

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

SHURE INCORPORATED, and	)	
SHURE ACQUISITION HOLDINGS, INC.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No. 19-1343 (RGA) (CJB)
	)	
CLEARONE, INC.,	)	JURY TRIAL DEMANDED
	)	
Defendant.	)	
<hr/>		
CLEARONE, INC.,	)	<b>REDACTED –</b>
	)	<b>PUBLIC VERSION</b>
Counter-Plaintiff,	)	
	)	
v.	)	
	)	
SHURE INCORPORATED, and	)	
SHURE ACQUISITION HOLDINGS, INC.,	)	
	)	
Counter-Defendants.	)	

**CLEARONE, INC’S AMENDED ANSWER TO  
SHURE’S SECOND AMENDED COMPLAINT (D.I. 64),  
AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS AGAINST SHURE**

Pursuant to Fed. R. Civ. P. 12(a)(1)(A) and Fed. R. Civ. P. 13, Defendant/Counter-Plaintiff ClearOne, Inc. (“ClearOne”) hereby submits its Amended Answer, Affirmative Defenses, and Counterclaims to Plaintiffs/Counter-Defendants Shure Incorporated and Shure Acquisition Holdings, Inc.’s (“Shure’s”) Second Amended Complaint, filed on November 19, 2019 (D.I. 64, “SAC”).

**ANSWER TO SHURE’S SAC**

**NATURE OF THE ACTION**

1. ClearOne admits that healthy competition is a cornerstone of the economy and that competition must be fair. ClearOne denies all other allegations.

2. This paragraph sets forth legal conclusions and questions of law to which no response is required. ClearOne denies that it engaged in any deceptive trade practices.

### **PARTIES**

3. Admitted.

4. Admitted.

5. Admitted.

### **JURISDICTION AND VENUE**

6. ClearOne admits that the Court has personal jurisdiction over ClearOne.

7. ClearOne admits that the Court has personal jurisdiction over ClearOne.

8. ClearOne admits that the Court has personal jurisdiction over ClearOne.

ClearOne denies that it has sold any infringing products or services.

9. ClearOne admits that the Court has personal jurisdiction over ClearOne.

10. ClearOne admits that the Court has personal jurisdiction over ClearOne.

11. ClearOne admits that the Court has personal jurisdiction over ClearOne.

12. ClearOne admits that the Court has subject matter jurisdiction over Shure's claims in this action.

13. ClearOne admits that venue is proper under 28 U.S.C. §§ 1391. ClearOne denies that it has engaged in any infringing activity.

### **BACKGROUND**

14. Denied.

15. ClearOne admits that it is a direct competitor of Shure with respect to certain products that Shure sells. ClearOne also admits that, since 2017, the parties have been engaged

in litigation in the Northern District of Illinois (“N.D. Illinois”), in the District of Utah, and before the Patent Trial and Appeal Board.

16. ClearOne admits the factual details alleged by Shure, including: (1) date of Shure’s announcement of the MXA910; (2) the fact that Shure sells the MXA910; (3) that Shure filed particular patent applications; and (4) that the United States Patent and Trademark Office (“USPTO”) granted certain patents to Shure. ClearOne denies all other allegations, including Shure’s characterizations of its products and patents.

17. ClearOne lacks knowledge or information sufficient to form a belief about the truth of these allegations.

18. Admitted.

19. ClearOne admits that: (1) it released its BMA CT product in 2019; (2) it characterizes the BMA CT as a ceiling tile beamforming microphone array; and (3) it began shipments of the BMA CT in February 2019. ClearOne denies all other allegations.

20. Denied.

21. ClearOne admits that Narsi Narayanan sent a letter to certain ClearOne customers dated August 29, 2019 that addressed a preliminary injunction order by the United States District Court for N.D. Illinois enjoining Shure from further sale of its MXA910 product in a “drop-ceiling mounting configuration.” ClearOne denies all other allegations.

22. Denied.

23. Denied.

24. Denied.

25. Denied.

**FIRST CAUSE OF ACTION**

**INFRINGEMENT OF U.S. PATENT NO. 9,565,493**

26. ClearOne incorporates by reference its admissions and denials to the foregoing paragraphs as though fully restated herein.

27. Denied.

28. Denied.

29. Admitted.

30. Denied.

31. ClearOne admits that it distributes the BMA CT product through distribution channels in the United States. ClearOne denies all other allegations.

32. Denied.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

37. ClearOne admits that it was aware of the '493 Patent since before Shure filed its initial complaint in this litigation. ClearOne denies all other allegations.

38. Denied.

39. Denied.

40. Denied.

41. Denied.

**SECOND CAUSE OF ACTION**

**FALSE ADVERTISING UNDER THE LANHAM ACT**

42. ClearOne incorporates by reference its admissions and denials to the foregoing paragraphs as though fully restated herein.

43. Denied.

44. ClearOne admits that the MXA910 and BMA CT are sold throughout the United States. ClearOne denies all other allegations.

45. Denied.

46. Denied.

47. Denied.

48. Denied.

49. Denied.

**THIRD CAUSE OF ACTION**

**VIOLATION OF DELAWARE DECEPTIVE TRADE PRACTICES ACT**

50. ClearOne incorporates by reference its admissions and denials to the foregoing paragraphs as though fully restated herein.

51. Denied.

52. Denied.

53. Denied.

54. Denied.

55. Denied.

56. Denied.

**FOURTH CAUSE OF ACTION**

**TORTIOUS INTERFERENCE WITH BUSINESS RELATIONS**

57. ClearOne incorporates by reference its admissions and denials to the foregoing paragraphs as though fully restated herein.

58. Denied.

59. Denied.

60. Denied.

61. Denied.

62. Denied.

63. Denied.

**FIFTH CAUSE OF ACTION**

**UNFAIR COMPETITION UNDER DELAWARE COMMON LAW**

64. ClearOne incorporates by reference its admissions and denials to the foregoing paragraphs as though fully restated herein.

65. Denied.

66. Denied.

67. Denied.

68. Denied.

69. Denied.

70. Denied.

**SIXTH CAUSE OF ACTION**

**INFRINGEMENT OF U.S. PATENT NO. D865,723**

71. ClearOne incorporates by reference its admissions and denials to the foregoing paragraphs as though fully restated herein.

72. Denied.

73. Denied.

74. Denied.

75. Denied.

76. Denied.

77. Denied.

78. Denied.

79. Denied.

80. Denied.

81. Denied.

**PRAYER FOR RELIEF**

ClearOne denies that Shure is entitled to any of the requested relief. ClearOne requests judgment in its favor and reimbursement of all fees and costs, including an award of its reasonable attorneys' fees, as permitted by applicable law.

**DEMAND FOR JURY TRIAL**

ClearOne demands a trial by jury of all issues so triable.

**AFFIRMATIVE DEFENSES**

Pursuant to Federal Rule of Civil Procedure 8(c), ClearOne below affirmatively states its Affirmative Defenses to Shure's claims. The Affirmative Defenses set forth herein are based on

ClearOne's current knowledge and information. ClearOne reserves the right to assert additional affirmative defenses during this litigation.

**Affirmative Defense #1: Unclean Hands**

Shure should be prevented, via the doctrine of unclean hands, from asserting its claims relating to false advertising because it made similar comments about ClearOne's products and the parties' litigation.

**Affirmative Defense #2: Invalidity**

The asserted claims of Shure's Patent No. 9,565,493 ("493 Patent") are invalid for failing to meet the conditions for patentability and failing to comply with one or more of the provisions of Title 35 of the United States Code, including, but not limited to sections 101, 102, 103, and/or 112.

**Affirmative Defense #3: Invalidity**

The asserted claims of Shure's Design Patent No. D865723 ("723 Patent") are invalid for failing to meet the conditions for patentability and failing to comply with one or more of the provisions of Title 35 of the United States Code, including, but not limited to sections 101, 102, 103, 112, and/or 171.

**Affirmative Defense #4: Unenforceability**

Claims 1-16 and 28-40 of Shure's '493 Patent are unenforceable for at least the reasons listed in ClearOne's Counterclaims below.

**Affirmative Defense #4: Noninfringement**

ClearOne's products do not infringe the '493 Patent.

**Affirmative Defense #5: Noninfringement**

ClearOne's products do not infringe the '723 Patent.



ClearOne hereby reserves the right to amend its Answer and reserves all affirmative defenses set out in Rule 8(c) of the Federal Rules of Civil Procedure, the Patent Laws of the United States and any other defenses, at law or in equity, that become applicable after the substantial completion of discovery or otherwise in the course of litigation.

### **COUNTERCLAIMS AGAINST SHURE**

Counter-Plaintiff ClearOne asserts Counterclaims against Counter-Defendants Shure Incorporated and Shure Acquisition Holdings, Inc. (collectively, “Shure”) to: (1) stop its false advertising against ClearOne about the parties’ litigation; (2) hold it accountable for its inequitable conduct during patent prosecution, rendering claims of its ’493 Patent unenforceable; and (3) for a declaratory judgment that its ’493 and ’723 Patents are invalid.

### **PARTIES**

1. ClearOne is a public corporation, incorporated in Delaware, with a principal place of business at 5225 Wiley Post Way, Suite 500, Salt Lake City, Utah 84116.

2. Shure Incorporated is a private corporation, incorporated in Illinois, with its principal place of business at 5800 W. Touhy Avenue, Niles, Illinois 60714.

3. Shure Acquisition Holdings, Inc. is a corporation organized under the laws of Illinois with a principal place of business at 5800 W. Touhy Avenue, Niles, Illinois 60714.

### **JURISDICTION AND VENUE**

4. ClearOne’s patent-related Counterclaims arise under the Patent Laws of the United States, Title 35, United States Code, and under Title 28, United States Code, Chapter 151, §§ 2201 and 2202.

5. This Court has subject matter jurisdiction over all claims pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and/or 2202, and/or Rule 13 of the Federal Rules of Civil Procedure.

6. Since Shure initiated the original action, there can be no dispute over venue or personal jurisdiction. *See Newell v. O.A. Newton & Son. Co.*, 10 F.R.D. 286, 287 (D. Del. 1950) (“[T]he Supreme Court has ruled that a plaintiff, by instituting suit against a defendant, ‘thereby waives any right to object to the venue of any counterclaim, whether compulsory or permissive, interposed by the defendant.’”).

## **BACKGROUND FACTS**

### **I. Shure Made Multiple False Statements to Harm ClearOne**

7. Since April 2016, ClearOne and Shure have been engaged in litigation in the Northern District of Illinois concerning ClearOne’s allegations that Shure is infringing ClearOne’s U.S. Patent No. 9,813,806 (the “’806 Patent”) and U.S. Patent No. 9,635,186 by selling its MXA910 product. *See Shure Inc. v. ClearOne, Inc.*, No. 17-cv-03078 (N.D. Ill.).

8. Shure has made multiple false statements to consumers about the parties’ litigation and ClearOne, including those below:

#### **False Statement #1**<sup>1</sup>

9. On August 5, 2019, the Honorable Edmond E. Chang of United States District Court for N.D. Illinois granted ClearOne’s motion for preliminary injunction to halt Shure’s infringement of ClearOne’s ’806 Patent. In relevant part, the court’s Preliminary Injunction Order (“PI Order”) stated:

Shure shall cease manufacturing, marketing, and selling the MXA910 to be used in its drop-ceiling mounting configuration, including marketing and selling the MXA910 in a way that

---

<sup>1</sup> ClearOne asserts False Statement #1 against Shure to foreclose any argument that ClearOne is waiving its rights to assert claims based on these facts by not asserting it. Shure has argued in the Northern District of Illinois (“N.D. Illinois”) that this is a mandatory counterclaim to Shure’s claims and thus ClearOne must bring it as part of its counterclaims in this action. If Judge Chang in the N.D. Illinois denies Shure’s motion to dismiss ClearOne’s claims based on False Statement #1, ClearOne will not assert it here.

encourages or allows integrators to install it in a drop-ceiling mounting configuration. This injunction applies to Shure's officers, agents, servants, employees, and attorneys, as well as anyone who is in active concert or participation with those listed persons. But Shure customers that have already installed the MXA910 in a drop-ceiling mounting configuration shall be permitted to continue using their MXA910s in that way, and Shure will be able to continue servicing those already-installed products.

A true and correct copy of the publicly available version of the PI Order is attached here as

**Exhibit 1.**

10. On August 29, 2019, ClearOne Senior Vice President of Finance Narsi Narayanan issued a letter concerning the "Installation of Shure MXA910 in a Drop-Ceiling Mounting Configuration." This letter stated:

It has long been ClearOne's position that any installation or use of an MXA910 product in a drop-ceiling mounting configuration infringes ClearOne's U.S. Patent No. 9,813,806 (the "'806 Patent"). On August 5, 2019, a Court Order confirmed ClearOne's position. In that Order, (available at <https://is.gd/injuncn>), the Court held that "Shure is likely infringing the '806 Patent" by manufacturing, marketing, and selling the MXA910 to be used in its drop-ceiling mounting configuration, and issued a preliminary injunction order preventing Shure from manufacturing, marketing, and selling its MXA910 product for use in a "drop-ceiling mounting configuration." The Court's order also prevents Shure from encouraging others to use the Shure MXA910 beamforming microphone array in the "drop-ceiling mounting configuration" and "applies to Shure's officers, agents, servants, employees, and attorneys, as well as anyone who is in active concert or participation with those listed persons."

The Court's infringement analysis applies equally to third parties such as integrators and consultants. If Shure is likely infringing the '806 Patent by manufacturing, marketing, and selling the MXA910 product to be used in a drop-ceiling mounting configuration, then third-party integrators are also likely infringing the '806 Patent if they install the MXA910 product in a drop-ceiling mounting configuration, and third-party consultants are likely inducing infringement if they recommend installation of the MXA910 product in a drop-ceiling mounting configuration.

Please be aware that it is likely an act of infringement to install a Shure MXA910 product (Model Nos. MXA910B, MXA910W, MXA910AL, MXA910B-60CM, MXA910W-60CM, and MXA910AL-60CM) in a drop-ceiling mounting configuration. This is so regardless of when, or how, the installing company received the MXA910 that it installs. Please also be aware that a finding of willful patent infringement may result in the infringer having to pay treble damages pursuant to 35 U.S.C. § 284.

We thank you in advance for your understanding of ClearOne's efforts to protect its intellectual property rights. Please contact me with any questions or concerns.

This letter (the “Narayanan Letter”) was then transmitted to integrators, consultants, and other market participants in the installed audio-conferencing products industry. A true and correct copy of the Narayanan Letter is attached here as **Exhibit 2**.

11. On September 4, 2019, Shure transmitted a message to market participants about the Narayanan Letter. In relevant part, it stated:

This letter is prompted by the fact that ClearOne recently distributed additional communications to the marketplace relating to the patent litigation. You may have received a letter dated August 29, 2019 from ClearOne’s CFO [*sic*] Narsi Narayanan, in which ClearOne again tries to misinform, mislead, and seemingly intimidate and threaten customers in the marketplace, by both making false statements and omitting important facts about the scope and impact of the recent preliminary injunction granted by a federal court in Chicago on Shure’s ability to supply and support MXA910 products. As before, the untruth of these marketplace statements has been examined by Shure’s attorneys, and shortly, we will be amending our lawsuit in Delaware to include the falsity of the statements made in this recent ClearOne letter. But in the meantime, we wanted to take the opportunity to remind you of the limited effect of the Court’s rulings.

A true and correct copy of the Shure’s message is attached here as **Exhibit 3**.

12. Shure’s claim that ClearOne made “false statements” is itself false and clearly incorrect because none of the statements in the Narayanan Letter are incorrect. For example, ClearOne *linked to the PI Order* in the Narayanan Letter and quoted it directly when it stated that it found that “Shure is likely infringing the ‘806 Patent” and that the injunction applied to installations of the MXA910 in a drop-ceiling mounting configuration. Moreover, ClearOne’s belief that the PI Order’s infringement analysis applies equally to third parties is its own reasonable opinion and thus cannot be characterized as a “false statement.”

13. Upon information and belief, Shure sent its message to market participants in an effort to bias them against ClearOne by making them believe that ClearOne was spreading false information.

False Statement #2

14. On November 5, 2019, Shure published an article on its website titled “November 5, 2019 Q & A Update-New MXA910 Ceiling Array Microphone Variant available for Pre-Order” (“Q&A”). This Q&A purported to provide clarifications about Shure’s new MXA910W-A product and whether the MXA910W-A complied with Judge Chang’s PI Order. Upon information and belief, Shure released and distributed this Q&A because it knew that customers were concerned about Shure’s potential infringement of ClearOne’s patents.

15. The Q&A contains false and misleading statements. For example, Shure claimed in the Q&A that “Shure specifically designed the new MXA910W-A to provide a drop-ceiling mounting configuration that fully complies with the Court’s rulings in the ongoing litigation in U.S. District Court of Northern Illinois.” This was false and misleading. At or around the time that Shure released the Q&A, it knew, or should have known, that the MXA910W-A could be installed flush in a drop-ceiling mounting configuration in 15/16” size suspended ceiling grids, the most common ceiling grids in the United States. Thus, Shure’s claim that it designed the MXA910W-A in a way that “fully complies” with Judge Chang’s PI Order was false.

16. In addition, Shure proposed a question in the Q&A: “How does Shure know that the new MXA910 variant is not subject to the Court’s preliminary injunction?” and answered: “The Court ruled on November 3, 2019, that the new MXA910W-A is not included under the preliminary injunction.” Again, this was false and misleading. Judge Chang issued an order on November 3, 2019, *rejecting* Shure’s efforts to obtain a ruling that the MXA910W-A was not covered under the PI Order. Instead, he held that while the PI Order did not “address” the MXA910W-A, it was an open question of whether the MXA910W-A infringed ClearOne’s ’806 Patent and thus ordered discovery to determine whether Shure was violating the preliminary injunction by selling the MXA910W-A. Moreover, courts routinely hold that preliminary

injunction orders automatically cover products that are not colorably different, meaning that the PI Order would govern the availability of the MXA910W-A if it was not colorably different. Yet the Q&A was still available to customers on Shure's website even after ClearOne filed a motion for contempt with Judge Chang seeking an order that sale of the MXA910W-A violates the PI Order, and Judge Chang granted ClearOne more discovery to introduce additional evidence of contempt. At bottom, Shure knew that Judge Chang had not ruled whether or not the MXA910W-A complies with the PI Order and yet still erroneously represented to consumers that Judge Chang ruled that the MXA910W-A "is not included under the preliminary injunction."

17. Moreover, in response to the Question, "Which mounting configurations continue to be available within the U.S.," Shure answered: "With the introduction of the new MXA910W-A Ceiling Array variation, all mounting options, including 24" drop-ceiling grid installations, are now available to the United States market." Again, this was false and misleading. The PI Order prohibited installing the MXA910W-A in the drop-ceiling mounting configuration and so that mounting configuration flush in the ceiling was not legally available for the MXA910W-A in the United States.

18. Upon information and belief, Shure distributed the Q&A to ClearOne customers and prospective customers to spread the false impression that the MXA910W-A did in fact comply with Judge Chang's PI Order even though Shure knew that it did not.

#### False Statement #3

19. Shure again repeated its false and misleading statement about the MXA910W-A in a press statement made on February 25, 2020. In that press statement, Shure claimed again that the MXA910W-A "was specifically designed to meet the court's requirements." For the reasons discussed above, Shure's statement misled customers into believing that Shure designed

the MXA910W-A to comply with the PI Order even though Shure knew internally that the MXA910W-A's design permitted installation in a prohibited manner. Upon information and belief, ClearOne customers and prospective customers saw Shure's false and misleading statement and believed it, to ClearOne's detriment.

#### Effects of the False Statements

20. Upon information and belief, Shure's false statements about ClearOne caused market participants, including prospective ClearOne customers, to decide against choosing ClearOne products. For example, one such participant e-mailed ClearOne the morning after Shure's September 4, 2019 message about the Narayanan Letter, and stated: "Because of this lawsuit and especially this letter I will go out of my way to never specify or purchase another product from Clear One." And, upon information and belief, Shure customers bought MXA910 products rather than ClearOne's competing BMA CT and BMA CTH products based on Shure's false and misleading representations that the MXA910W-A was designed to comply with the PI Order and that the court in N.D. Illinois already ruled that the MXA910W-A is not included in the PI Order.

21. Upon information and belief, ClearOne has lost sales and goodwill due to Shure's false statements.

## **II. Shure's '493 Patent is Unenforceable Due to Shure's Inequitable Conduct**

22. On February 15, 2019, ClearOne filed a Petition for *Inter Partes* Review ("IPR") of the '493 Patent, attached hereto as **Exhibit 4**. In response, Shure filed a "Contingent Motion to Amend Under 37 C.F.R. § 42.121." Because Shure filed a motion to amend, it had an affirmative duty to disclose to the Patent Trial and Appeal Board ("PTAB") all information in

Shure's possession that would be material to the patentability of the claims pending in its motion to amend.

23. But Shure did not comply with its duty to disclose. The MPEP states: "Applicants and other individuals, as set forth in 37 CFR 1.56, have a duty to bring to the attention of the Office any material prior art or other information cited or brought to their attention in any related foreign application. The inference that such prior art or other information is material is especially strong where it has been used in rejecting the same or similar claims in the foreign application or where it has been identified in some manner as particularly relevant." MPEP §2001.06(a); *see also LNP Eng'g Plastics, Inc. v. Miller Waste Mills, Inc.*, 2000 WL 33341185, at \*10 (D. Del. Aug. 8, 2000) ("Materiality of an uncited prior art reference can be shown by evidence that the applicant cited the prior art in related foreign prosecutions. If the uncited prior art provided a basis for a foreign patent office's rejection of counterpart application, then the inference of materiality is especially strong.") (citing MPEP § 2001.06(a)) *aff'd* 275 F.3d 1347 (Fed. Cir. 2001) (quoting MPEP § 2001.06(a)); *TVnGO Ltd. v. LG Elecs., Inc.*, Civil No. 18-10238 (RMB/KMW) (D.N.J. May 23, 2019) (same); *see generally, Molins PLC v. Textron, Inc.*, 48 F.3d 1172, 1180 (Fed. Cir. 1995) ("While the MPEP does not have the force of law, it is entitled to judicial notice as an official interpretation of statutes or regulations as long as it is not in conflict therewith.")

24. On or around April 28, 2016, Shure filed PCT Application No. PCT/US2016/029751, which is related to its U.S. Application No.14/701,376 (which eventually issued as the '493 Patent). This PCT application entered the national phase in China on or around December 4, 2017—10 months after the '493 Patent issued in the U.S.—and became Chinese Patent Application No. 201680033194 (the "'194 Chinese Application"). The '194 Chinese



Application claims priority to U.S. Application No. 14/701,376. Upon information and belief, claims 1-40 of the '194 Chinese Application are the same as or highly similar to the issued claims 1-40 of the '493 Patent.

25. On or around February 20, 2019, the Chinese Patent Office issued its first Office Action. In this Office Action, the Chinese Patent Office found that there are no patentable claims in the '194 Chinese Application.

26. Specifically, the Chinese Examiner found that independent claims 1, 28 and independent claim 17 are not patentable for lack of unity of invention because they relate to different inventions.

27. Further, the Chinese Examiner conducted a claim-by-claim analysis and found claims 1-16 and 28-40<sup>2</sup> of the '194 Chinese Application are obvious and not patentable over the combination of U.S. 2013101141 and CN 102860039 and/or knowledge of a person of ordinary skill in the art. For example, the Chinese Examiner found that U.S. 2013101141 disclosed:

- (1) a directional audio array apparatus and system;
- (2) a plurality of microphones arranged on a substrate;
- (3) a substrate comprises a central Printed Circuit Board (PCB) and a plurality of peripheral Printed Circuit Boards (PCBs) positioned radially around and electrically connected to the central PCB, at least one of the number of concentric nested rings positioned on the plurality of peripheral PCBs;
- (4) arranging a first plurality of microphones to form a first

---

<sup>2</sup> Claims 18-27 depend on independent claim 17 and therefore do not relate to the same invention as claims 1-16 and 28-40 according to the Chinese Examiner.

configuration on a substrate and arranging a second plurality of microphones to form a second configuration on the substrate;

(5) substrate comprises a central plate and a plurality of peripheral plates radially coupled to the central plate, and at least one of the concentric rings in the second configuration is included on the plurality of peripheral plates, the method further comprising: electrically coupling the plurality of peripheral plates to the central plate.

28. The Chinese Examiner also found that CN 102860039 disclosed:

(1) a hands-free phone and/or microphone array and a method to use such a system;

(2) a plurality of microphones arranged in a number of concentric nested rings of variable size, each ring comprising a subset of the plurality of microphones positioned at predetermined intervals along the ring;

(3) the concentric nested rings are rotationally offset;

(4) the rings are positioned at different radial distances from a center point of the substrate to form a nested configuration;

(5) each ring forms a circle of different diameter from the other ring or other rings;

(6) two nested rings;

(7) each ring includes four microphones;

(8) the second configuration of a plurality of microphones

concentrically surrounding the first configuration;

(9) two concentric rings are positioned at different radial distances from a center point of the substrate to form a nested configuration;

(10) a plurality of microphones are positioned at predetermined intervals along the circumference of the ring;

(11) a microphone is positioned in the center point;

(12) an array microphone with two rings;

(13) two configurations of microphone arrays;

(14) The microphones in a first configuration are rotationally offset from the central axis of the array microphone.

29. The Chinese Examiner further found that it was well-known and/or obvious to a person of ordinary skill in the art:

(1) that the microphones used in an array microphone system can be micro-electromechanical systems (MEMS) microphones;

(2) that each ring's diameter is determined based on a lowest operating frequency assigned to the subset of microphones forming the ring;

(3) based on the disclosure of two nested rings in CN 102860039, that different number of nested rings and different number of microphones can be configured based on practical considerations;

(4) that concentric rings in an array microphone are harmonically nested;

(5) that an array microphone is configured to cover a preset range

of audio frequencies;

(6) based on the disclosure of four microphones in each ring in CN 102860039, that a predetermined number of microphones can be configured to form each ring based on practical considerations;

(7) that a processor be configured in a microphone system to process audio signals captured by an array microphone and generate output signals as appropriate;

(8) that an indicator be configured in a microphone system to indicate an operational mode of the microphone;

(8) that a plurality of microphones are configured to cover a preset range of audio frequencies;

(9) based on the disclosure of two rings in an array microphone in CN 102860039 and practical considerations, that the first configuration includes a different number of concentric rings than the second configuration;

(10) that a diameter of each concentric ring is defined by a lowest operating frequency assigned to the microphones forming the ring;

(11) based on the disclosure of two configurations of microphone arrays, that a plurality of concentric nested rings of microphones can be configured and coupled to a processor;

(12) to select the number of microphones in the array microphone based on practical considerations.

30. The Chinese Examiner further found that it would be obvious to a person of ordinary skill in the art: (1) to combine U.S. 2013101141 and CN 102860039; and (2) to combine U.S. 2013101141, CN 102860039, and well-known knowledge of a person of ordinary skill in the art.

31. On or around February 7, 2020, Shure's Chinese Patent No. 107750464 issued from the '194 Chinese Application. To overcome the rejection in the February 20, 2019 Office Action, Shure amended its original claims 1-16 and 28-40 and withdrew claims 17-27. Upon information and belief, the amendments Shure made in the prosecution of the '194 Chinese Application to overcome the rejection are not the same as the amendments Shure proposed in the IPR for the '493 Patent. U.S. 2013101141 and CN 102860039 are cited on the face of Shure's Chinese Patent No. 107750464 among a total of six prior art references.

32. Upon information and belief, Shure's patent prosecution counsel for the '194 Chinese Application is Lei Zhang. Upon information and belief, Shure's patent prosecution counsel for the '493 Patent is William J. Lenz. Upon information and belief, Mr. Lenz also served as Shure's IPR counsel for the '493 Patent from approximately March 7, 2019 to April 3, 2019. Upon information and belief, Shure's IPR counsel for the '493 Patent are Erika H. Arner, Elliot C. Cook, and Charles E. Geary since approximately April 3, 2019.

33. Upon information and belief, at least Mses. Zhang and Arner and Messrs. Lenz, Campbell, Cook, and Geary had knowledge of the February 20, 2019 Office Action from the Chinese Patent Office, U.S. 2013101141 and CN 102860039 (which were cited during prosecution of the '194 Chinese Application and formed the basis of the Chinese Patent Office's rejection). Upon information and belief, these patent counsel would have been aware of their

duty of disclosure, candor, and good faith to the U.S. Patent and Trademark Office based on their training and professional experience.

34. Upon information and belief, the named inventors of the '493 Patent—Mathew T. Abraham, David Grant Cason, John Casey Gibbs, Gregory William Lantz, Albert Francis McGovern, and Brent Robert Shumard, who are also the named inventors on the '194 Chinese Application, also had knowledge of the February 20, 2019 Office Action from the Chinese Patent Office, U.S. 2013101141 and CN 102860039 (which were cited during prosecution of the '194 Chinese Application and formed the basis of the Chinese Patent Office's rejection). Upon information and belief, these named inventors would have been aware of their duty of disclosure, candor, and good faith to the U.S. Patent and Trademark Office at least because they are each named inventors on multiple U.S. patents and patent applications and would have been informed of their duty during prosecution of numerous patent applications.

35. By filing a contingent motion to amend on November 7, 2019 and a revised contingent motion to amend claims of the '493 Patent on March 13, 2020 during the IPR, Shure reopened prosecution of the '493 Patent. Shure's patent counsel and named inventors are therefore subject to the duty of disclosure, candor, and good faith. *See* MPEP §2001.03 ("For example, the duty would extend to proceedings before the Patent Trial and Appeal Board and the Office of the Commissioner for Patents"); 37 CFR 1.56.

36. Upon information and belief, the PTAB would have considered the Chinese Examiner's decision and reasoning in rejecting each claim in the '194 Application in the February 20, 2019 Office Action, as well as the combination of U.S. 2013101141 and CN 102860039, material information. *See Ilife Techs. Inc. v. Body Media, Inc.*, Civil Action No. 14-990 (W.D. Pa. Mar. 6, 2015) ("The EPO Prior Art, standing alone, is a sufficient factual

predicate for pleading a claim of inequitable conduct with respect to the '331, '461, and '890 Patents based upon both Munck and Lehrman's knowledge."). In particular, because claims 1-16 and 28-40 of the '194 Chinese Application are the same as or highly similar to claims 1-16 and 28-40 of the '493 Patent, the Chinese Examiner's claim-by-claim analysis and rejection of each of issued claims 1-16 and 28-40 of the '194 Chinese Application would be especially important to a U.S. Patent Examiner or the PTAB examining the proposed amended claims of the '493 Patent against the originally issued claims of the '493 Patent.

37. In Shure's November 7, 2019 contingent motion to amend, Shure proposed to add (1) the word "harmonically" to claim 1; (2) the phrase "and wherein an outermost ring of the concentric, nested rings has a lowest operating frequency of between 100 Hertz and 200 Hertz" to claim 7; (3) the phrase "and wherein an innermost ring of the concentric, nested rings has a lowest operating frequency of between 6,000 Hertz and 10,000 Hertz" to claim 8; and (4) the phrase "and being harmonically nested with" to claim 28 of the '493 Patent. **Exhibit 5** (2019-11-07 Shure's Contingent Motion to Amend) at App'x A. As discussed above, the Chinese Examiner found that it was well-known and/or obvious to a person of ordinary skill in the art that concentric rings in an array microphone are harmonically nested. Therefore, this finding would be important to the PTAB evaluating Shure's proposed amendments relating to "harmonically" and "and being harmonically nested with." Shure's other, now-abandoned amendments only specify the operating frequency range and add no inventive element, and therefore do not undermine the materiality of the Chinese Examiner's rejection and prior art cited during the Chinese prosecution.

38. In Shure's March 13, 2020 revised contingent motion to amend, Shure proposed to add "harmonically," "an audio component that receives audio signals from the plurality of

microphones; and “a communications interface configured to allow communications between the audio component and an external control device; wherein the external control device is configured to control at least one of: directionality of the audio signals, noise suppression of the audio signals, muting of the audio signals, or a pickup pattern of the audio signals” to claim 1 of the ’493 Patent. **Exhibit 6** (2020-03-13 Shure’s Revised Contingent Motion to Amend) at App’x A. Shure further proposed to add “and wherein each of the plurality of peripheral PCBs has an identical configuration of a respective subset of the plurality of microphones” to claim 16 of the ’493 Patent. *Id.* Shure further proposed to add “and being harmonically nested with” and “electrically coupling a communications interface to the audio processor, the communications interface being configured to allow communications between the audio processor and an external control device; wherein the external control device is configured to control at least one of: directionality of the audio signals, noise suppression of the audio signals, muting of the audio signals, or a pickup pattern of the audio signals” to claim 28 of the ’493 Patent. *Id.* As discussed above, the Chinese Examiner found that it was well-known and/or obvious to a person of ordinary skill in the art that concentric rings in an array microphone are harmonically nested. Therefore, this finding would be important to the PTAB evaluating Shure’s proposed amendments relating to “harmonically” and “and being harmonically nested with.” Shure’s other proposed amendments add further limitations well known in the prior art and no additional inventive element(s), and therefore do not undermine the materiality of the Chinese Examiner’s rejection and prior art cited during the Chinese prosecution.

39. At no time did Shure disclose to the U.S. Patent and Trademark Office or PTAB (1) the Chinese Patent Office’s February 20, 2019 Office Action with detailed, claim-by-claim analysis rejecting claims in the ’194 Chinese Application; (2) CN 102860039; and (3) the



invalidating combination of U.S. 2013101141 and CN 102860039 which formed the basis of the Chinese Patent Office's Office Action.

40. Upon information and belief, Shure's patent counsel and named inventors intended to deceive the U.S. Patent and Trademark Office and PTAB intentionally withheld information they knew to be material and would be considered material by the U.S. Patent and Trademark Office and PTAB, thereby violating their duty of disclosure, candor, and good faith to the U.S. Patent and Trademark Office and PTAB. *See Zadro Prods., Inc. v. SDI Techs., Inc.*, C.A. No. 17-1406 (WCB), 2019 WL 1100470, at \*5 (D. Del. Mar. 8, 2019) ("In this district, an inequitable conduct claim is rarely disallowed at the pleading stage due to the failure to adequately allege scienter.").

41. Shure's failure to comply with its duty of disclosure renders claims 1-16 and 28-40 of its '493 Patent unenforceable.

### **III. Shure's '723 and '493 Patents are Invalid**

42. Shure's '493 Patent is invalid for at least the reasons explained in the currently-pending *inter partes* review of the '493 Patent. For example, ClearOne's Petition for *Inter Partes* Review of U.S. Patent No. 9,565,493 is attached as **Exhibit 4** and the PTAB's Decision Granting Institution of *Inter Partes* Review is attached as **Exhibit 7**.

43. Shure's '723 Patent is invalid for at least the reasons explained in ClearOne's initial invalidity contentions, attached here as **Exhibit 8**.

44. Additionally, Shure's '723 Patent is invalid for having incorrect inventorship. Design patents are only available to those who "invent[]" a design. Thus, naming of the correct inventor or inventors is a condition of patentability. As with utility patents, a design patent inventor is the person (or persons) who conceived of the patented invention.

45. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

46. Inventorship of the '723 patent is incorrect [REDACTED]

[REDACTED] and its resulting contribution to the overall impression of the claimed design, did not come from any of the named inventors. Upon information and belief, [REDACTED]

[REDACTED]

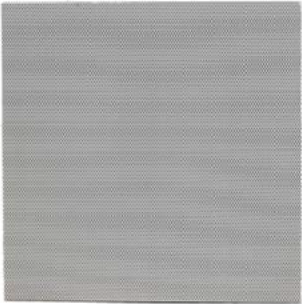
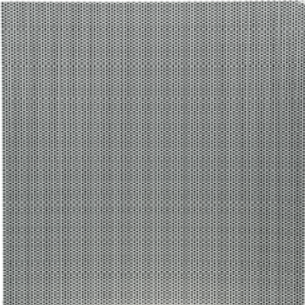


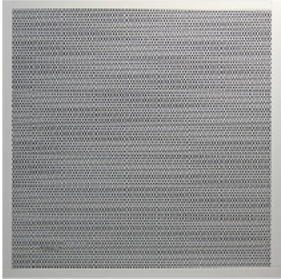
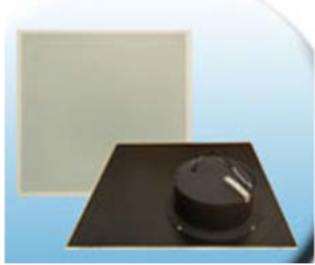
[REDACTED]




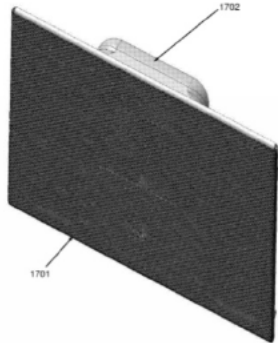
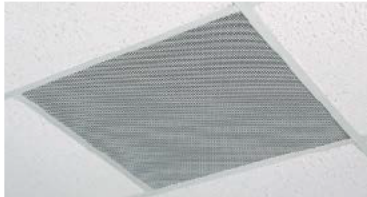
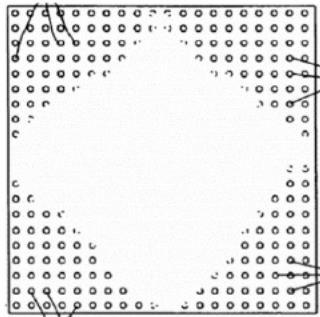
[REDACTED]

#### **IV. ClearOne's BMA CT and CTH Products do not Infringe the '723 Patent**

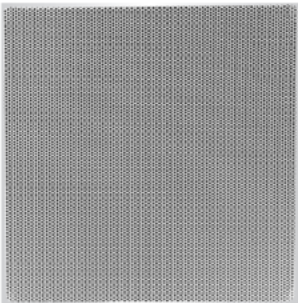
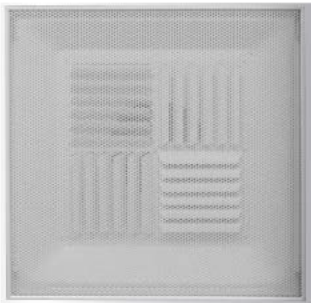
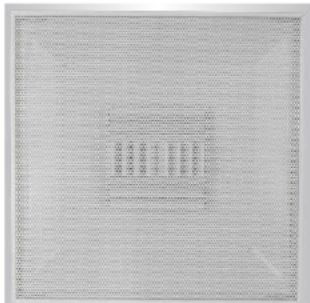
47. To the extent the '723 Patent claim can be construed, (1) the thin, square shape of the claimed array microphone assembly design is functional because, as the array microphone assembly is intended to replace a standard ceiling tile, the thin, square shape of the claimed array

microphone assembly is dictated by the shape of a standard ceiling tile; (2) the extent to which the front face of Shure's design (as depicted in Figure 3 of the '723 Patent) looks like prior art ceiling vents is functional, because that allowed the claimed device to blend invisibly into a drop ceiling by adopting an air-and-sound passing form with which people were already familiar; and (3) the claim construction for the fact that numerous pieces of prior art, including ceiling speaker prior art and HVAC prior art, feature the same thin, square shape as that shown in the claimed design, as well as the same perforated metal grille, both with a white frame and without, as depicted in the tables below. *See Exhibit 13* (D.I. 238, Joint Claim Construction Brief).

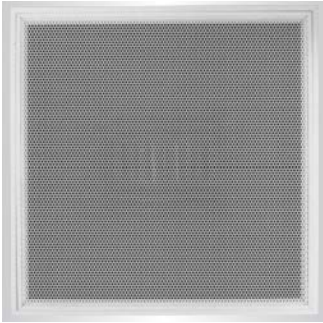
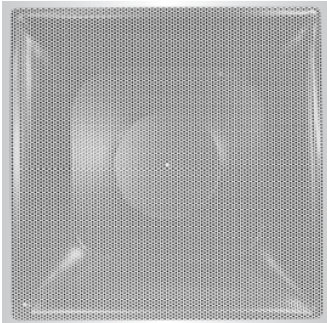
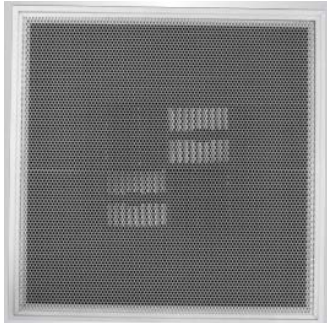
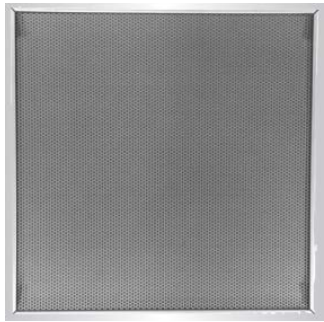
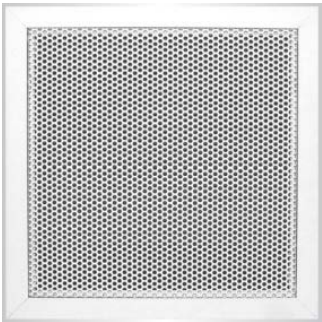
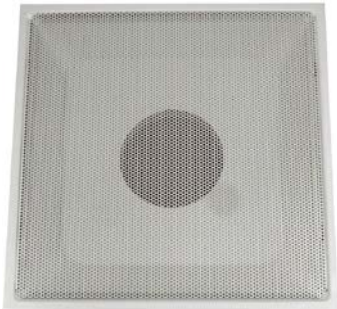
<b>Table 1: Speaker/Microphone Prior Art</b>		
 <p>IPSCM Square Ceiling Tile Speaker</p>	 <p>Extron FF 220 Flat Field Speaker</p>	 <p>ClearOne's U.S. Pat. No. 9,813,806</p>
 <p>Quam Lay-In Ceiling Mount Speaker</p>	 <p>Valcom Spot SoundMasking Speaker</p>	 <p>AMK SQ Series Ceiling Speaker</p>

 <p>Bogen Drop-In Ceiling Speaker</p>	 <p>Armstrong i-Ceilings Sound Panel</p>	 <p>Lowell LT2 2x2 Loudspeaker</p>
 <p>U.S. Pat. No. 8,109,360</p>	 <p>Extron ST 228 Speakers</p>	 <p>U.S. Pat. No. 6,944,312</p>

**Table 2: Ceiling Vent Prior Art**

 <p>Nailor Perforated Diffuser Model 4302</p>	 <p>Nailor Perforated Diffuser Model 4320F</p>	 <p>Nailor Perforated Diffuser Model 4320CB</p>
--	---	--



		
Nailor Perforated Diffuser Model 4330CB	Nailor Perforated Diffuser Model 4310A	Nailor Perforated Diffuser Model 4330
		
Nailor Perforated Diffuser Model 4360	Nailor Perforated Diffuser Model 4340R	Speedi-Grille 24" by 24" Drop Ceiling Air Vent

48. ClearOne's BMA CT and CTH products do not infringe the '723 Patent for at least the reasons explained in ClearOne's Opposition to Shure's Motion for a Temporary Restraining Order, attached as **Exhibit 14**.

### **FIRST COUNTERCLAIM**

#### **VIOLATION OF DELAWARE DECEPTIVE TRADE PRACTICES ACT**

49. ClearOne realleges and incorporates by reference the foregoing paragraphs as though fully restated herein.

50. Shure made false, deceptive, and/or misleading statements to ClearOne's customers and potential customers, including: (1) that ClearOne made "false statements" about the PI Order; (2) that Shure "designed the new MXA910W-A to provide a drop-ceiling mounting configuration that fully complies with the Court's rulings"; and (3) that Judge Chang "ruled on

November 3, 2019, that the new MXA910W-A is not included under the preliminary injunction.”

On information and belief, these statements were made in bad faith to both harm ClearOne in the market and make it more likely that ClearOne customers and potential customers buy Shure’s MXA910 product rather than ClearOne’s products, including the BMA CT or BMA CTH.

51. Upon information and belief, Shure’s false, deceptive, and/or misleading conduct caused ClearOne injury by deceiving, or having the tendency to deceive, consumers from engaging in business with ClearOne, causing ClearOne to lose sales and hurting its reputation and commercial interests.

52. Upon information and belief, ClearOne’s injuries flow directly from Shure’s false and misleading statements and ClearOne consumers and potential consumers have not purchased ClearOne products due to Shure’s improper conduct.

53. Shure’s acts constitute unfair competition in violation of multiple sections of the Delaware Deceptive Trade Practices Act, including 6 Del. C. § 2532(a)(2), (5), (8), and (12).

54. ClearOne will continue suffering irreparable harm due to Shure’s statements without appropriate relief. ClearOne is entitled to compensatory damages, enhanced damages, and reimbursement of its attorneys’ fees and costs.

## **SECOND COUNTERCLAIM**

### **TORTIOUS INTERFERENCE WITH BUSINESS RELATIONS**

55. ClearOne realleges and incorporates by reference the foregoing paragraphs as though fully restated herein.

56. Shure made false, deceptive, and/or misleading statements to ClearOne’s customers and potential customers, including: (1) that ClearOne made “false statements” about the PI Order; (2) that Shure “designed the new MXA910W-A to provide a drop-ceiling mounting

configuration that fully complies with the Court's rulings"; and (3) that Judge Chang "ruled on November 3, 2019, that the new MXA910W-A is not included under the preliminary injunction." On information and belief, these statements were made in bad faith to both harm ClearOne in the market and make it more likely that ClearOne customers and potential customers buy Shure's MXA910 product rather than ClearOne's products, including the BMA CT or BMA CTH.

57. Upon information and belief, Shure made its offending statements to ClearOne customers who ClearOne had reasonable probabilities to obtain new and continuing business opportunities from, but did not engage in business with ClearOne due to Shure's statements.

58. Shure's false, deceptive, and/or misleading statements were intentional and meant to harm ClearOne's business opportunities with current and potential customers. Upon information and belief, the statements caused interference in ClearOne's business relationships with its customers.

59. Upon information and belief, ClearOne has lost sales, commercial interest, reputation, employee time, and legal expenses due to Shure's false statements. ClearOne will continue suffering irreparable harm due to Shure's statement without appropriate relief. ClearOne is entitled to all available damages and other relief as permitted by law.

### **THIRD COUNTERCLAIM**

#### **UNFAIR COMPETITION UNDER DELAWARE COMMON LAW**

60. ClearOne realleges and incorporates by reference the foregoing paragraphs as though fully restated herein.

61. Shure made false, deceptive, and/or misleading statements to ClearOne's customers and potential customers, including: (1) that ClearOne made "false statements" about the PI Order; (2) that Shure "designed the new MXA910W-A to provide a drop-ceiling mounting

configuration that fully complies with the Court's rulings"; and (3) that Judge Chang "ruled on November 3, 2019, that the new MXA910W-A is not included under the preliminary injunction." On information and belief, these statements were made in bad faith to both harm ClearOne in the market and make it more likely that ClearOne customers and potential customers buy Shure's MXA910 product rather than ClearOne's products, including the BMA CT or BMA CTH.

62. Upon information and belief, Shure made its offending statements to ClearOne customers who ClearOne had reasonable probabilities to obtain new and continuing business opportunities, but did not engage in business with ClearOne due to Shure's statements.

63. Shure's false, deceptive, and/or misleading statements were intentional and meant to harm ClearOne's business opportunities with current and potential customers. Upon information and belief, the statements caused interference in ClearOne's business relationships with its customers.

64. Upon information and belief, ClearOne has lost sales, commercial interest, reputation, employee time, and legal expenses due to Shure's false statements. ClearOne will continue suffering irreparable harm due to Shure's statement without appropriate relief. ClearOne is entitled to all available damages and other relief as permitted by law.

#### **FOURTH COUNTERCLAIM**

##### **DECLARATORY JUDGMENT OF UNENFORCEABILITY OF CLAIMS 1-16 AND 28-40 OF THE '493 PATENT**

65. ClearOne realleges and incorporates by reference the foregoing paragraphs as though fully restated herein.

66. During the IPR for the '493 Patent, individuals at Shure involved in the IPR amendment of the '493 Patent failed to disclose material information to PTAB that they were aware of during the IPR and had a duty to disclose to PTAB. These individuals include Shure's



patent counsel Mses. Zhang and Arner and Messrs. Lenz, Cook, and Geary and the '493 Patent's named inventors Messrs. Abraham, Cason, Gibbs, Lantz, McGovern, and Shumard. As described above, these individuals knew that they had a duty of disclosure, candor, and good faith to the U.S. Patent and Trademark Office and yet failed to disclose to the U.S. Patent and Trademark Office or PTAB (1) the Chinese Patent Office's February 20, 2019 Office Action with detailed, claim-by-claim analysis rejecting claims 1-16 and 28-40 in the '194 Chinese Application; (2) CN 102860039; and (3) the invalidating combination of U.S. 2013101141 and CN 102860039 which formed the basis of the Chinese Patent Office's Office Action.

67. Upon information and belief and as discussed above, a reasonable patent examiner and/or PTAB would consider the information Shure failed to disclose material, as it is important in deciding whether to allow the proposed amendments to claims 1-16 and 28-40 of the '493 Patent against the originally-issued claims 1-16 and 28-40 as well as the patentability of the originally-issued claims 1-16 and 28-40.

68. Moreover, the withheld information is not cumulative to the information that was before the PTAB during the IPR. *See also W.L. Gore & Assocs. Inc. v. Medtronic, Inc.*, 850 F. Supp. 2d 630, 635 (E.D. Va. 2012) (“[T]he cumulative determination will require a fuller record and is not a proper inquiry at the 12(b)(6) stage.”). There is no dispute that (1) the Chinese Patent Office's February 20, 2019 Office Action with detailed, claim-by-claim analysis rejecting claims 1-16 and 28-40 in the '194 Chinese Application; (2) CN 102860039; (3) the invalidating combination of U.S. 2013101141 and CN 102860039 which formed the basis of the Chinese Patent Office's Office Action are not before the PTAB during the IPR.

69. The single most reasonable inference that can be drawn from the evidence is that Shure's patent counsel and named inventors' failure to disclose the withheld information to the

PTAB was done with the specific intent to deceive the PTAB. This thus amounts to inequitable conduct rendering claims 1-16 and 28-40 of the '493 Patent unenforceable.

70. ClearOne thus requests a declaratory judgment that claims 1-16 and 28-40 of the '493 Patent are unenforceable due to inequitable conduct.

#### **FOURTH COUNTERCLAIM**

##### **DECLARATORY JUDGMENT OF INVALIDITY OF THE '493 PATENT**

71. ClearOne realleges and incorporates by reference the foregoing paragraphs as though fully restated herein.

72. As described above and in Exhibits 4 and 5, the '493 Patent is invalid for failure to meet the conditions for patentability and failing to comply with one or more of the provisions of Title 35 of the United States Code, including, but not limited to sections 101, 102, 103, and/or 112.

73. ClearOne seeks and is entitled to a judgment against Shure that the '493 Patent is invalid.

#### **FIFTH COUNTERCLAIM**

##### **DECLARATORY JUDGMENT OF INVALIDITY OF THE '723 PATENT**

74. ClearOne realleges and incorporates by reference the foregoing paragraphs as though fully restated herein.

75. As described above and in Exhibit 8, the '723 Patent is invalid for failure to meet the conditions for patentability and failing to comply with one or more of the provisions of Title 35 of the United States Code, including, but not limited to sections 101, 102, 103, 112, and/or 171.

76. ClearOne seeks and is entitled to a judgment against Shure that the '723 Patent is invalid.

### **SIXTH COUNTERCLAIM**

#### **DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '723 PATENT**

77. ClearOne realleges and incorporates by reference the foregoing paragraphs as though fully restated herein.

78. As described above and in Exhibit 14, ClearOne's BMA CT and BMA CTH products do not infringe the '723 Patent.

79. ClearOne seeks and is entitled to a judgment against Shure that the BMA CT and BMA CTH products do not infringe the '723 Patent.

### **PRAYER FOR RELIEF**

WHEREFORE, ClearOne respectfully requests that this Court enter a Judgment and Order in its favor and against Shure as follows:

A. Granting an award against Shure for money damages, attorneys' fees, costs, and enhanced damages pursuant to 6 Del. C. §§ 2532;

B. Granting an award against Shure for money damages due to Shure's violation of the common law tort of interference with business relations;

C. Granting an award against Shure for money damages due to Shure's unfair competition under Delaware common law;

D. Declaring that the asserted claim(s) of the '723 Patent are invalid, void, and/or unenforceable;

E. Declaring that the asserted claim(s) of the '493 Patent are invalid, void, and/or unenforceable;

- F. Declaring that the BMA CT and BMA CTH products do not infringe the '723 Patent;
- G. Granting ClearOne its attorneys' fees and expenses, including under 35 U.S.C. § 285;
- H. Granting ClearOne its costs incurred; and
- I. Granting ClearOne such other and further relief as the Court may deem just, proper, and equitable under the circumstances.

**DEMAND FOR JURY TRIAL**

ClearOne demands a trial by jury of all issues so triable.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

*/s/ Andrew M. Moshos*

OF COUNSEL:

John C. Hueston  
Douglas J. Dixon  
Christina V. Rayburn  
Karen Younkings  
Sourabh Mishra  
Maxwell K. Coll  
HUESTON HENNIGAN LLP  
620 Newport Center Drive  
Suite 1300  
Newport Beach, CA 92660  
(949) 226-6741

---

Michael J. Flynn (#5333)  
Andrew M. Moshos (#6685)  
1201 North Market Street  
P.O. Box 1347  
Wilmington, DE 19899  
(302) 658-9200  
mflynn@mnat.com  
amoshos@mnat.com

*Attorneys for ClearOne, Inc.*

July 27, 2020

**CERTIFICATE OF SERVICE**

I hereby certify that on July 27, 2020, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on July 27, 2020, upon the following in the manner indicated:

Michael P. Kelly, Esquire  
Brian R. Lemon, Esquire  
Alexandra M. Joyce, Esquire  
McCARTER & ENGLISH, LLP  
405 North King Street, 8th Floor  
Wilmington, DE 19801  
*Attorneys for Plaintiffs*

*VIA ELECTRONIC MAIL*

Gerald F. Ivey, Esquire  
Mareesa A. Frederick, Esquire  
Elizabeth D. Ferrill, Esquire  
Sydney N. English, Esquire  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, LLP  
901 New York Avenue, N.W.  
Washington, DC 20001-4413  
*Attorneys for Plaintiffs*

*VIA ELECTRONIC MAIL*

Elliot C. Cook, Esquire  
Alexander M. Boyer, Esquire  
Joseph M. Schaffner, Esquire  
David N. Lefcowitz, Esquire  
Luke H. MacDonald, Esquire  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, LLP  
Two Freedom Square  
11955 Freedom Drive  
Reston, VA 20190-5675  
*Attorneys for Plaintiffs*

*VIA ELECTRONIC MAIL*

*/s/ Andrew M. Moshos*

---

Andrew M. Moshos (#6685)