations as described above in an amount to be proved at time of trial, including but not limited to, the profits it received from the sale of nausea relief devices, which profits would otherwise have been earned by ReliefBand and which profits it should be required to disgorge.

COUNT IV
VIOLATION OF ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT

44. ReliefBand incorporates the allegations of the foregoing paragraphs 1 – 26 as if fully set forth herein.

45. Hygean's unlawful conduct and false advertising constitute unfair competition, deceptive business practices and false and misleading representations of fact, that mislead, deceive and damage in violation of the Consumer Fraud and Deceptive Business Practices Act of the Illinois Compiled Statutes (815 ILCS 505/1 *et seq.*). Hygean intended that consumers rely on its false advertising. Hygean's false and misleading advertising was directed toward the market generally and/or implicate consumer protection concerns.

46. Hygean's actions in publishing the false advertising were willful and wanton.

47. Because of Hygean's false advertising concerning its purported nausea relief device, ReliefBand has suffered and will continue to suffer irreparable harm unless Hygean is preliminarily and permanently restrained from such conduct. ReliefBand has no adequate remedy at law.

48. Because of Hygean's acts, ReliefBand has suffered damages, and Hygean has been unjustly enriched.

COUNT V
VIOLATION OF ILLINOIS DECEPTIVE TRADE PRACTICES ACT

49. ReliefBand incorporates the allegations of the foregoing paragraphs 1 – 26 as if fully set forth herein.

50. On information and belief, Hygean misrepresents that its goods are FDA-approved; Hygean disparages the goods, services and business of ReliefBand by false or misleading representations of fact; and Hygean engages in false advertising that creates misunderstanding by misleading representations of fact. Hygean's unlawful conduct and false advertising constitute unfair competition, deceptive business practices and false and misleading representations of fact, that mislead, deceive and damage in violation of the Illinois Deceptive Trade Practices Act of the

Illinois Compiled Statutes (815 ILCS 510/1 et seq.). Hygean's actions in publishing the false advertising were willful and wanton.

51. Because of Hygean's false advertising concerning its nausea relief device, ReliefBand has suffered and will continue to suffer irreparable harm unless Hygean is preliminarily and permanently restrained from such conduct. ReliefBand has no adequate remedy at law.

52. Because of Hygean's acts, ReliefBand has suffered damages, and Hygean has been unjustly enriched.

COUNT VI
ILLINOIS COMMON LAW UNFAIR COMPETITION

53. ReliefBand incorporates the allegations of the foregoing paragraphs 1 – 26 as if fully set forth herein.

54. Hygean's unlawful, willful, and wanton conduct and false advertising constitute unfair competition under the common law of the State of Illinois.

55. Because of Hygean's false advertising concerning its purported nausea relief devices, ReliefBand has suffered and will continue to suffer irreparable harm unless Hygean is preliminarily and permanently restrained from such conduct. ReliefBand has no adequate remedy at law.

56. Because of Hygean's acts, ReliefBand has suffered damages and Hygean has been unjustly enriched.

JURY DEMAND

Plaintiff, RELIEFBAND MEDICAL TECHNOLOGY, LLC, demands a trial by jury on all matters and issues triable by jury.

PRAYER FOR RELIEF

WHEREFORE, ReliefBand prays that:

A. This Court enter a judgment in favor of ReliefBand and against Hygean for infringement of the '103 patent; false advertising in violation of section 43(a)(1)(B) of the Lanham Act; unfair competition and unfair or deceptive acts or practices of false advertising in violation of 815 ILCS 505/1, *et seq.*, 815 ILCS 510/1, *et seq.* and Illinois common law;

B. This Court preliminarily and permanently enjoin Hygean, its officers, directors, agents, servants, employees, successors, assigns, parent, subsidiaries, affiliated or related companies, attorneys and all those controlled by, or in active concert or participation with Hygean, from:

- i. infringing, inducing others to infringe, and/or contributing to the infringement of the '103 patent, and
- ii. disseminating any advertising or promotional materials containing any false or misleading descriptions of fact and/or false or misleading representations of fact concerning the nature, characteristics or qualities of Hygean's TravelMate Devices or the RELIEFBAND device;

C. This Court order Hygean to pay ReliefBand its actual damages and to account for and pay over to ReliefBand all gains, profits and advantages derived by it from its infringement, false advertising, unfair competition and other unlawful acts;

D. This Court order Hygean to issue corrective advertising and literature or to pay ReliefBand an amount sufficient to issue corrective advertising to correct false advertising caused by Hygean, and this Court order Hygean to send a complete copy of the order setting

forth the relief requested herein to each and every distributor or customer who received a TravelMate device;

E. This Court award increased damages to fully compensate ReliefBand and punitive damages for the willful and wanton nature of Hygean's aforesaid wrongful acts;

F. This Court order Hygean to pay interest, costs and reasonable attorneys' fees to ReliefBand; and

G. This Court grant ReliefBand such other and further relief as the Court deems just.

Respectfully submitted,

Dated: June 3, 2008

By: /s/Marshall J. Schmitt

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CERTIFICATE OF SERVICE

I, Gretchen M. Hosty, an attorney of record in this matter, certify that on June 3, 2008, I caused a copy of the following document:

AMENDED COMPLAINT

to be served on the defendant by e-mail delivery and United States mail, first-class postage pre-paid:

David Chen
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Fremont, CA 64539

/s/Gretchen M. Hosty
Gretchen M. Hosty