

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

MASIMO CORPORATION,)
)
Plaintiff,)
)
v.)
)
PHILIPS ELECTRONICS NORTH)
AMERICA CORPORATION and PHILIPS)
MEDIZIN SYSTEME BÖBLINGEN GMBH,)
)
Defendants.)
_____)

C.A. No. 09-80 (LPS)
DEMAND FOR JURY TRIAL

VERDICT FORM

MASIMO PATENTS

INVALIDITY – ANTICIPATION

1. Has Philips proven by clear and convincing evidence that the following claims of Masimo’s patents are invalid as anticipated?

		Yes (For Philips)	No (For Masimo)
'222 Patent	Claim 17		✓
	Claim 18		✓
'984 Patent	Claim 1		✓
	Claim 2		✓
	Claim 3		✓
	Claim 4		✓
	Claim 5		✓
	Claim 15		✓
	Claim 19		✓
	Claim 20		✓
	Claim 22		✓
	Claim 52		✓
Claim 53		✓	

MASIMO PATENTS

INVALIDITY – OBVIOUSNESS

2. Has Philips proven by clear and convincing evidence that the following claims of Masimo’s ’984 Patent are invalid for obviousness based on the prior art?

		Yes (For Philips)	No (For Masimo)
'984 Patent	Claim 16		✓
	Claim 54		✓

MASIMO PATENTS

INVALIDITY – WRITTEN DESCRIPTION

3. Has Philips proven by clear and convincing evidence that the following claims of Masimo’s patents are invalid for failing to satisfy the written description requirement?

		Yes (For Philips)	No (For Masimo)
'222 Patent	Claim 17		✓
	Claim 18		✓
'984 Patent	Claim 1		✓
	Claim 2		✓
	Claim 3		✓
	Claim 4		✓
	Claim 5		✓
	Claim 15		✓
	Claim 16		✓
	Claim 19		✓
	Claim 20		✓
	Claim 22		✓
	Claim 52		✓
	Claim 53		✓
Claim 54		✓	

MASIMO PATENTS

INVALIDITY – ENABLEMENT

4. Has Philips proven by clear and convincing evidence that the following claims of Masimo’s patents are invalid as not enabled?

		Yes (For Philips)	No (For Masimo)
'222 Patent	Claim 17		✓
	Claim 18		✓

MASIMO PATENTS

INVALIDITY – INDEFINITENESS

5. Has Philips proven by clear and convincing evidence that the following claims of Masimo’s patents are invalid as indefinite?

		Yes (For Philips)	No (For Masimo)
'222 Patent	Claim 17		✓
'984 Patent	Claim 5		✓

MASIMO PATENTS

DAMAGES

Complete this Section (questions 6 & 7) only if there is at least one claim for which you did not answer "YES" to any of questions 1-5 above (that is, you found that such claim or claims are not invalid).

6. Has Masimo proven by a preponderance of the evidence that Nonin PureSAT is not an acceptable non-infringing substitute available to Philips?

YES NO

7. What is the total amount of damages to which Masimo is entitled as compensation for Philips' infringement of the '222 Patent and/or the '984 Patent?

\$ 466,774,783.00

PHILIPS PATENT

LITERAL INFRINGEMENT

8. Has Philips proven by a preponderance of the evidence that Masimo has literally infringed the following claims of the Philips Patent?

		Yes (For Philips)	No (For Masimo)
'074 Patent	Claim 1		✓
	Claim 5		✓

PHILIPS PATENT

INDIRECT INFRINGEMENT

9. Has Philips proven by a preponderance of the evidence that Masimo has induced infringement of the following claims of the Philips patent?

		Yes (For Philips)	No (For Masimo)
'074 Patent	Claim 1		✓
	Claim 5		✓

10. Has Philips proven by a preponderance of the evidence that Masimo has contributed to the infringement of the following claims of the Philips patent?

		Yes (For Philips)	No (For Masimo)
'074 Patent	Claim 1		✓
	Claim 5		✓