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8 Attorneys for Plaintiff,  
 SOUND DESIGN TECHNOLOGIES, LTD.

10 UNITED STATES DISTRICT COURT  
 11 DISTRICT OF ARIZONA

13 SOUND DESIGN TECHNOLOGIES, LTD.,  
 14 Plaintiff,  
 15 v.  
 16 OTICON, INC.,  
 17 Defendant.

Case No. \_\_\_\_\_

**SOUND DESIGN TECHNOLOGIES,  
 LTD.’S COMPLAINT FOR  
 DECLARATORY JUDGMENT OF  
 NON-INFRINGEMENT AND  
 INVALIDTY OF U.S. PAT. 5,365,233**

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

21 **PARTIES**

22 1. Plaintiff Sound Design is a corporation organized and existing under the laws of  
 23 Canada. Sound Design is headquartered in Burlington, Ontario, Canada and has design and  
 24 research and development facilities in Ottawa, Ontario, Canada.  
 25

26 2. On information and belief, Defendant Oticon is a California Corporation with its  
 27 principal place of business located at 29 Schoolhouse Rd, Somerset, New Jersey.  
 28

**JURISDICTION**

1  
2 3. Plaintiff Sound Design brings this action under Title 35 of the United States Code,  
3 and under 28 U.S.C. § 2201, to obtain a declaration of non-infringement and invalidity with  
4 respect to U.S. Patent No. 5,365,233 (“the ‘233 patent”).

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

7  
8 5. This Court has personal jurisdiction over Defendant Oticon. Defendant Oticon has  
9 regularly conducted business in and directed to Arizona, including, *inter alia*, operating at least  
10 eight “Hearing Care Centers” in Arizona<sup>1</sup>, and conducting trade shows in Phoenix, Arizona as  
11 recently as 2010.

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

18  
19 **The Patent**

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

24  
25 8. Defendant Oticon claims to be the present assignee of the ‘233 patent by virtue of  
26 Defendant Oticon’s assertion of the patent against, *inter alia*, Plaintiff Sound Design.

27  
28 <sup>1</sup> [http://hcl.oticonusa.com/\(S\(ipbi3xnwyph1kk2ud0hxyi55\)\)/viewMap.aspx](http://hcl.oticonusa.com/(S(ipbi3xnwyph1kk2ud0hxyi55))/viewMap.aspx)

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**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.

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Dated: July 11, 2011

**F&B LLP**

By: /s/ Matthew S. Wermager

Adam V. Floyd

Matthew S. Wermager

Attorneys for Plaintiff, Sound Design  
Technologies, Ltd.