

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

In the Matter of

CERTAIN SURFACE MOUNT MEMS
MICROPHONES AND PRODUCTS
CONTAINING THE SAME

Investigation No. 337-TA-_____

**COMPLAINT UNDER
SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

COMPLAINANT

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Appendix E – References to Prosecution History of U.S. Patent No. 7,220,614

Appendix F – Prosecution History of U.S. Patent No. 7,364,942

Appendix G – References to Prosecution History of U.S. Patent No. 7,364,942

I. INTRODUCTION

1. This Complaint is filed, pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, by Complainant Analog Devices, Inc. ("Analog" or "Complainant").

2. This Complaint is based upon unfair methods of competition and unfair acts in the unlawful importation into the United States, sale for importation, and/or sale within the United States after importation, by or on behalf of Knowles Electronics LLC ("Knowles") and Mouser Electronics, Inc. ("Mouser") (collectively, "Respondents") of certain surface mount MEMS (Micro-Electro-Mechanical System) microphones, as well as certain products that incorporate those microphones.

3. Upon information and belief, Knowles' MEMS surface mount microphones are marketed and sold under, at least, the trade name SiSonic™ and are manufactured with a process for wafer level treatment to reduce stiction and to passivate their micromachined surfaces. These surface mount MEMS microphones, passivated through the use of the same anti-stiction coating, and products containing the same constitute the "Accused Products." The term "stiction" refers to a combination of static and friction, and the term "passivate" refers to altering a surface to make it less interactive with its surroundings. The Knowles process for wafer level treatment to reduce stiction and to passivate micromachined surfaces, used in manufacturing the Accused Products, directly infringes one or more of the following claims of the following U.S. patents owned by Analog:

- Claims 12, 15, 31, 32, 34, 35, 38, and 39 of U.S. Patent No. 7,220,614 (the "'614 Patent") (Exhibit 1);
- Claims 1-6 and 8 of U.S. Patent No. 7,364,942 (the "'942 Patent") (Exhibit 2) (collectively, "patents-in-suit").

4. Analog has established a domestic industry and has invested substantial capital, labor, and resources in the application of its patented process to treat wafers to reduce the stiction that plagues micromachined products. The patents-in-suit claim inventions and processes that result in the reduction of stiction, including in MEMS devices.

5. Analog has developed and is the owner of the invention claimed in the '614 Patent entitled "Process for Wafer Level Treatment to Reduce Stiction and Passivate Micromachined Surfaces and Compounds Used Therefor," which issued on May 22, 2007. Analog also developed and is the owner of the invention claimed in the '942 Patent entitled "Process for Wafer Level Treatment to Reduce Stiction and Passivate Micromachined Surfaces and Compounds Used Therefor," which issued on April 29, 2008. The inventions claimed by the '614 Patent and the '942 Patent are embodied in all of Analog's MEMS microphones (e.g., ADMP401 and ADMP421) and virtually all of Analog's other MEMS products, including accelerometers (e.g., the ADXL203, ADXL320, ADXL330, ADXL340, ADXL76/276, ADXL193, ADXL180 product families) and gyroscopes (e.g., the ADXRS610, ADXRS150, ADXRS300 product families). These products are used in numerous commercial and industrial applications ranging from airbag sensors to videogame sensors.

6. Analog seeks a permanent exclusion order as provided by Section 337(d) of the Tariff Act of 1930, as amended, excluding the Accused Products from entry into the United States.

7. Analog further seeks cease and desist orders pursuant to Section 337(f) of the Tariff Act of 1930, as amended, compelling Respondents and Knowles' other U.S. distributors to stop the importation, promotion, marketing, advertising, demonstrating, testing or warehousing of the Accused Products for distribution, sale, and/or use in the United States.

II. COMPLAINANT

8. Analog is a publicly traded (NYSE) corporation organized and existing under the laws of the Commonwealth of Massachusetts and having its principal offices in Norwood, Massachusetts. Analog has 16 locations with approximately 3,000 employees in the United States and 23 international locations with approximately 5,500 employees.

9. Analog is an industry leader in signal processing technology. Since its founding in a basement in Cambridge, Massachusetts in 1965, Analog has grown into one of the world's most prominent semiconductor companies. Analog's mixed-signal and digital signal processing ("DSP") integrated circuits ("IC") have played a fundamental role in converting, conditioning, and processing real-world phenomena such as light, sound, temperature, motion, and pressure into electrical signals to be used in a wide array of electronic equipment. Indeed, Analog is the company behind the most sought-after features in virtually every type of electronic equipment. For example, in today's automobiles, digital still cameras, LCD and plasma televisions, cellular handsets, medical imaging devices, and factory automation equipment, Analog's ICs enable continuous connections, more vibrant pictures, clearer sound, and increased portability. Analog's core analog and DSP IC technology is, quite literally, everywhere.

10. Analog has long been a leading innovator in MEMS products. By combining nearly 20 years of MEMS know-how with Analog's audio signal processing expertise, Analog's MEMS microphones provide unprecedented performance and reliability and offer superior audio acquisition to enable the next generation of audio requirements. Analog also offers a full range of inertial sensing solutions including award-winning *iMEMS*® accelerometers and gyroscopes, *iSensor*® intelligent sensors, and inertial measurement units. Analog MEMS technologies have simplified the adoption of motion sensing in a wide range of industrial, medical, consumer, communications, and automotive applications for market leading companies worldwide.

11. Analog employs the technical expertise, creativity and knowledge of its skilled engineering and scientific personnel and relies on patent, trademark, copyright and trade secret protection to safeguard its competitive position. Analog has obtained approximately 3,000 patents worldwide (approximately 1,500 are in the United States) on various innovations in the IC, semiconductors, and manufacturing fields. Analog has made a substantial investment in the manufacture, research, development, and engineering of semiconductor design, testing, and fabrication in its facilities in the United States, including, without limitation, the methods and devices disclosed and claimed in the patents-in-suit.

III. RESPONDENTS

12. Knowles is a limited liability company organized under the laws of the State of Delaware and having its principal offices located in Itasca, Illinois.

13. Upon information and belief, Mouser, a distributor of Knowles MEMS products, is a corporation organized under the laws of the State of Delaware and having its principal offices located in Mansfield, Texas.

14. Upon information and belief, Knowles does not have any manufacturing facilities in the United States (Knowles' only manufacturing facilities are located in China and Japan). (*See Exhibit 3.*)

15. Upon information and belief, Knowles, and/or its affiliates, manufacture and import into the United States, sell for importation, and/or sell within the United States after importation, the Accused Products that infringe the patents-in-suit.

16. Upon information and belief, Knowles' unaffiliated U.S. distributors, such as Mouser, import into the United States, sell for importation, and/or sell within the United States after importation, the Accused Products that infringe the patents-in-suit.

17. Upon information and belief, Knowles engages in substantial design, support and repair activities in the United States to assist United States customers to integrate the Accused Products into finished products. The finished products are manufactured both in the United States and abroad.

IV. NON-TECHNICAL DESCRIPTION OF THE PATENTED TECHNOLOGY

A. Importance of Anti-Stiction Compounds

18. The patents-in-suit relate generally to forming durable anti-stiction surfaces on micromachined structures. Examples of micromachined structures include micromachined sensors and micromachined actuators, such as MEMS and micro-opto-electro-mechanical systems, which are a class of MEMS devices. Examples of industries using micromachined structures include electronics (e.g., microphones), automotive (e.g., accelerometers and gyroscopes), semiconductor (e.g., integrated circuits), and biological (e.g., biosensors).

19. A MEMS device utilizes mechanical elements, sensors, actuators and electronics that are produced using microfabrication technology. Mechanical energy measured by a sensor can be translated into electrical signals. One example of a practical use of a MEMS device is a microphone. A sensor, such as a diaphragm or membrane, measures acoustical energy (e.g., sound waves), which is converted to electrical signals that are processed and amplified. Another example of a practical use for a MEMS device is in an airbag in a car. The movement of a subcomponent is used to measure acceleration and deceleration in a vehicle, which is translated into an electrical signal that is processed to trigger deployment of the airbag.

20. Components in a MEMS device that are in close contact with one another may stick due to stictional forces. Because MEMS devices rely on the detection of mechanical energy (e.g., vibrational energy or movement), the failure of a subcomponent to move or contract

results in failure of the MEMS device. For example, stiction could render the membrane in a MEMS microphone unable to vibrate, which would cause a failure of the device.

B. Analog's Process for Applying Anti-Stiction Compounds and Products Produced Through This Process

21. Analog's '614 Patent and '942 Patent provide a solution to the problem of stiction, including in MEMS devices. The patents-in-suit disclose and claim processes and devices that utilize vapor deposition of a material having anti-stiction properties to produce a low stiction surface on a MEMS device. The material having anti-stiction properties is deposited while the devices are still in wafer form and before they are cut into discrete devices for assembly into packages. The patents-in-suit also disclose and claim chemicals that are effective in imparting the anti-stiction property to a surface for a MEMS device.

22. Analog's MEMS devices are manufactured using the techniques disclosed and claimed in Analog's '614 Patent and '942 Patent to prevent or minimize subcomponents from failing due to stiction. Confidential Exhibit 4C, Declaration of John R. Martin ("Martin Decl.") at ¶ 16. These Analog MEMS devices include microphones (e.g., ADMP401 and ADMP421). They also include other MEMS devices, such as accelerometers (e.g., the ADXL203, ADXL320, ADXL330, ADXL340, ADXL76/276, ADXL193, ADXL180 product families) and gyroscopes (e.g., the ADXRS610, ADXRS150, ADXRS300 product families). *Id.* Virtually all of Analog's MEMS products, which number in the hundreds, embody the claimed inventions of the patent-in-suit. *Id.*

V. THE PATENTS-IN-SUIT

A. U.S. Patent No. 7,220,614

23. The first patent-in-suit is the '614 Patent, entitled "Process for Wafer Level Treatment to Reduce Stiction and Passivate Micromachined Surfaces and Compounds Used

Therefor". An uncertified copy of the '614 Patent is attached to the Complaint as Exhibit 1. A certified copy has been requested from the U.S. Patent and Trademark Office ("USPTO") and will be provided upon receipt.

24. The '614 Patent was issued on May 22, 2007, based on a filing date of June 9, 2003, and a priority date of February 1, 2000. The '614 Patent will expire on January 29, 2021. The history of the prosecution of the '614 Patent, which is the result of a series of provisional and divisional applications, is as follows:

- (a) Provisional Application Serial No. 60/178,958, filed February 1, 2000 (expired);
- (b) Application Serial No. 09/771,872 ("the '872 Application"), filed January 29, 2001 (issued on January 6, 2004, as U.S. Patent No. 6,674,140 (the "'140 Patent")); and
- (c) Application Serial No. 10/457,500 ("the '500 Application"), filed on June 9, 2003, as a divisional application of the '872 Application (issued on May 22, 2007, as the '614 Patent).

25. John R. Martin is the named inventor on the '614 Patent. Analog is the owner of the '614 Patent by assignment made on January 26, 2001, and of the '872 Application, which issued as the '140 Patent. An uncertified copy of the assignment of the '872 Application is attached to the Complaint as Exhibit 5. A certified copy has been requested from the USPTO and will be provided upon receipt.

26. Analog has requested a certified copy of the prosecution history of the '614 Patent (Application Serial No. 10/457,500), which will be provided upon receipt. In lieu of the certified copy, Analog here submits four (4) uncertified copies of the prosecution history of the '614 Patent as Appendix A.

27. The '614 Patent is preceded by an expired provisional application (Application Serial No. 60/178,958) and a parent application (Application Serial No. Serial No. 09/771,872). Analog has requested certified copies of their prosecution histories from the USPTO, which will be provided upon receipt. In lieu of the certified copies, Analog here submits four (4) uncertified copies of each prosecution history as Appendices B and C.

28. In addition, Analog submits four (4) copies of each patent and technical reference identified in the prosecution history of the application leading to the issuance of the '140 Patent, the parent application, as Appendix D, and identified in the prosecution history of the application leading to the issuance of the '614 Patent, as Appendix E.

B. U.S. Patent No. 7,364,942

29. The second patent-in-suit is the '942 Patent, entitled "Process For Wafer Level Treatment to Reduce Stiction and Passivate Micromachined Surfaces and Compounds Used Therefor." An uncertified copy of the '942 Patent is attached to the Complaint as Exhibit 2. A certified copy has been requested from the USPTO and will be provided upon receipt.

30. The '942 Patent was issued on April 29, 2008, based on a filing date of April 12, 2007, and a priority date of February 1, 2000. The '942 Patent will expire on January 29, 2021. The history of the prosecution of the '942 Patent, which is the result of a series of provisional, divisional and continuation applications, is as follows:

- (a) Provisional Application Serial No. 60/178,958, filed February 1, 2000 (expired);
- (b) The '872 Application, filed January 29, 2001 (issued on January 6, 2004, as the '140 Patent);
- (c) The '500 Application, filed on June 9, 2003, as a divisional of the '872 Application (issued on May 22, 2007, as the '614 Patent); and

(d) Application Serial No. 11/786,515 ("the '515 Application), filed on April 12, 2007, as a continuation of the '500 Application (issued on April 29, 2008, as the '942 Patent).

31. John R. Martin is the named inventor on the '942 Patent. Analog is the owner of the '942 Patent by assignment made on January 26, 2001, of the '872 Application, which issued as the '140 Patent. An uncertified copy of the assignment of the '872 Application is attached to the Complaint as Exhibit 5. A certified copy has been requested from the USPTO and will be provided upon receipt.

32. Analog has requested a certified copy of the prosecution history of the '942 Patent (Continuation Application Serial No. 11/786,515) which will be provided upon receipt. In lieu of the certified copy, Analog here submits four (4) uncertified copies of the prosecution history of the '942 Patent as Appendix F.

33. The '942 Patent is preceded by an expired provisional application (Application Serial No. 60/178,958), a parent application (Application Serial No. Serial No. 09/771,872), and a divisional application (Application Serial No. 10/457,500). Analog has requested certified copies of all of these prosecution histories from the USPTO, which will be provided upon receipt. In lieu of the certified copies, Analog here submits four (4) uncertified copies of each prosecution history as Appendices A, B, and C.

34. In addition, Analog submits four (4) copies of each patent and technical reference identified in the prosecution history of the application leading to the issuance of the '140 Patent, the parent application, as Appendix D, identified in the prosecution history of the application leading to the issuance of the '614 Patent, the divisional application, as Appendix E, and identified in the prosecution history of the application leading to the issuance of the '942 Patent as Appendix G.

VI. LICENSES UNDER THE PATENTS-IN-SUIT

35. Analog has not granted any licenses under either of the patents-in-suit.

VII. FOREIGN COUNTERPART PATENT AND APPLICATIONS

36. The following chart lists all foreign counterpart patents and/or applications to the patents-in-suit and the '140 Patent, the type of filing, as well as the current status of each.

<u>Filing</u>	<u>Type</u>	<u>Status</u>
CN 1314086	Patent	Granted
EP 1258035	Application	Published
JP 2003522415	Application	Pending
WO 2001057920	Application	National phase

37. There are no other foreign patents or foreign patent applications pending, filed, abandoned, withdrawn or rejected relating to the patents-in-suit.

VIII. RELATED LITIGATION

38. Analog filed an action against Knowles in the United States District Court for the District of Delaware on November 3, 2009, captioned *Analog Devices, Inc. v. Knowles Electronics, LLC*, Civ. A. No. 09-826 (GMS), alleging infringement by Knowles of the patents-in-suit (among others). Knowles filed an answer and declaratory judgment counterclaims on November 24, 2009.

39. On or about November 12, 2009, Knowles filed with the U.S. International Trade Commission a Complaint captioned *In The Matter of Certain Silicon Microphone Packages and Products Containing the Same*, Docket No. 2694 ("Knowles' Proposed Investigation"). The Commission has not yet determined whether it will institute this investigation. Knowles' Proposed Investigation accuses Analog's MEMS microphones, including Analog MEMS

microphones that embody at least one claim of each of the patents-in-suit, of infringing two Knowles patents. In addition to filing the Complaint, Knowles filed a Motion for Temporary Relief. Analog has requested reexamination of Knowles' asserted patents with the USPTO. Independently, Wolfson Microelectronics PLC has also requested reexamination of the same two asserted Knowles patents.

40. There is substantial overlap between Knowles' Proposed Investigation and Analog's Complaint. Both investigations involve the same products – Analog's MEMS microphones and Knowles' surface mount MEMS microphones. As a result, there will likely be substantial overlap in documents, witnesses, and experts in both actions. Given this, and the close timing of the filing of Knowles' and Analog's Complaints, consolidation of the investigations pursuant to Commission Rule 201.7(a) would save Commission resources, as well as those of the parties.

IX. UNLAWFUL AND UNFAIR ACTS OF THE RESPONDENTS – PATENT INFRINGEMENT

41. Upon information and belief, the Accused Products are imported into the United States, sold for importation, and/or sold after importation in the United States by Knowles under, at least, the trade name SiSonic™ and infringe one or more of Claims 12, 15, 31, 32, 34, 35, 38, and 39 of the '614 Patent and/or Claims 1-6 and 8 of the '942 Patent.

42. Claim charts applying each asserted independent claim of the patents-in-suit to a representative Knowles surface mount MEMS microphone, bearing identification number "S310 3745 V11," are submitted with the Complaint as Exhibits 6 and 7.

43. The above-described representative Knowles surface mount MEMS microphone contains a MEMS die. Confidential Exhibit 4C, Martin Decl. at ¶ 6. The surface of the MEMS die contains anti-stiction compounds, but the sides of the MEMS die do not, indicating that the

treatment was applied to a MEMS wafer before singulation. *Id.* The anti-stiction treatment is not on the bond substrate, indicating that the treatment was applied to the MEMS wafer before packaging. *Id.*

44. Other Knowles surface mount MEMS microphones are depicted on Knowles' web site under various model designations. Exhibit 8 is a print-out from Knowles' web site listing its surface mount MEMS microphones, offered under the trade name SiSonic™, that are for sale in the United States.

45. Upon information and belief, Mouser imports into the United States, sells for importation, or sells within the United States after importation, the Accused Products, of which it is the owner, importer, or consignee, which infringe the patents-in-suit.

X. IMPORTATION OF THE ACCUSED PRODUCTS

46. Upon information and belief, the Accused Products are manufactured entirely outside the United States in China and/or Japan and are then imported into the United States, sold for importation, and/or sold after importation, in the United States by Knowles and its U.S. distributors, including Mouser. A page from Knowles' web site that identifies its manufacturing locations as all being located outside the United States is at Exhibit 3.

47. Upon information and belief, Knowles imports and/or offers to sell its surface mount MEMS microphones in the United States. Exhibit 8 is a page from Knowles' web site of all Knowles surface mount MEMS microphones, sold under the SiSonic™ trade name.

48. Upon information and belief, Mouser is an authorized distributor of Knowles products in the United States, including Knowles' surface mount MEMS microphones. Exhibit 11 is a page from Knowles' web site listing Mouser as a Knowles distributor. Exhibit 12 is a page from Mouser's web site listing Knowles SiSonic™ products it offers for sale in the United States.

49. A representative of Analog purchased, in the United States, a Nokia 3600 cell phone containing a Knowles surface mount MEMS microphone, bearing identification number "S310 3745 V11," that is shown in the claim charts at Exhibits 6-7. Confidential Exhibit 9C, Declaration of Kieran Harney ("Harney Declaration") at ¶¶ 7-8 sets forth further details regarding this purchase.

50. The representative Knowles surface mount MEMS microphone, shown in the claim charts at Exhibits 6-7, bears identification number "S310 3745 V11" which, on information and belief, indicates that it was manufactured, at least in part, in China. Exhibit 10 is a Knowles "Application Note" explaining the provenance of its products.

XI. HARMONIZED TARIFF SCHEDULE NUMBERS

51. Upon information and belief, the accused articles are properly classified, at least, under heading 8518.19.4000 and/or 8518.10.8030 of the Harmonized Tariff Schedule of the United States. These are exemplary classification numbers for illustration only and are not intended to restrict the definition of the Accused Products.

XII. DOMESTIC INDUSTRY

52. A domestic industry as defined by 19 U.S.C. § 1337(a)(3) exists with respect to Analog's activities in the United States that exploit the '614 Patent and '942 Patent and that relate to articles protected by the patented methods by reason of Analog's significant investment in plant and equipment and significant employment of labor and capital.

A. Technical Prong

53. Analog's MEMS products, including its MEMS microphones and the other MEMS products that Analog sells, are designed, developed, and continue to be manufactured, in part, by Analog in the United States for the purpose of enabling the practice of the anti-stiction methods covered by each of the patents-in-suit. Confidential Exhibit 4C, Martin Decl. at ¶ 16,

and Confidential Exhibit 9C, Harney Decl. at ¶¶ 3-6, set forth further details regarding Analog's MEMS manufacturing process.

54. Claim charts demonstrating how Analog's MEMS products, and particularly its MEMS microphone products, practice representative Claim 12 of the '614 Patent and representative Claim 1 of the '942 Patent are attached as Confidential Exhibit 13C and Exhibit 14, respectively.

55. Examples of Analog's MEMS product families that receive the patented anti-stiction treatment include microphones (e.g., ADMP401 and ADMP421), accelerometers (e.g., ADXL203, ADXL320, ADXL330, ADXL340, ADXL76/276, ADXL193, ADXL180), and gyroscopes (e.g., ADXRS610, ADXRS150, ADXRS300).

B. Economic Prong

1. Significant Investment in Plant and Equipment

56. A domestic industry exists by virtue of Analog's significant investments, in connection with the articles protected by the patents-in-suit, in plant and equipment in the United States. Confidential Exhibit 15C, Declaration of Bryan Caron ("Caron Decl."), sets forth further details regarding these facilities.

2. Significant Employment of Labor and Capital

57. Analog currently employs in the United States a significant number of employees in support of Analog's MEMS manufacturing process. These employees include personnel involved with the patented anti-stiction treatment. Confidential Exhibit 15C, Caron Decl., sets forth further details regarding these employees.

58. Analog makes significant investments each year to run its MEMS fabrication facilities in the United States. Confidential Exhibit 15C, Caron Decl., sets forth further details regarding these investments.

XIII. REQUEST FOR RELIEF

WHEREFORE, Complainant Analog respectfully requests that the U. S. International Trade Commission:

A. Institute an immediate investigation pursuant to Section 337(b)(1) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, into the violation by Respondents of Section 337 arising from the importation into the United States, and/or sale for importation and/or sale within the United States after importation, of the Accused Products and products containing the same, that infringe Claims 12, 15, 31, 32, 34, 35, 38, and 39 of the '614 Patent and/or Claims 1-6 and 8 of the '942 Patent;

B. Schedule and conduct a hearing pursuant to Section 337(c), for purposes of receiving evidence and hearing argument concerning whether there has been a violation of Section 337, and following the hearing, to determine that there has been a violation of Section 337;

C. Issue a permanent limited exclusion order pursuant to 19 U.S.C. § 1337(d)(1) forbidding entry into the United States of Accused Products that infringe the '614 Patent;

D. Issue a permanent limited exclusion order pursuant to 19 U.S.C. § 1337(d)(1) forbidding entry into the United States of Accused Products that infringe the '942 Patent;

E. Issue a permanent general exclusion order pursuant to 19 U.S.C. § 1337(d)(2) forbidding entry into the United States of Accused Products that infringe the '614 Patent;

F. Issue a permanent general exclusion order pursuant to 19 U.S.C. § 1337(d)(2) forbidding entry into the United States of Accused Products that infringe the '942 Patent;

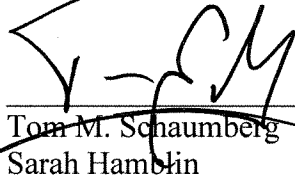
G. Issue an order or orders pursuant to Section 337(f) for Respondents to cease and desist unfair acts and methods of competition, including assembly, testing, marketing,

distributing, offering for sale, selling or otherwise transferring in the United States the Accused Products that infringe one or more of the patents-in-suit; and

H. Grant such other and further relief as the Commission finds appropriate and just under the law, based upon the facts complained of herein and determined in the investigation.

Dated: December 1, 2009

Respectfully submitted,



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VERIFICATION OF COMPLAINT

I, Kieran Harney, declare, in accordance with 19 C.F.R. § 210.4 and 210.12(a), under penalty of perjury, that the following statements are true:

I am the MEMS Microphone Product Line Manager of Analog Devices, Inc. ("Analog"), and am duly authorized to sign this Complaint on behalf of Analog;

I have read the foregoing Complaint and am aware of its contents;

To the best of my knowledge, information, and belief based on reasonable inquiry, the foregoing Complaint is well-founded in fact, and is warranted by existing law or by a non-frivolous argument for the extension, modification or reversal of existing law or the establishment of new law;

The allegations and other factual contentions have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

The foregoing Complaint is not being filed for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

Executed on this 30th day of November 2009.

Kieran Harney
Name

Product Line Manager
Title