

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 0:11-cv-62591-KAM**

ACR ELECTRONICS, INC.,  
a Florida Corporation,

Plaintiff,

v.

DME Corporation, a Florida corporation,  
CCK ELECTRONICS LLC, a Florida limited liability company,  
CHUNG T. TONG,  
CLAUDIO CASSINA, and  
KAIYU WU,

Defendants.

**FIRST AMENDED COMPLAINT FOR INJUNCTIVE RELIEF  
AND DAMAGES AND DEMAND FOR JURY TRIAL**

Plaintiff ACR ELECTRONICS, INC. (“ACR”) files this First Amended Complaint through undersigned counsel and respectfully alleges as follows:

**I. NATURE OF ACTION**

1. This is an action by ACR against Defendants DME Corporation, doing business as Astronics DME (“Astronics DME”), a Florida corporation, CCK Electronics LLC (“CCK”), a Florida limited liability company, Chung T. Tong (“Tong”), Claudio Cassina (“Cassina”), and Kaiyu Wu (“Wu”). Until July 2010, Tong, Cassina and Wu (“the Individual Defendants”) were employed by ACR with responsibility for the design and manufacturing of personal locator beacons (“PLBs”) on behalf of ACR. The Individual Defendants decided to form their own electronics company, Defendant CCK, and abruptly resigned from their employment with ACR in July 2010. Upon information and belief, soon after their abrupt resignation from ACR, the Individual Defendants through their newly formed company, CCK, designed and developed a

PLB that ACR believes is being manufactured by ACR's direct competitor, Defendant Astronics DME. This new device, called the SATRO, was recently introduced to the marketplace and as of the initial filing of this action it was being offered for sale to the public by at least three on-line retailers. Upon information and belief, the SATRO is substantially similar to ACR's next generation beacon, the PLB-375, which was made available for sale by ACR on or about July 12, 2011. As an agent for CCK, and for CCK and Astronics DME's benefit, Defendant Tong: (1) repeatedly accessed ACR's internal computer server to transfer ACR's confidential information and/or trade secrets from ACR's secured database to his unsecured personal e-mail account ([cttong9889@bellsouth.net](mailto:cttong9889@bellsouth.net)), including ACR's list of customers, ACR's vendor's pricing and component list for PLB components, 39 Burst Technical Drawings of the test fixtures used for all of ACR's beacon products, including the PLB-375, ACR's Next Generation Beacon Core Technology and Product Development Plan, tooling costs for ACR's PLB-300, and ACR pricing for Temperature Controlled Crystallized Isolators (or "TCXOs"), which are the "heart" of what makes ACR's PLB-375 run, and vendor information; and (2) although he had no legitimate business reason to do so, Defendant Tong also e-mailed confidential and copyright-protected ACR documents, including technical drawings for the power amplification system used in ACR's PLB-375, schematics and layouts of the test fixtures used for all of ACR's beacon products, including the PLB-375, and software source code for the 39 Burst testers used in engineering and production, to two other members of CCK, Co-Defendants Cassina and Wu, just prior to their abrupt resignations from ACR.

## **II. PARTIES**

2. Plaintiff ACR is a Florida corporation with its principal place of business in Fort Lauderdale, Florida, and is authorized to do and is doing business in the State of Florida. In particular, Plaintiff is a recognized world leader in safety and survival technologies and has

provided safety equipment to the aviation and marine industries, as well as to United States military since 1956. One piece of portable emergency equipment designed and manufactured by ACR is a 406 MHz PLB that transmits a distress signal to search and rescue (SAR) organizations to aid SAR teams in tracking and locating ships or individuals in jeopardy as rapidly as possible.

3. Defendant DME Corporation, doing business as Astronics DME, is a Florida corporation with its principal place of business in Florida and maintains offices in Orlando and Fort Lauderdale, Florida. DME is in the business of providing safety equipment to the aviation and marine industries in Florida and around the world, and is a direct competitor with ACR.

4. Defendant CCK Electronics LLC is a Florida limited liability company with its principal place of business in Florida and maintains an office in Boynton Beach, Florida. CCK is in the business of beacon technology and is a direct competitor with ACR.

5. Defendant, Chung T. Tong is a citizen of the State of Florida and resides in or around Boynton Beach, Florida.

6. Defendant Claudio Cassina is a citizen of the State of Florida and resides in or around Hollywood, Florida.

7. Defendant Kaiyu Wu is a citizen of the State of Florida and resides in or around Parkland, Florida.

8. At all times relevant to this case, the Individual Defendants (Tong, Cassina and Wu) were agents of CCK and Astronics DME, acted within the course and scope of such relationship, and for the benefit of CCK and Astronics DME.

### **III. JURISDICTION AND VENUE**

9. This Court has federal subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338, as ACR's claims pursuant to the Copyright Act of 1976, 17 U.S.C. § 101 *et seq.* (Count I below), the Computer Fraud and Abuse Act ("CFAA"), 18 U.S.C. § 1030 *et seq.* (Count

II below), and the Lanham Act, 15 U.S.C. § 1125 (Count III below), arise under laws of the United States. This Court has supplemental jurisdiction over state law claims pursuant to 28 U.S.C. § 1367 because they are related to the Copyright Act and CFAA claims in that they form part of the same case or controversy.

10. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(a) and 1400(a) because Defendants reside in this District and a substantial part of the events or omissions giving rise to the claims occurred, or a substantial part of property that is the subject of the action is situated in this District.

#### **IV. GENERAL ALLEGATIONS**

##### **A. ACR and the Individual Defendants' Employment.**

11. ACR is engaged in the business of providing safety equipment to the aviation and marine industries, as well as to United States military. In significant part, ACR's products are designed and tested by engineers and are manufactured, marketed and sold through a direct sales force.

12. From approximately December 2004 until July 23, 2010, Defendant Tong was employed by ACR as a principal electrical engineer. Defendant Tong led the PLB group while employed by ACR and was heavily involved in PLB technology, including the design and testing process for engineering development ("testing process").

13. From approximately July 2005 until July 20, 2010, Defendant Cassina was employed by ACR as an electronics engineer. Defendant Cassina was involved with printed circuit board testing, phasing, tuning, and programming for PLB's and Emergency Position Indicating Radio Beacon ("EPIRBs") during his employment at ACR. Although the PLB-375 testing used the 39 Burst Test Code, Defendant Cassina did not work on adapting this code to the PLB-375 since he had already left the company.

14. From approximately November 2006 until July 16, 2010, Wu was employed by ACR as a software engineer. Defendant Wu was involved with the software for the 39 Burst testing to support the factory. He knew the code and helped solve problems in production. Defendant Wu also wrote most of the software for Defendant Cassina's test boards mentioned above. As with Defendant Cassina, Defendant Wu did not work on adapting the 39 Burst Test Code to the PLB-375 since he had already left the company.

15. Throughout their employment at ACR and solely for the purposes of their job responsibilities at ACR, the Individual Defendants had access to ACR's confidential and trade secret prototypes and documents, as well as ACR's secured computer server which contained ACR's confidential documents and trade secrets, including but not limited to computer processes, programs or codes, customer lists or preferences, marketing strategies or new materials research, pending projects and proposals, including the PLB-375, proprietary production processes, research and development strategies, engineering data, technological data and technical drawings and schematics. In addition, for purposes of fulfilling their job responsibilities, the Individual Defendants had access to, developed and expanded numerous relationships with key representatives and contacts of ACR's customers and vendors. These customer representatives are responsible for making decisions with respect to products sold by ACR and Astronics DME, and upon information and belief, CCK used ACR trade secret information in its approach to at least one of ACR's long-time and significant customers (Bass Pro) about selling Astronics DME's SATRO PLB. The vendor representatives are responsible for making decisions about and entering into purchasing agreements with ACR with respect to components and the equipment necessary for the production, testing and manufacturing of PLBs.

16. As part of its substantial investment in time and resources in the development of PLBs, ACR maintains a secured database, including confidential and proprietary information such as identities of customer representatives and contact information, pricing, purchase orders, bills of materials, software and schematics relating to PLBs that are conceptualized, manufactured and/or designed by ACR. A user name and password is required to access ACR's computer network and database. In addition, ACR's computers which access its secured database are used to connect to the internet and to conduct its business operations worldwide.

17. If ACR's competitors, including CCK and Astronics DME, knew of and used ACR's confidential and proprietary information, including but not limited to the information in ACR's secured computer database, it would provide them with an unfair competitive advantage, and would place ACR at an unfair competitive disadvantage.

18. The three Individual Defendants were placed on notice of their obligations and restrictions concerning confidential or trade secret information through the policies of ACR. For example, ACR's Employee Handbook (Section 112 Non-Disclosure) provided to each of the Individual Defendants at the inception of their employment with ACR, states in pertinent part:

The protection of confidential business information and trade secrets is vital to the interests and the success of ACR. Such confidential information includes, but is not limited to, the following examples:

- compensation data;
- computer processes, programs or codes;
- customer lists or preferences;
- financial information;
- marketing strategies or new materials research;
- pending projects and proposals;
- proprietary production processes;
- research and development strategies;
- engineering data, formulae or prototypes; and
- technological data or prototypes.

Employees may be required to sign a non-disclosure agreement as a condition of employment. Employees who improperly use or disclose trade secrets or confidential business information will be subject to disciplinary action, up to and including termination of employment and legal action, even if they do not actually benefit from the disclosed information.

19. Defendants Tong, Cassina and Wu also signed an agreement with ACR regarding non-disclosure and assignment of invention at the inception of their employment on December 8, 2004, July 5, 2005, and November 6, 2006, respectively. True and correct copies of these agreements are attached hereto as Exhibits "A" (Tong), "B" (Cassina) and "C" (Wu). In particular, Paragraph 1 of the Employee Confidential Information & Assignment of Invention Agreement states in pertinent part:

I will not disclose to anyone outside of the Company, or use in other than Company business, any confidential information or material relating to the business of the Company, whether owned by the Company or someone else, either during or after my employment, except with the Company's written permission.

20. In addition, ACR's Employee Conduct and Work Rules policy (section 701 of the Employee Handbook) provided to each of the Individual Defendants at the inception of their employment with ACR, states in pertinent part:

To ensure orderly operations and provide the best possible work environment, ACR expects employees to follow Rules of Conduct that will protect the interests and safety of all employees and the organization. It is not possible to list all of the forms of behavior that are considered unacceptable in the workplace. The following are examples of infractions of rules of conduct that may result in disciplinary action, up to and including immediate termination of employment:

- Theft or inappropriate removal or possession of Company property, equipment, materials, products, documents or records.
- Unauthorized use of telephones, mail system, or other Company-owned equipment.
- Unauthorized disclosure of business "secrets" or confidential information.

21. Each of the Individual Defendants also acknowledged his obligation not to provide services to ACR's competitors while still employed by ACR, as reflected in their signed Non-Disclosure Agreements, which state in pertinent part:

I will not, during my employment, directly or indirectly render services similar to those that I perform for the Company, to any individual or organization in competition with the Company.

22. Each of the Individual Defendants also acknowledged, in writing, his assignment of all right, title and interest in any invention, discovery, improvement or idea, patentable or not, as part of their agreement with ACR regarding non-disclosure and assignment of invention signed at the inception of their employment. In particular, Paragraph 4 of the Employee Confidential Information & Assignment of Invention Agreement states in pertinent part:

I hereby assign to the Company, all right, title and interest in any invention, discovery, improvement or idea, patentable or not, hereafter made or conceived solely or jointly by me while working in the Company in an executive, managerial, planning, technical, research or engineering capacity, which relates in any manner to the actual or anticipated business of the Company or relates to its actual or anticipated research and development, or is suggested by or results from any task assigned to me or work performed by me for or on behalf of the Company...

23. To further maintain and protect the confidentiality of its trade secrets and confidential information, ACR had a strict policy regarding visitors in the workplace that was in effect at all times that the Individual Defendants were employed by ACR, which provides:

To provide for the safety and security of employees and the facilities at ACR, only authorized visitors are allowed in the workplace. Restricting unauthorized visitors helps maintain safety standards, protects against theft, ensures security of equipment, protects confidential information, safeguards employee welfare, and avoids potential distractions and disturbances.

Because of safety and security reasons, family and friends of employees are discouraged from visiting. In cases of emergency,



employees will be called to meet any visitor outside their work area.

All visitors should enter ACR through the lobby and check in with the receptionist. Authorized visitors will be escorted to their destination. Employees are responsible for the conduct and safety of their visitors.

If an unauthorized individual is observed on ACR's premises, employees should immediately notify their supervisor and, if necessary, direct the individual to the lobby.

**B. The Individuals Defendants' Formation of Their Company, CCK, and Other Suspicious Activity Immediately Before They Abruptly Resigned From Their Employment With ACR**

24. Unbeknownst to ACR at the time, on June 9, 2010, Defendant Tong forwarded to his personal e-mail address ([cttong9889@bellsouth.net](mailto:cttong9889@bellsouth.net)) a list of anticipated customers for an ACR product that was under development (the Iridium TXT-100), which he requested and obtained from ACR's Sales Manager for North America. This list included, among other customers, Bass Pro. The Sales Manager complied with Defendant Tong's request for this confidential customer information because Defendant Tong led the beacons group for ACR at that time. Customers for the TXT-100 product would be the same as those who would purchase PLBs. Defendant Tong had no legitimate business need for this list of customers.

25. On June 28, 2010, Defendant Tong e-mailed to Defendant Wu a confidential and trade secret computer program developed exclusively by ACR's employees, which is used to test PLBs ("39 Burst Test Code"). The copyright in the 39 Burst Test Code is registered (Reg. No. TXu 1-774-182). Specifically, Defendant Tong accessed ACR's secure server and, without authorization, copied separate files for the test code, bundled them together into a single zip file, and distributed the unauthorized copies via e-mail to Defendant Wu, although there was no legitimate business reason for Defendant Tong to do so. During his employment at ACR,

Defendant Wu played a key role in troubleshooting and resolving problems on the floor relating to the 39 Burst Test Code.

26. On June 28, 2010 – on the same day that Defendant Tong forwarded the 39 Burst Test Code to Defendant Wu -- Defendant Tong also forwarded to his personal e-mail address, links for a compact flash memory card adapter received from a former ACR Engineer. That former Engineer worked extensively on the design, development and testing of ACR's PLB-375, and upon information and belief, currently works with some or all of the defendants either as an employee or contractor.

27. On June 29, 2010, Defendant Tong sent an e-mail from his ACR e-mail to ACR's vendor (Rakon) requesting a CD of data for the reel T2900, Date code JJ JK, for the TCXO E4672LFT that was previously shipped to ACR. Defendant Tong stated that the requested CD was received, but was "lost." The following day, Defendant Tong sent another e-mail to the vendor stating that he would like to get the back-up CD "as soon as you can get it" and that he is "trying to catch up between old issues and a couple new projects here at ACR." Notably, the TCXO is a fundamental component of ACR's PLBs.

28. On June 30, 2010, Defendant Tong forwarded to his personal e-mail address an e-mail from ACR's vendor (Rakon) with an attached quotation for PLB components. Defendant Tong had no legitimate business reason to do so, and his actions violated ACR's policies. In addition to containing confidential information concerning ACR and its vendor's supplier agreement and pricing structure for key components for its PLBs, Defendant Tong's e-mail forwarded to his personal e-mail account contained sensitive information regarding ACR and Rakon's confidential supplier agreement(s).

29. In addition, on June 30, 2010, Defendant Tong requested and obtained from another ACR electrical engineer, unauthorized copies of the technical drawings and schematics for the three circuit boards for the 39 Burst test set-up, which were developed and designed internally by ACR employees. The copyright in these technical drawings, schematics and accompanying text, referred to as the “39 Burst Technical Drawings,” has been registered (Reg. No. TXu 1-775-483). Defendant Tong distributed unauthorized copies of the 39 Burst Technical Drawings via e-mail from his ACR e-mail account to his personal account, thereby transferring ACR’s confidential information and copyrighted documents from its secured database to his unsecured personal e-mail account. Defendant Tong had no legitimate business reason to do so, and his actions violated ACR’s policies. On that same date, Defendant Tong also forwarded to his personal e-mail account another confidential document, in particular the Bill of Materials for the three circuit boards, including the list of components and ACR’s internal part numbers. Defendant Tong had no legitimate business reason to do so, and his actions violated ACR’s policies.

30. The 39 Burst Test Code combined with the 39 Burst Technical Drawings, are critical pieces for the design, testing and manufacture a beacon. The electrical schematics represent the design of the test equipment needed to measure the parameters of ACR’s beacon products. If ACR’s competitors, including CCK and Astronics DME, knew of ACR’s confidential and proprietary information, it would provide them with an unfair competitive advantage because it would save them tens of thousands of dollars in equipment and development costs and would dramatically diminish the time it would otherwise take Defendants to develop, test, certify and launch a PLB device without the use and benefit of ACR’s confidential information, and would place ACR at an unfair competitive disadvantage.

31. On July 14, 2010 – less than two weeks before they left ACR’s employment -- Defendant Tong distributed from his ACR e-mail to Defendant Cassina, among other things, unauthorized copies of the technical drawings for the power amplification system used in the PLB-375, which is relevant to how power is used and how long the device works, as well as the results of testing the life of the battery in the device, both of which are very important for a safety device such as a PLB. In particular, low power consumption is one of the, if not the, most critical factor(s) because it helps reduce cost, size and weight, which are all key features touted by both the PLB-375 and the Astronics DME’s SATRO device. Defendant Tong had no legitimate business reason to do so and therefore his copying and distribution of these technical drawings was unauthorized. These technical drawings were taken directly from ACR’s copyright protected ACR PLB Reference Schematics- PLB350 and PLB375. An application for registration of the copyright in the ACR PLB Reference Schematics- PLB350 and PLB375 was filed on December 21, 2011, with a request for expedited processing.

32. Unbeknownst to ACR, on July 19, 2010 – just three days after Defendant Wu abruptly left his employment at ACR, and while Defendants Tong and Cassina were still employed by ACR – the Individual Defendants registered a limited liability company, CCK Electronics, LLC, with the Florida Secretary of State and listed all three Individual Defendants as officers of the newly formed company. Upon information and belief, CCK is an organization in competition with ACR, particularly with respect to PLB technology.

33. On the very same date that the three Individual Defendants registered their company CCK with the Secretary of State and while still employed by ACR (July 19, 2010), Defendant Tong sent an e-mail from his ACR e-mail account to his personal e-mail account, thereby transferring ACR’s proprietary and confidential information and trade secrets to an

unsecured personal e-mail account. In particular, Defendant Tong distributed an unauthorized copy of ACR's "Next Generation Beacon Core Technology and Product Development Plan" drafted April 1, 2010, to his personal e-mail account. This highly confidential document describes ACR's collaborative development plan needed to produce a Core Beacon reference design that is capable of supporting the next generation of ACR PLB/EPIRB products (including the PLB-375 launched by ACR on or about July 12, 2011) and Cobham Avionics (CA) Emergency Locator Transmitters ("ELT") products used in the aviation industry. Moreover, this document sets forth the specific features to be included in the PLB-375 design. Defendant Tong had no legitimate business reason to do so, and his actions violated ACR's policies.

34. On July 21, 2010, Defendant Tong obtained a copy of the tooling costs for the PLB-300 from a mechanical engineer employed by ACR, who complied with Defendant Tong's request for this confidential information because Defendant Tong led the beacons group. Approximately fifteen minutes after receiving this confidential information, Defendant Tong forwarded it via e-mail to his personal e-mail account. Defendant Tong had no legitimate business reason to do so, and his actions violated ACR's policies. Just a few hours prior to forwarding the tooling costs for ACR's beacon to his personal e-mail account, Defendant Tong also e-mailed a NOAA Representative from his ACR e-mail account thanking him for his input and recommendations for the new Beacon Designs, advising the NOAA Representative that he resigned from ACR, providing his personal e-mail address information and stating that he will be available to do design and consulting work "for all companies" after that week. Upon information and belief, Mr. Tong's business card from CCK reads, "CCK Electronics, The Future of Beacon Technology."

35. On September 15, 2010, ACR sent letters via certified mail to each of the three Individual Defendants reminding them of their obligations under the “Employee Confidential Information & Assignment of Invention Agreement” signed by all of the three Individual Defendants and attaching another copy of their Agreements. ACR further put the three Individual Defendants on notice that if ACR becomes aware of a violation of their agreements, ACR will seek any and all remedies available to it.

**C. CCK and the Individual Defendants’ Targeting of ACR Vendors and Development of a Beacon Prototype**

36. In the Fall of 2010, Defendant Tong approached a then former ACR Sales Representative to inquire whether one of ACR’s customers, West Marine, would be interested in a beacon.

37. In December 2010, ACR’s next generation beacon, the PLB-375, was announced. Once the PLB-375 was announced, Defendant Astronics DME either knew or should have known that any beacon designs or prototypes provided by the three Individual Defendants, as individuals or as agents for CCK, either were, or were substantially likely to be, based upon confidential information or trade secrets misappropriated from ACR by some or all of the three Individual Defendants and, therefore, Defendant Astronics DME’s use or reliance upon such information would be improper and in violation of applicable state and federal laws.

38. Without the use and benefit of ACR’s confidential and proprietary information and trade secrets, it would typically take a competitor approximately two years to conceptualize, design, certification test and obtain product approval by appropriate government agencies for a PLB. ACR had 10-12 engineers working on the development of its PLB-375 product, who collectively put in approximately 17,785 hours to create the product. Among other things, ACR perfected a new and proprietary method for its critically important GPS antenna to work

properly, which required extensive testing and innovation given the small size of the device. The deployable and re-stowable antenna feature is unique to ACR and has high value to differentiate it from competitors. In particular, it has significant value to the PLB owner as it enables the PLB to perform a real test by sending a signal to the satellite networks and to confirm that it has been received. In addition, it typically takes approximately two years just to write the copyrighted testing software such as the 39 Burst Test Code written by ACR employees that was copied and distributed without authorization by Defendant Tong to Defendant Wu prior to their abrupt resignations and formation of their company, CCK. Based upon that information alone, Defendant Astronics DME either knew or should have known that it would be impossible for the three Individual Defendants or Defendant CCK to have conceptualized, designed, and/or tested a PLB from the time they left ACR's employment to the time that Defendant Astronics DME entered into a business or contractual relationship with Defendants Tong, Wu, Cassina and/or CCK for the development and sale of a an entirely new PLB product.

39. In May 2011, Defendant Astronics DME sought to hide from ACR that it was working with Defendant Tong, abruptly cutting off a phone conversation without explanation.

40. On August 2, 2011, ACR's Sales Manager later learned through a Bass Pro representative that a South Florida manufacturer of ELT's has a PLB at the Federal Communications Commission ("FCC") for approval.

41. Upon information and belief, the device described in August 2011 by the Bass Pro representative is the SATRO PLB-110, which is manufactured by Defendant Astronics DME. The SATRO PLB-110 was recently listed on Bass Pro's website as available for sale but currently out-of-stock. The same device was also listed on the Aircraft Spruce website and also the Pilotshop.com web site, and supposedly would ship within 5-10 days. None of these

websites disclosed that the device has not been certified by the Federal Communications Commission, as required by law. After ACR filed this action and advised these three retailers that the SATRO PLB-110 was not FCC certified, the retailers removed the products from their sites.

42. On or about August 9, 2011, one of ACR's vendors advised that Defendant Tong was working at Astronics DME, most likely as a contractor. Upon information and belief, Defendant Tong submitted a bill of materials to one of ACR's vendors, which had many parts in common with the ACR proprietary beacon design. In fact, the part numbers on the bill of materials are in the exact same numbering format used by ACR at all times relevant through the present date.

43. On October 10, 2011, Defendant Astronics DME published a press release, a true and correct copy of which is attached hereto as Exhibit "D," regarding its launch of a new PLB (PLB-110 or "SATRO PLB") to hit the market in December 2011. In that press release, the SATRO PLB is touted as the "World's Smallest and Lightest Personal Locator Beacon." Although the SATRO PLB device still has not been certified by the FCC, this press release with the December 2011 product availability date remains on Defendant Astronics DME's web site and is prominently displayed in an Internet search results for SATRO PLB. Upon information and belief, after issuing the press release, Defendant Astronics DME in October 2011 promoted and advertised the SATRO PLB product to retailers, claiming that product testing would be completed "in a couple of weeks," that shipment was expected by December 1, 2011, and that the MSRP was \$349 (with the minimum advertised price at retail, \$299). Defendant Astronics DME did not, however, advise retailers that they could not immediately start promoting the product or that any disclaimers are required since the product was not FCC certified. Indeed,



upon information and belief, in an effort to dissuade consumers from purchasing ACR's popular ResQLink® PLB during the busy holiday shopping season, Defendant Astronics DME continued to advertise and promote the SATRO PLB to retailers and encouraged them to advertise and promote the SATRO PLB as recently as late November 2011, although the product as of early December 2011 still had not passed the testing that is required in order to secure Cospas-Sarsat approval, which, in turn, is required in order to secure FCC approval. Particularly given the intervening holidays, all of these steps are not likely to be completed until well in to 2012. It was not until after this complaint was filed, and well into the holiday shopping season, that Defendant Astronics DME finally disclosed to at least some of its retailers that the SATRO PLB still was not FCC approved and that any promotion of the product required a disclaimer advising that the product was not authorized and could not be offered for sale.

44. A data sheet on the Astronics DME website, a true and correct copy of which is attached hereto as Exhibit "E," shows an actual sized image of the SATRO PLB, which shows that it has a GPS antenna system remarkably similar to ACR's proprietary antenna system and unlike that used by any other manufacturers. In addition, the data sheet shows that the SATRO PLB has a GPS receiver module made by a non-major brand of receiver for Cospas-Sarsat beacons and ACR is the only company to have a certified PLB which uses this GPS Module. To qualify the GPS receiver for a PLB application, ACR had to perform extensive design, simulation, and testing on the component, at a significant investment of time and cost to ACR, to assure that it met the stringent electrical and environmental requirements. Defendant Astronics DME does not currently use GPS receivers in their ELT products and would have had to put in a similar qualification effort unless they had prior knowledge of its use in a PLB. It also appears that the SATRO PLB uses the same microprocessor that ACR uses in the PLB product on which

the Individual Defendants worked while employed at ACR and for which Defendant Wu wrote all of the code.

45. Upon information and belief and based upon industry standards and time lines, if Defendant Astronics DME is tooled and ready to sell its SATRO PLB device by December 2011, then testing for that product would have had to begun by the Summer of 2011 – only one year after the three Individual Defendants left ACR’s employment and formed their new company, Defendant CCK and more than one year earlier than they could have designed and tested a beacon prototype for or with Astronics DME, without the use and benefit of ACR’s confidential information and trade secrets taken by the Individual Defendants when they left ACR in July 2010.

**Count I**  
**Copyright Infringement**

46. ACR incorporates by reference paragraphs 1 through 45 of the Complaint as if fully set forth herein.

47. ACR owns the registered copyright for the 39 Burst Test Code, which is the testing software unlawfully copied and distributed by Defendants Wu and Tong on June 28, 2010 (Reg. No. TXu 1-774-182).

48. ACR also owns the registered copyright for the 39 Burst Technical Drawings, which are the schematics, technical drawings and related text for ACR’s proprietary test equipment, all of which were unlawfully copied and distributed by Defendant Tong on June 30, 2010 (Reg. No. TXu 1-775-483).

49. ACR also owns the copyright in the ACR PLB Reference Schematics - PLB350 and PLB375, an application for which was submitted for registration on December 21, 2011,

with a request for expedited processing due to this litigation, and a registration is expected to be issued by year end.

50. ACR is, and at all times hereto has been, the owner of the copyrights in the 39 Burst Test Code, the 39 Burst Technical Drawings and the ACR PLB Reference Schematics - PLB350 and PLB375 ("Copyrighted Works"), and thus is entitled and authorized to protect the Copyrighted Works against copyright infringement, including enforcement of copyright actions.

51. ACR has not authorized any of the Defendants to copy, make derivatives of, distribute or otherwise use for any purpose its Copyrighted Works.

52. ACR is informed and believes, and on that basis alleges, that Defendants directly and/or indirectly have infringed ACR's copyrights in the Copyrighted Works by, *inter alia*, unlawfully copying the Copyrighted Works, unlawfully creating derivative works of the Copyrighted Works, unlawfully distributing copies of and works derived from the Copyrighted Works, incorporating the Copyrighted Works into testing devices and software for the testing of competing product(s) and otherwise distributing, selling, and/or offering for sale, without ACR's consent, devices or materials that incorporate, are based upon or use unauthorized copies of the Copyrighted Works. Alternatively, or in addition, Defendant Astronics DME is contributorily and/or vicariously liable for the unauthorized acts of CCK and the Individual Defendants which infringe ACR's copyrights. The infringing works include, but are not limited to, the Copyrighted Works.

53. On information and belief, Defendants' conduct in directly or indirectly reproducing, creating derivative works of, and/or distributing the Copyrighted Materials or derivatives thereof was knowing, willful and/or intentional.

54. As a result of their activities, Defendants are liable to ACR for willful copyright infringement under 17 U.S.C. § 501.

55. By reason of Defendants' direct and/or indirect infringement, ACR suffered and will continue to suffer substantial damages in an amount yet to be ascertained, but which will be determined according to proof.

56. ACR does not have an adequate remedy at law for Defendants' wrongful conduct in that (i) ACR's Copyrighted Works are unique and valuable property; and (ii) Defendants' wrongful conduct, and the damages resulting to ACR there from, may be continuing.

57. As a result of Defendants' wrongful conduct, ACR is entitled to injunctive relief and damages in an amount to be determined at trial.

58. Defendants' acts of direct and/or indirect copyright infringement have caused ACR irreparable injury and Defendants threaten to continue to commit these acts. Accordingly, ACR is entitled to injunctive relief pursuant to 17 U.S.C. § 502 enjoining any uses by Defendants of ACR's Copyrighted Works and to an order under 17 U.S.C. § 503 that any infringing materials be impounded and destroyed.

**Count II**  
**Violation of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030**

59. ACR incorporates by reference paragraphs 1 through 45 of the Amended Complaint as if fully set forth herein.

60. Defendants Tong, Wu and Cassina, in their personal capacity and as agents for Defendant CCK, intentionally accessed, by means of conduct involving interstate communication, ACR computers without authorization or exceeding their authorized access, and thereby obtained information from protected ACR computers and secured database in violation of the Computer Fraud and Abuse Act ("CFAA"), 18 U.S.C. § 1030(a)(2)(C).

61. Defendants Tong, Wu and Cassina, in their personal capacity and as agents for Defendant CCK, knowingly and with intent to defraud, accessed protected ACR computers without authorization or exceeding their authorized access and by means of such conduct, furthered their intended fraud, including without limitation their wrongdoing of obtaining ACR's valuable business information, including confidential, proprietary, and trade secret information, by dishonest methods in violation of the CFAA, 18 U.S.C. § 1030(a)(4).

62. As a result of Defendants Tong, Wu and Cassina's misconduct and their violations of the CFAA, individually and as an agent for Defendant CCK, ACR has suffered damage or loss, and suffered loss during a one-year period in an amount exceeding \$5,000 for investigation damage assessment and related work by ACR personnel required to respond to the actions of the Individual Defendants alleged herein that caused damage and/or a disruption in or to ACR's computers and computer services, and is entitled to an award of damages under CFAA § 1030(g) for their multiple breaches of the CFAA.

63. By reason of Defendants Tong, Wu and Cassina's violations of the CFAA, and the damages and/or losses caused and threatened by their misconduct, directly or indirectly through Defendant CCK and its agents and employees, ACR is entitled to damages and injunctive relief under CFAA § 1030(g).

64. In addition to the damages ACR has suffered, Defendants Tong, Wu and Cassina's accessing and ongoing possession of ACR's valuable business information, including its confidential, proprietary, and trade secret information, obtained in violation of the CFAA, and use of such information as an employee and agent of, and for the benefit of, Defendant CCK poses a real, present and significant threat of unauthorized disclosure and use of this information,

and the diversion of clients and prospective clients with which ACR enjoys substantial business relationships, to its competitor Defendant CCK.

65. The further violation by Defendants Tong, Wu and Cassina's and by CCK through its agents and employees of their legal obligations by the use or disclosure of ACR's valuable business information, including ACR's confidential, proprietary, and trade secret information, obtained in violation of the CFAA, poses an imminent threat of irreparable injury to ACR. Such injury includes, but is not limited to, the utilization and disclosure of this information.

66. ACR has no adequate remedy at law for Defendants Tong, Wu and Cassina's accessing and Defendants ongoing possession of ACR's valuable information in violation of the CFAA.

**Count III**  
**Violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)**

67. ACR incorporates by reference paragraphs 1 through 45 of the Amended Complaint as if fully set forth herein.

68. Defendant Astronics DME has in the past manufactured, marketed and offered for sale and presently manufactures, markets and offers for sale various beacons and other types of safety products for the aviation and the safety and rescue industries. Defendant Astronics DME on October 10, 2011, announced a new product called the SATRO PLB, which it has advertised and promoted as a product directly competitive with ACR's PLBs, particularly its ResQLink® line of PLBs.

69. On information and belief, Defendant Astronics DME has represented to consumers in advertising and promotional communications to consumers that the SATRO PLB would be available for sale in December 2011, and encouraged retailers to advertise and promote

the SATRO PLB for sale to end users, notwithstanding the fact that the device was not approved by the FCC, as required before the product may be offered for sale or for lease. Defendant Astronics DME also failed to correct and update its advertising and promotions to retailers regarding the status of its efforts to obtain FCC approval, and failed to advise them that they were not permitted to offer the product for sale or lease until it was FCC approved. As a result, at least three retail web site advertised and promoted the SATRO PLB, going to far as to list the price of \$299 and making it appear that the product could be added to one's "check out cart" and purchased.

70. Failure to disclose that the SATRO PLB was not FCC approved, and that it could not be sold or leased until it was FCC approved, is material to consumers and in blatant violation of FCC rules. Likewise, continued marketing and promotion of the SATRO PLB with seriously out-of-date information about the anticipated FCC approval date, was and is false and/or materially misleading. Indeed, throughout the critical 2011 holiday buying season, Defendant Astronics DME continues to advertise and promote on its web site that the SATRO PLB will be available for sale in December 2011, even though Defendant Astronics DME knows that the device is not likely to be approved for sale until at least February or, more likely, March 2012.

71. Defendant Astronics DME knew that its representations were false and/or materially misleading and also knew that the subsequent representations, which it caused retailers offering its SATRO PLB product for sale to make, also were false and/or materially misleading.

72. Upon information and belief, the foregoing acts actually deceived or, alternatively, have had a tendency to deceive consumers.

73. Upon information and belief, the foregoing acts harm ACR in that consumers (both retailers and end users) rely upon these false and/or misleading statements in attempting to purchase a SATRO PLB product in place of an ACR PLB product, or cause consumers to delay in making any purchases at all by creating false expectations regarding the availability of the SATRO PLB product.

74. By reason of the foregoing, Defendant Astronics DME has engaged in unlawful false advertising in violation of Section 43(a)(1) of the Lanham Act, 15 U.S.C. § 1125(a), directly and contributorily.

**Count IV**  
**Misappropriation of Trade Secrets/  
Violation of Florida's Uniform Trade Secrets Act**

75. ACR incorporates by reference paragraphs 1 through 45 of the Amended Complaint as if fully set forth herein.

76. Confidential information relating to ACR, including but not limited to, ACR's list of customers, 39 Burst Test Code, ACR's vendor's pricing and component list for PLB components, 39 Burst Technical Drawings, technical drawings for the power amplification system used in ACR's PLB-375, information regarding the circuitry and other design elements required for ACR's GPS antenna to work properly notwithstanding the very small size of the device, ACR's Next Generation Beacon Core Technology and Product Development Plan, tooling costs for ACR's PLB-300, and ACR pricing for Temperature Controlled Crystallized Isolators (or "TCXO's"), which is the "heart" of what makes ACR's PLB-375 run and various vendor websites URL's for PLB contract manufacturing, constitute trade secrets protected by Florida's Uniform Trade Secrets Act. ACR has acted at all times to protect from disclosure these trade secrets.



77. By their actions, Defendants Tong, Wu and Cassina and CCK misappropriated and threatened to misappropriate ACR's trade secrets in violation of Florida's Uniform Trade Secrets Act, Fla. Stat. Ch. 688.

78. Plaintiff has no adequate remedy at law, and will suffer substantial and irreparable harm unless Defendants are enjoined as requested below.

79. Defendants' conduct was wanton, willful and malicious, so as to justify the imposition of punitive damages. ACR intends to seek to amend this Complaint before trial to add a claim for punitive damages pursuant to the procedure set forth in § 768.72, Fla., Stat.

**Count V**  
**Breach of Loyalty Against Tong**

80. ACR incorporates by reference paragraphs 1 through 45 of the Amended Complaint as if fully set forth herein.

81. By virtue of Defendant Tong's employment with ACR, Defendant Tong had an obligation and duty of loyalty to ACR, not to engage in improper and unauthorized acts or conduct to the detriment of ACR during said employment.

82. By his conduct, as outlined above, Defendant Tong breached his duty of loyalty to ACR. Specifically, Defendant Tong breached his duty of loyalty by forming a company in direct competition with ACR while continuing his employment with ACR, and engaging in numerous actions for the benefit of CCK and himself, to the detriment of ACR.

83. Plaintiff has no adequate remedy at law, and will suffer substantial and irreparable harm unless Defendants are enjoined as requested below.

**Count VI**  
**Breach of Loyalty Against Cassina**

84. ACR incorporates by reference paragraphs 1 through 45 of the Amended Complaint as if fully set forth herein.

85. By virtue of Defendant Cassina's employment with ACR, Defendant Cassina had an obligation and duty of loyalty to ACR, not to engage in improper and unauthorized acts or conduct to the detriment of ACR during said employment.

86. By his conduct, as outlined above, Defendant Cassina breached his duty of loyalty to ACR. Specifically, Defendant Cassina breached his duty of loyalty by forming a company in direct competition with ACR while continuing his employment with ACR, and engaging in numerous actions for the benefit of CCK and himself, to the detriment of ACR.

87. Plaintiff has no adequate remedy at law, and will suffer substantial and irreparable harm unless Defendants are enjoined as requested below.

**Count VII**  
**Breach of Loyalty Against Wu**

88. ACR incorporates by reference paragraphs 1 through 45 of the Amended Complaint as if fully set forth herein.

89. By virtue of Defendant Wu's employment with ACR, Defendant Wu had an obligation and duty of loyalty to ACR, not to engage in improper and unauthorized acts or conduct to the detriment of ACR during said employment.

90. By his conduct, as outlined above, Defendant Wu breached his duty of loyalty to ACR. Specifically, Defendant Wu breached his duty of loyalty by forming a company in direct competition with ACR while continuing his employment with ACR, and engaging in numerous actions for the benefit of CCK and himself, to the detriment of ACR.

91. Plaintiff has no adequate remedy at law, and will suffer substantial and irreparable harm unless Defendants are enjoined as requested below.

**Count VIII**  
**Breach of Contract Against Tong**

92. ACR incorporates by reference paragraphs 1 through 45 of the Amended Complaint as if fully set forth herein.

93. Defendant Tong entered into a binding agreement with Plaintiff ACR regarding non-disclosure and assignment of invention set forth more fully in paragraph 19 above, a copy of which is attached hereto as Exhibit A.

94. ACR has performed all conditions, covenants, and promises required on its part, if any, to be performed in accordance with the terms and conditions of the agreement.

95. Defendant Tong breached the aforementioned agreement with ACR by misappropriating and disclosing ACR's confidential information and trade secrets to third parties, including but not limited to Astronics DME, in violation his agreement with ACR.

96. As a result of Defendant Tong's breach of his agreement with ACR, Plaintiff ACR has suffered damages now and in the future. In the alternative, ACR has no adequate legal remedy for this breach of contract in that damages are inadequate to remedy the harm that would result if the SATRO PLB is permitted to be offered for sale by Defendant Astronics DME. Thus, ACR is entitled to equitable relief in the form of injunctive relief.

**Count IX**  
**Breach of Contract Against Cassina**

97. ACR incorporates by reference paragraphs 1 through 45 of the Amended Complaint as if fully set forth herein.

98. Defendant Cassina entered into a binding agreement with Plaintiff ACR regarding non-disclosure and assignment of invention set forth more fully in paragraph 19 above, a copy of which is attached hereto as Exhibit B.

99. ACR has performed all conditions, covenants, and promises required on its part, if any, to be performed in accordance with the terms and conditions of the agreement.

100. Defendant Cassina breached the aforementioned agreement with ACR by misappropriating and disclosing ACR's confidential information and trade secrets to third parties, including but not limited to Astronics DME, in violation his agreement with ACR.

101. As a result of Defendant Cassina's breach of his agreement with ACR, Plaintiff ACR has suffered damages now and in the future. In the alternative, ACR has no adequate legal

102. remedy for this breach of contract in that damages are inadequate to remedy the harm that would result if the SATRO PLB is permitted to be offered for sale by Defendant Astronics DME. Thus, ACR is entitled to equitable relief in the form of injunctive relief.

**Count X**  
**Breach of Contract Against Wu**

103. ACR incorporates by reference paragraphs 1 through 45 of the Amended Complaint as if fully set forth herein.

104. Defendant Wu entered into a binding agreement with Plaintiff ACR regarding non-disclosure and assignment of invention set forth more fully in paragraph 19 above, a copy of which is attached hereto as Exhibit C.

105. ACR has performed all conditions, covenants, and promises required on its part, if any, to be performed in accordance with the terms and conditions of the agreement.

106. Defendant Wu breached the aforementioned agreement with ACR by misappropriating and disclosing ACR's confidential information and trade secrets to third parties, including but not limited to Astronics DME, in violation his agreement with ACR.

107. As a result of Defendant Wu's breach of his agreement with ACR, Plaintiff ACR has suffered damages now and in the future. In the alternative, ACR has no adequate legal

remedy for this breach of contract in that damages are inadequate to remedy the harm that would result if the SATRO PLB is permitted to be offered for sale by Defendant Astronics DME. Thus, ACR is entitled to equitable relief in the form of injunctive relief.

**Count XI**  
**Unfair Competition**

108. ACR incorporates by reference paragraphs 1 through 45 and 68 through 73 of the Amended Complaint as if fully set forth herein.

109. By their actions, Defendants Tong, Wu and Cassina, CCK and Astronics DME have engaged in conduct that is contrary to honest practices in commercial matters, and have thereby engaged in unfair competition under Florida law.

110. Defendants Tong, Wu and Cassina, CCK and Astronics DME's aforementioned unfair competitive conduct will cause irreparable harm to ACR's goodwill, customer relations, market share, competitive advantage in the market place, as well as its employee relations.

111. Plaintiff has no adequate remedy at law and will suffer substantial and irreparable harm unless Defendants are enjoined on the terms set forth below.

112. Defendants' conduct was wanton, willful and malicious, so as to justify the imposition of punitive damages. ACR intends to seek to amend this Complaint before trial to add a claim for punitive damages pursuant to the procedure set forth in § 768.72, Fla., Stat.

**V. STATEMENT OF IRREPARABLE INJURY TO PLAINTIFF**

113. Plaintiff has been and continues to be subjected to irreparable injury for which no remedy at law exists.

114. The unlawful actions by Defendants, their agents and those acting in concert with them, are causing and will continue to cause great and irreparable harm to Plaintiff's business which cannot adequately be remedied by an award of monetary damages.

115. Without this Court's intervention there is a real, present and continuing threat that Defendants may wrongfully copy, distribute, use or disclose ACR's Copyrighted Works, trade secrets and confidential or proprietary information in competition with ACR, and may continue to wrongfully advertise and/or promote the SATRO PLB, notwithstanding the fact that the product has not been FCC approved.

116. Defendants' copying, distribution, use and/or disclosure of ACR's Copyrighted Works, trade secrets and confidential and proprietary information, and their unlawful promotion of the SATRO PLB would cause ACR irreparable harm for which ACR has no remedy at law.

117. Unless a preliminary and/or permanent injunction is entered on the terms set forth below, greater injury will be inflicted on Plaintiff than could possibly result to Defendants by the granting of said relief. Defendants will be harmed by the granting of the prayed-for injunctive relief only to the extent that the order will compel Defendants to abide by their obligations imposed by law.

**VI. STATEMENT OF PLAINTIFF'S LEGITIMATE PROTECTABLE BUSINESS INTERESTS AND NECESSITY OF RESTRICTIONS TO PROTECT THESE INTERESTS**

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118. Plaintiff ACR has a legitimate and protectable business interest in (1) its trade secrets, (2) its valuable confidential business information, (3) its Copyrighted Works, (4) its substantial relationships with customers, (5) customer, and employee and business goodwill, (6) fair and truthful advertising and fair competition, and/or (7) ACR's extraordinary and specialized training for its engineers and other employees.

**VII. PRAYER FOR DECLARATORY AND INJUNCTIVE RELIEF**

119. That judgment be entered in favor of Plaintiff and against Defendants;

120. That judgment be entered declaring that the actions of the Defendants are in violation of law;

121. That the Defendants be preliminarily and permanently enjoined from the actions described herein consistent with the law, including but not limited to:

(A) Requiring Defendants to immediately return, without retaining any copies or summaries, all of ACR's documents, property and information taken by the Individual Defendants, and precluding Defendants from infringing ACR's Copyrighted Works or from using or disclosing ACR's confidential or proprietary documents or information;

(B) Precluding Defendants from launching the sale of the SATRO PLB or any other device derived from the misappropriation of ACR's Copyrighted Materials, confidential information or trade secrets;

(C) Precluding Defendants from advertising and/or promoting the sale of the SATRO PLB, or causing third parties to advertise and/or promote the product, without properly disclosing whether the device has been FCC approved and whether it is lawful to offer the product for sale or for lease; and

(D) Plaintiff further prays that each of the Defendants herein be duly cited to appear and answer this Complaint, after having been served with a copy of same, and that after due proceedings had, there be judgment herein in favor of ACR and against the Defendants granting a permanent injunction in the form and substance of the preliminary injunction prayed for by Plaintiff, and reserving Plaintiff's damages or other relief for such losses as may have been occasioned by the acts of Defendant.

**VIII. PRAYER FOR DAMAGES AND SUCH OTHER RELIEF**

122. Plaintiff ACR further prays for:

(A) All damages sustained by it as a result of the wrongful conduct described above, beginning with the earliest date of violation up until the date of the entry of the final judgment in this action;

- (B) Pre- and post-judgment interest;
- (C) Attorneys' fees and costs; and
- (D) Such other and further relief as this Court may deem just and proper.

**IX. DEMAND FOR JURY TRIAL**

123. Plaintiff demands a jury trial as to all issues so triable.

Dated this 21st day of December 2011.

s/ Carol A. Field  
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