

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

_____)	
JOHNSON OUTDOORS INC. and)	
JOHNSON OUTDOORS MARINE)	
ELECTRONICS, INC.)	
)	Case No. 2:10-CV-67-WKW-CSC
Plaintiffs,)	
)	JURY DEMAND
v.)	
)	
NAVICO, INC. and)	
SPORTSMAN’S OUTFITTERS, L.L.C.)	
)	
Defendant.)	
_____)	

**DEFENDANT NAVICO, INC.’S ANSWER AND DEFENSES TO PLAINTIFFS’
COMPLAINT FOR PATENT INFRINGEMENT**

Defendant Navico, Inc. (“Navico”) hereby files this Answer, Defenses and Counterclaims to Plaintiffs Johnson Outdoors, Inc. (“Johnson Outdoors, Inc.”) and Johnson Outdoors Marine Electronics, Inc. (“Humminbird”) (collectively “Johnson Outdoors” or “Plaintiffs”) Complaint against Navico and Sportsman’s Outfitters, L.L.C. (“Sportsman’s Outfitters”) filed January 26, 2010, Docket No. 1.

Navico objects to Johnson Outdoors’ use of argumentative headings in its Complaint. Navico therefore omits these argumentative headings from its Answer below. Subject to this objection, Navico responds to Johnson Outdoors as follows:

Nature of the Action

1. This is an action against Navico, Inc. and Sportsman’s Outfitters, L.L.C. for patent infringement.

RESPONSE: Admitted.

2. In the early 2000s, Humminbird employees invented a new system, to be mounted to a boat, employing side scan sonar beams to locate fish and underwater structures, and to display them in detailed and recognizable images. On August 2, 2004, Johnson Outdoors filed U.S. Provisional Patent Application No. 60/598,326, and on August 2, 2005 it filed U.S. Patent Application No. 11/195,107 (the “‘107 application”) claiming priority therefrom, directed to its side scan sonar technology. The ‘107 application issued on January 26, 2010, as United States Patent No. 7,652,952 (“the ‘952 Patent”), entitled “Sonar Imaging System For Mounting To Watercraft.”

RESPONSE: Navico denies that Humminbird employees invented a new system employing side scan sonar beams to locate fish and underwater structures and to display them in detailed and recognizable images. Navico lacks information and knowledge sufficient to form a belief as to the truth of the remaining allegations of paragraph 2 and on that basis denies the same.

3. In Humminbird’s fiscal year 2005, Humminbird introduced the first of its products to employ its side scan sonar technology. In the years that followed, Humminbird introduced an array of products that used this now patented technology. These products are sold by Humminbird under its “Side Imaging” registered trademark.

RESPONSE: Navico lacks information and knowledge sufficient to form a belief as to the truth of the allegations of paragraph 3 and on that basis denies the same.

4. The marketplace has enthusiastically accepted these Humminbird “Side Imaging” products. They have become the industry leading high end, premium sonar fish finders used for inland (freshwater) and near shore (saltwater) sports fishing and recreational boating.

RESPONSE: Navico lacks information and knowledge sufficient to form a belief as to the truth of the allegations of paragraph 4 and on that basis denies the same.

5. With knowledge that Johnson Outdoors had filed the aforementioned patent applications to protect its side scan sonar technology, and with knowledge that the United States Patent and Trademark Office had determined that claims in the ‘107 application were patentable, Navico expended substantial resources to inform the trade, and the relevant purchasers of fish finding products, that it too would use side scan sonar technology, and would launch the sale in the United States of its own side scan sonar products to compete directly with the Humminbird “Side Imaging” products. Navico calls these products its “Lowrance LSS-1 StructureScan Imaging System” (“StructureScan” products), which comprises an LSS-1 StructureScan Imaging Module and an LSS-1 Imaging Transducer assembly.

RESPONSE: Navico states that it offers for sale the Lowrance StructureScan Imaging System module for its Lowrance High Definition Systems. Navico also states that the Lowrance StructureScan Imaging System includes, among other things, an LSS-1 module and imaging transducer. Except as expressly admitted, Navico denies the remaining allegations of paragraph 5.

6. By about December, 2009, Navico commenced sales of its “StructureScan” products in the United States. These products, when used with a Lowrance High Definition System (“HDS”) display (collectively, the “Infringing Products”) in the manner instructed by Navico, directly infringe one or more claims of the ‘952 Patent. The Infringing Products are now being offered for sale by Sportsman’s Outfitters, L.L.C. in this District.

RESPONSE: Navico states that on or about October 2009 it began offering for sale the Lowrance StructureScan Imaging System module for its Lowrance High Definition Systems. Except as expressly admitted, Navico denies the remaining allegations of paragraph 6.

7. Therefore, Plaintiffs file this action to seek redress for Defendants’ ongoing infringement of Plaintiffs’ patent rights.

RESPONSE: Navico lacks information and knowledge sufficient to form a belief as to the truth of the allegations of paragraph 7 and on that basis denies the same.

The Parties

8. Plaintiff, Humminbird, is a corporation duly organized and existing under Alabama law, with its principal place of business in this District at 678 Humminbird Lane, Eufaula, Alabama 36027. Plaintiff, Johnson Outdoors, is a corporation duly organized and existing under Wisconsin law, with its principal place of business located at 555 Main Street, Racine, Wisconsin 53403. Humminbird is a wholly owned subsidiary of Johnson Outdoors.

RESPONSE: Navico lacks information and knowledge sufficient to form a belief as to the truth of the allegations of paragraph 8 and on that basis denies the same.

9. Upon information and belief, defendant Navico is a corporation duly organized and existing under the laws of Delaware, having a place of business located at 12000 East Skelly Drive, Tulsa, Oklahoma 74128. Upon information and belief, Navico does business under the “Lowrance” brand for certain of its products, including the Infringing Products at issue here.

RESPONSE: Navico states that it is a corporation duly organized under the laws of Delaware, having a place of business located at 12000 East Skelly Drive, Tulsa, Oklahoma 74128. Navico also states that it does business under the “Lowrance” brand for certain of its products, including the Lowrance StructureScan Imaging System. Except as expressly admitted, Navico denies the remaining allegations of paragraph 9.

10. Upon information and belief, Sportsman’s Outfitters, L.L.C. is a corporation organized and existing under the laws of Alabama and has a place of business at 1975 Ross Clark Circle, Dothan, Alabama 36301-5883.

RESPONSE: Navico lacks information and knowledge sufficient to form a belief as to the truth of the allegations of paragraph 10 and on that basis denies the same.

Jurisdiction and Venue

11. This is an action for patent infringement arising under the patent laws of the United States (35 U.S.C. § 100 et seq.).

RESPONSE: Navico states that this action purports to be an action for patent infringement arising under 35 U.S.C. § 100 et seq., but denies that Johnson Outdoors is entitled to any recovery. The remaining allegations of paragraph 11 are legal conclusions for which no response is required.

12. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

RESPONSE: While Navico does not contest subject matter jurisdiction, the allegations of paragraph 12 are legal conclusions for which no response is required.

13. Upon information and belief, this Court has personal jurisdiction over Navico because it regularly conducts business with and ships products to retailers authorized to sell those products in the Middle District of Alabama, including but not limited to Sportman’s Outfitters, L.L.C. and therefore has substantial contacts with this District; because it has availed itself of an Alabama court; because it has interactive websites, www.navico.com and www.lowrance.com, that advertise and promote the Infringing Products, as well as other products, in this District; because it directs and permits owners of Lowrance HDS displays in this District to download software from www.lowrance.com to enable those displays to function with the “StructureScan”

products; and because upon information and belief it has sold and offered to sell Infringing Products in this District through the aforementioned authorized retailers and has thereby injured Johnson Outdoors and Humminbird, a citizen of Alabama, in this District.

RESPONSE: Navico states that it does not contest personal jurisdiction. Except as expressly admitted, Navico denies the remaining allegations of paragraph 13.

14. Upon information and belief, this Court has personal jurisdiction over Sportsman's Outfitters, L.L.C. because it regularly conducts business in this District and therefore has substantial contacts with this District; because it has a regular and established place of business in this District; and because it has offered to sell Infringing Products in this District and has thereby injured Plaintiffs in this District.

RESPONSE: Navico lacks information and knowledge sufficient to form a belief as to the truth of the allegations of paragraph 14 and on that basis denies the same.

15. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c).

RESPONSE: While Navico does not contest venue, the allegations of paragraph 15 are legal conclusions for which no response is required.

Patent-in-Suit

16. The '952 Patent has duly and legally issued to Johnson Outdoors as assignee of the inventors, David A. Betts, Robert W. Derrow, and David J. Howells. A true copy of the '952 Patent is attached hereto as Exhibit 1.

RESPONSE: Navico denies that the '952 Patent was duly and legally issued. Navico lacks information and knowledge sufficient to form a belief as to the truth of the remaining allegations of paragraph 16 and on that basis denies the same.

17. Humminbird is the exclusive licensee under the '952 Patent and under its license manufactures the Humminbird "Side Imaging" products in this District.

RESPONSE: Navico lacks information and knowledge sufficient to form a belief as to the truth of the allegations of paragraph 17 and on that basis denies the same.

18. Since Humminbird's introduction of its "Side Imaging" products in fiscal year 2004, they have become a remarkable success. Net sales have grown from zero to over \$19 million in fiscal year 2008. Total net sales over that four year period have exceeded \$37 million, despite the difficult market for the recreational boating and fishing industries in 2007 and 2008.

The Hummingbird “Side Imaging” products are Humminbird’s most important, and profitable, products.

RESPONSE: Navico lacks information and knowledge sufficient to form a belief as to the truth of the allegations of paragraph 18 and on that basis denies the same.

19. Humminbird “Side Imaging” products have received very positive testimonials from objective, actual users and opinion letters in the industry. For example, a visit to www.yahogroups.com , typing in “Side Imaging Sonar” reveals an online community of over 5,000 members who have voluntarily joined to share their experiences with Humminbird “Side Imaging” products.

RESPONSE: Navico lacks information and knowledge sufficient to form a belief as to the truth of the allegations of paragraph 19 and on that basis denies the same.

20. Upon information and belief, Navico has long been engaged in the business of marketing underwater sonar products, including fish finder systems and their components. Upon information and belief, Navico’s underwater sonar products have been losing market share to Humminbird’s “Side Imaging” products in the high end, premium category.

RESPONSE: Navico states that it or its Lowrance predecessor has been engaged in the business of marketing underwater sonar products, including fish finder systems and their components, since about 1957, and that it has been uniquely successful. Except as expressly admitted, Navico denies the remaining allegations of paragraph 20.

21. Determined to compete more effectively against Humminbird’s “Side Imaging” products, Navico developed its own products, the “StructureScan” products, that copy Hummingbird’s side scan sonar technology and products. Since about January, 2009, Navico has been demonstrating and displaying its “StructureScan” products.

RESPONSE: Navico states that it offers for sale the Lowrance StructureScan Imaging System. Except as expressly admitted, Navico denies the remaining allegations in paragraph 21.

22. Since about July 15, 2009, Navico has been indicating on its website, www.lowrance.com , that its “StructureScan” products are “Coming Very, Very Soon!”

RESPONSE: Navico states that on or about June 2009 it referred to its anticipated future StructureScan products on its website www.lowrance.com. Except as expressly admitted, Navico denies the remaining allegations in paragraph 22.

23. In the October, 2009 issue of FLW Outdoors and in the January, 2010 issue of Bass Master magazine, both of which upon information and belief are distributed throughout the United States and in this District, Navico has advertised that the “StructureScan” product is “Now Available!”

RESPONSE: Navico states that it has advertised that the StructureScan products are available. Navico lacks information and knowledge sufficient to form a belief as to the truth of the remaining allegations of paragraph 23 and on that basis denies the same.

24. More recently, Navico announced at www.lowrance.com that “[l]ong-awaited shipments” of its “StructureScan” products have begun in the United States.

RESPONSE: Navico states that it has advertised that the StructureScan products are available. Navico lacks information and knowledge sufficient to form a belief as to the truth of the remaining allegations of paragraph 24 and on that basis denies the same.

25. Upon information and belief, retailers of marine products -- such as Star Marine Depot at www.starmarinedepot.com, Go There GPS at www.gotheregps.com and Marine Electronics Unlimited at www.marine-electronics-unlimited.com -- have been and are offering for sale throughout the United States, for delivery commencing in the fourth calendar quarter of 2009, the “StructureScan” product and the Lowrance HDS display.

RESPONSE: Navico lacks information and knowledge sufficient to form a belief as to the truth of the allegations of paragraph 25 and on that basis denies the same.

26. Upon information and belief, Navico directly infringes one or more claims of the ‘952 Patent at least by using the “StructureScan” product mounted to a boat and operably connected to a Lowrance HDS display.

RESPONSE: Denied.

27. Upon information and belief, Navico has also actively induced and contributed to the infringement of one or more claims of the ‘952 Patent by others, by for example instructing purchasers of the “StructureScan” product to mount its Imaging Transducer assembly to a boat and to operably connect its Imaging Module to a Lowrance HDS display to create a sonar system with side scan sonar capability.

RESPONSE: Denied.

28. On January 26, 2010, after issuance of the ‘952 Patent, Sportsman’s Outfitters, L.L.C. offered to sell a “StructureScan” product and a Lowrance HDS display within this

District, with delivery promised for mid-February, 2010. A true copy of the corresponding Sales Receipt is attached hereto as Exhibit 2.

RESPONSE: Navico lacks information and knowledge sufficient to form a belief as to the truth of the allegations of paragraph 28 and on that basis denies the same.

29. Plaintiffs have not licensed or otherwise authorized Defendants or their customers to make, use, import, sell, or offer to sell sonar systems covered by the claims of the '952 Patent.

RESPONSE: Navico states that no license is necessary because the '952 Patent was not duly and legally issued. Navico lacks information and knowledge sufficient to form a belief as to the truth of the allegations of paragraph 29 and on that basis denies the same.

30. As a result of Defendants' infringing activities, Johnson Outdoors and Humminbird have suffered substantial and irreparable harm and lack an adequate remedy at law. Unless restrained and enjoined by this Court, Defendants will continue their infringing activities, thereby causing Johnson Outdoors and Humminbird further irreparable harm.

RESPONSE: Denied.

Claim for Patent Infringement Under 35 U.S.C. 271

31. Plaintiffs incorporate by reference each and every allegation of paragraphs 1 through 30 of this Complaint, as though set forth here in their entirety.

RESPONSE: As Johnson Outdoors incorporates by reference paragraphs 1 through 30 as paragraph 31, Navico incorporate by reference its responses to paragraphs 1 through 30 as its response to paragraph 31.

32. Since its issuance, Johnson Outdoors and Humminbird have been and still are, respectively, the sole owner and exclusive licensee of the '952 Patent including the right to sue and recover for any and all infringements thereof.

RESPONSE: Navico lacks information and knowledge sufficient to form a belief as to the truth of the allegations of paragraph 32 and on that basis denies the same.

33. Defendants have directly infringed, contributorily infringed, and/or induced others to infringe the '952 Patent by making, using, importing, offering to sell and/or selling the invention defined by one or more claims of the '952 Patent, without authority or license of Johnson Outdoors or Humminbird.

RESPONSE: Denied.

34. By reason of Defendants' infringing activities, Johnson Outdoors and Humminbird have suffered, and will continue to suffer, substantial damages in an amount to be proven at trial.

RESPONSE: Denied.

35. Defendants' acts complained of herein have damaged and will continue to damage Johnson Outdoors and Humminbird irreparably. Johnson Outdoors and Humminbird have no adequate remedy at law for these wrongs and injuries. Johnson Outdoors and Humminbird are therefore entitled to preliminary and permanent injunctions restraining and enjoining Defendants from infringing the claims of the '952 Patent.

RESPONSE: Denied.

36. Upon information and belief, Navico's infringement has been deliberate and willful.

RESPONSE: Denied.

Prayer for Relief

Johnson Outdoors' Prayer for Relief (paragraphs A-G) does not state factual allegations, and thus no response is required. Navico denies that Plaintiffs are entitled to any relief.

AFFIRMATIVE DEFENSES

Navico's First Affirmative Defense **(Noninfringement)**

Navico denies that it (i) infringes or has infringed, either literally or under the doctrine of equivalents, (ii) contributes or has contributed to infringement by others, and (iii) induces or has induced others to infringe any claim of the '952 patent.

Navico's Second Affirmative Defense **(Invalidity)**

The claims of the '952 patent are invalid and/or void for failure to comply with one or more requirements of the Patent Act, 35 U.S.C. §§ 1 et seq., including without limitation 35 U.S.C. §§ 101, 102, 103 and 112, and all parts, sub-parts or paragraphs thereof.

Navico's Third Affirmative Defense
(Failure to State a Claim)

Plaintiffs' complaint fails to state a claim against Navico upon which relief can be granted.

Navico's Fourth Affirmative Defense
(Prosecution Estoppel)

Upon information and belief, by reason of statements, arguments, and/or amendments made during the prosecution of the '952 patent before the United States Patent and Trademark Office, Plaintiffs are estopped from asserting, for the claims of the '952 patent, a scope sufficient to cover Navico's products.

Navico's Fifth Affirmative Defense
(Unclean Hands)

On information and belief, the '952 patent is void and unenforceable by reason of the equitable doctrine of unclean hands.

Navico's Sixth Affirmative Defense
(Adequate Remedy at Law)

Plaintiffs are not entitled to injunctive relief because any injury to Plaintiffs is not immediate or irreparable, and Plaintiffs would have an adequate remedy at law.

Navico's Seventh Affirmative Defense
(Good Faith)

At all relevant times Navico acted in good faith and without willful intent to infringe any valid claim of the '952 patent.

Navico's Eighth Affirmative Defense
(Reservation of Rights)

Navico reserves the right to raise all affirmative defenses under Rule 8(c) of the Fed.R.Civ.P., the patent laws of the United States, and any other defenses, at law or in equity, that may now or in the future be available based on discovery or further factual investigation.

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JOHNSON OUTDOORS MARINE)	
ELECTRONICS, INC.)	
)	Case No. 2:10-CV-67-WKW-CSC
Plaintiffs,)	
)	JURY DEMAND
v.)	
)	
NAVICO, INC. and)	
SPORTSMAN’S OUTFITTERS, L.L.C.)	
)	
Defendant.)	

**DEFENDANT NAVICO, INC.’S COUNTERCLAIMS TO PLAINTIFFS’
COMPLAINT FOR PATENT INFRINGEMENT**

Pursuant to Rule 13, Fed.R.Civ.P., Navico, Inc. (“Navico”) asserts the following Counterclaims against Plaintiffs Johnson Outdoors, Inc. (“Johnson Outdoors, Inc.”) and Johnson Outdoors Marine Electronics, Inc. (“Humminbird” and collectively with Johnson Outdoors, Inc. “Johnson Outdoors”), and in support shows this Court as follows:

PARTIES, JURISDICTION AND VENUE

1. Navico is a corporation organized and existing under the laws of Delaware with its principal place of business at 12000 East Skelly Drive, Tulsa, Oklahoma 74128.
2. According to Plaintiffs’ Complaint, Johnson Outdoors Inc., is a corporation duly organized and existing under Wisconsin law, with its principal place of business located at 555 Main Street, Racine, Wisconsin 53403.
3. According to Plaintiffs’ Complaint, Humminbird, is a corporation duly organized and existing under Alabama law, with its principal place of business in this District at 678

Humminbird Lane, Eufaula, Alabama 36027. Humminbird is a wholly owned subsidiary of Johnson Outdoors Inc.

4. Plaintiffs have alleged that U.S. Patent No. 7,652,952 (“the ‘952 Patent”) was duly and legally issued to Johnson Outdoors Inc. and that Humminbird is the exclusive licensee of the ‘952 patent.

5. These counterclaims are brought pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201-02, and pursuant to 28 U.S.C. §§ 1331 and 1338, for declaration that Navico has not infringed and does not infringe any valid, enforceable claim of the ‘952 Patent, either literally or under the doctrine of equivalents; the ‘952 Patent is invalid; and ‘952 Patent is unenforceable.

6. This Court has subject matter jurisdiction over these counterclaims pursuant to 28 U.S.C. §§ 1331, 1338, 1367(a), 2201 and 2202, and the counterclaims are otherwise proper because the counterclaims are so related to the claims of the pending action brought by Plaintiffs against Navico that they form part of the same case or controversy.

7. This Court has personal jurisdiction over Plaintiffs because Plaintiffs have submitted themselves to the jurisdiction of this Court by filing the present action against Navico.

8. Based on Plaintiffs’ Complaint against Navico and Navico’s Answer thereto, there exists an actual, substantial and justiciable controversy between Navico and Plaintiffs concerning the ‘952 Patent.

9. Venue for these counterclaims are proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400 because, among other things, Plaintiffs brought this action against Navico in this District.

COUNT 1 – DECLARATION OF NONINFRINGEMENT OF THE ‘952 PATENT

10. Navico repeats and incorporates by reference the averments set forth in Counterclaim Paragraphs 1 through 9 as if they were fully and separately set forth herein.

11. Navico has not infringed, either literally or under the doctrine of equivalents, any claim of the ‘952 Patent.

12. Navico does not contribute and has not contributed to infringement of the ‘952 Patent by others.

13. Navico does not induce and has not induced others to infringe any claim of the ‘952 patent.

14. Navico is entitled to a judgment declaring that Navico has not infringed, either literally or under the doctrine of equivalents, any claim of the ‘952 Patent.

COUNT 2 – DECLARATION OF INVALIDITY OF THE ‘952 PATENT

15. Navico repeats and incorporates by reference the averments set forth in Counterclaim Paragraphs 1 through 14 as if they were fully and separately set forth herein.

16. The claims of the ‘952 Patent are invalid in view of the prior art and/or for failure to comply with one or more of the requirements of the United States Patent Act set out in 35 U.S.C. §§ 1, *et seq.*, including without limitation 35 U.S.C. §§ 101, 102, 103 and 112, and all parts, sub-parts or paragraphs thereof.

17. Navico is entitled to judgment declaring that the claims of the ‘952 Patent are invalid in view of the prior art and/or for failure to comply with one or more of the requirements of the United States Patent Act set out in 35 U.S.C. §§ 1, *et seq.*, including without limitation 35 U.S.C. §§ 101, 102, 103 and 112, and all parts, sub-parts or paragraphs thereof.

COUNT 3 – DECLARATION OF UNENFORCEABILITY OF THE ‘952 PATENT

18. Navico repeats and incorporates by reference the averments set forth in Counterclaim Paragraphs 1 through 17 as if they were fully and separately set forth herein.

19. Upon information and belief, Plaintiffs’ claims for infringement of the ‘136 Patent are barred by the equitable doctrines of laches, estoppel, acquiescence, and/or are otherwise unenforceable.

20. Navico is entitled to a judgment declaring that Plaintiffs’ claims for infringement of the ‘952 Patent are barred by the equitable doctrines of laches, estoppel, acquiescence and/or are otherwise unenforceable.

Navico reserves the right to assert additional counterclaims as they become known through further investigation and discovery.

PRAYER FOR RELIEF

WHEREFORE, Navico respectfully requests that judgment be entered against Plaintiffs in connection with Plaintiffs’ Complaint, and that judgment be entered in favor of Navico in accord with Navico’s Counterclaims in this matter as follows:

- A. Enter judgment in favor of Navico and against Plaintiffs and dismiss Plaintiffs’ Complaint with prejudice;
- B. Declare that Navico has not infringed, either literally or under the doctrine of equivalents any claim of the ‘952 Patent;
- C. Declare the claims of the ‘952 Patent invalid;
- D. Declare the claims of the ‘952 Patent unenforceable;
- E. Preliminarily and permanently enjoin Plaintiffs, their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation

with them who receive actual notice by personal service or otherwise, from asserting or threatening to assert against customers or potential customers of Navico, or users of Navico's products and services, any charge of infringement of the '952 Patent;

F. Preliminarily and permanently enjoin Plaintiffs, their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice by personal service or otherwise, from filing or prosecuting any civil action or actions against Navico's customers, or users of Navico's products and services, for alleged infringement of the '952 Patent;

G. Declare this case to be exceptional under 35 U.S.C. § 285;

H. Award to Navico its costs and attorneys' fees; and

I. Grant to Navico such other and further relief as the Court may deem just and proper.

DEMAND FOR A JURY TRIAL

Navico hereby demands a jury trial on all issues so triable.

Dated: May 3, 2010

s/ C. Nelson Gill

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Attorneys for Defendant NAVICO, INC.

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of May, 2010, the foregoing document was filed electronically with the Clerk of Court using the Court's CM/ECF system, to be served by operations of the Court's electronic filing system upon the following counsel of record:

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Dated: May 3, 2010

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