

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

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Electro Scientific Industries, Inc., an Oregon corporation, and Electro Scientific Industries Europe Limited, an English corporation,  
Plaintiffs,  
v.  
SD Acquisition, Inc., a Nebraska corporation, d/b/a CETAC and d/b/a CETAC Technologies,  
Defendant.

Civil No. 8:11-cv-00382

**STIPULATED INJUNCTION AND  
ORDER OF DISMISSAL OF CLAIMS**

The parties to this litigation, by and through their undersigned counsel of record having requested entry of this Order, and the Court being fully advised in the premises, now, therefore, and based upon all the files, records, and proceedings herein,

**IT IS HEREBY ORDERED** that:

1. Effective as of 4:30 p.m. Central Standard Time on November 15, 2011, and until 11:59 p.m. on February 29, 2012, SD Acquisition, Inc., a Nebraska corporation, d/b/a CETAC and d/b/a CETAC Technologies (“CETAC”) may employ Dr. Damon Green, of 5 Mussons Close, Corby Glen, Grantham, Lincolnshire, NG33 4NY, England (“Dr. Green”), and Damon Green may be employed by CETAC, only in CETAC’s nebulizers/liquids line and/or in CETAC’s mercury products line.
2. Effective as of 4:30 p.m. Central Standard Time on November 15, 2011, and until 11:59 p.m. on February 29, 2012, CETAC and its officers, employees, and agents shall ensure that Dr. Green shall not work, perform services for, be associated with, or otherwise

provide assistance with or to CETAC Research and Development, Technical Support or product and services relating to Laser Ablation.

3. Effective as of 4:30 p.m. Central Standard Time on November 15, 2011, and until January 1, 2012, CETAC shall furthermore not allow Dr. Green to have contact of any nature or manner with the 22 companies set forth on a list provided via e-mail to CETAC's counsel Mary L. Hewitt, Esq. and Erin R. Robak, Esq., by Plaintiff's counsel Marc A. Al, Esq., on Tuesday, November 15, 2011, at 1:52 p.m. Central Standard Time (the "List"). This Injunction bars both direct and indirect contact by or through Dr. Green with the companies set forth on the List, including contact through their employees, agents, distributors, representatives, joint venturers, partners, parents, affiliates, subsidiaries, collaborators, or otherwise.
4. The List has been provided to Dr. Green by Ms. Hewitt, as agreed with Plaintiffs, but the List shall not (in written, oral, verbal or non-verbal form or otherwise) be reviewed, obtained, copied, or stored by CETAC or any of its other officers, employees, agents, distributors, representatives, joint venturers, partners, parents, affiliates, subsidiaries, or collaborators.
5. CETAC and its officer, employees, and agents have not and shall not review Plaintiffs' trade secrets, seek or accept disclosure of Plaintiffs' trade secrets in any form or fashion from Dr. Green, or allow the use of Plaintiffs' trade secrets in or for CETAC's business operations, including, but not limited to, CETAC's research and development, CETAC's sales, and CETAC's services, and the ongoing protection rights of the Plaintiffs to their trade secrets shall expressly survive the dismissal of Plaintiffs' Complaint and the termination of this Order.

6. CETAC denies the allegations in the Complaint, expressly denies that there has been any disclosure of ESI trade secrets by Dr. Green to CETAC and expressly denies that its employment of Dr. Green violates any non-compete agreement of ESI. In light of the stipulated nature of this Order and its entry as part of settlement of this litigation, it is expressly acknowledged by the parties and this Court that the entry of this Order shall not constitute a concession or admission of any fact or allegation set forth in the Complaint in this action or in Plaintiffs' Motion for Temporary Restraining Order and Permanent Injunction, nor constitute an admission of any liability or wrongdoing, and this Order shall not act to toll any period of limitations nor toll any non-compete period as such periods relate to Dr. Green's employment with CETAC.
7. Plaintiffs shall pay one-half (1/2) the CETAC salary earned by Dr. Green from November 15, 2011, through February 29, 2012, as more fully set forth in a Settlement Agreement signed contemporaneously with this Stipulation.
8. It is understood that the Court shall be entitled to exercise jurisdiction over all officers, employees, agents, and representatives of both Plaintiffs and CETAC in the event of any alleged violation of this Order.
9. CETAC's counsel shall forthwith provide a copy of this Order to CETAC's officers, who shall forthwith provide a copy to all relevant employees, agents, distributors, representatives, joint venturers, partners, parents, affiliates, subsidiaries, and collaborators, including, but not limited to, Dr. Green.
10. Plaintiffs' Complaint is hereby **DISMISSED** without costs or legal fees to any party, but with the Court retaining jurisdiction for purposes of enforcing this Stipulated Order. This

Order shall terminate and expire at 11:59 p.m. on November 15, 2012, without further order of the Court or action of any party.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

DATED this 8<sup>th</sup> day of December, 2011

**BY THE COURT:**

***S/ JOSEPH F. BATAILLON***  
CHIEF UNITED STATES DISTRICT JUDGE

AGREED AS TO FORM AND CONTENT:

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