

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WASHINGTON

KONINKLIJKE PHILIPS ELECTRONICS
N.V. and PHILIPS ELECTRONICS NORTH
AMERICA CORPORATION,

Plaintiffs,

v.

ZOLL MEDICAL CORPORATION,

Defendant.

CIVIL ACTION No. 2:12-cv-00018

DEMAND FOR JURY TRIAL

COMPLAINT

Plaintiffs Koninklijke Philips Electronics N.V. and Philips Electronics North America Corporation (collectively “Philips”) bring this complaint for patent infringement against Defendant Zoll Medical Corporation (“Zoll”).

NATURE OF ACTION

1. This is an action for patent infringement under 35 U.S.C. § 271, *et seq.*, by Philips against Zoll for infringement of United States Patent Nos. 5,441,520; 6,021,349; 6,088,617; 6,314,320; 6,405,083; and 7,463,922 (the “Patents-in-Suit”).

PARTIES

2. Plaintiff Koninklijke Philips Electronics N.V. is a corporation organized under the laws of the Netherlands with a principal place of business in Eindhoven, the Netherlands.

3. Plaintiff Philips Electronics North America Corporation is a corporation organized and existing under the laws of Delaware, with a place of business at 3000 Minuteman Road, Andover, Massachusetts 01810. Philips Electronics North America Corporation is a wholly-owned subsidiary of Philips Holding USA, Inc., which, directly and indirectly, is a wholly-owned subsidiary of Plaintiff Koninklijke Philips Electronics N.V. Philips Electronics North America Corporation is the assignee and owner of the Patents-in-Suit.

4. Upon information and belief, Defendant Zoll is a corporation organized under the laws of the Commonwealth of Massachusetts, with a principal place of business at 269 Mill Road, Chelmsford, Massachusetts 01824. Upon information and belief, Zoll is registered to do business in Washington, with a business address at 906 14th Avenue East, Seattle, Washington 98112.

JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 271, *et seq.*

6. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338.

7. Upon information and belief, Zoll has sold and continues to sell external defibrillator products in this district and throughout the State of Washington and has otherwise

1 voluntarily placed such defibrillator products into the stream of commerce, knowing that
2 Washington is the likely destination of a substantial quantity of such products.

3 8. Upon information and belief, a substantial part of the events giving rise to these
4 claims for patent infringement occurred in Washington and in this judicial district.

5 9. Upon information and belief, Zoll is subject to personal jurisdiction in this district
6 because it is registered to do business in Washington and maintains or has maintained continuous
7 and systematic contacts with Washington and this judicial district.

8 10. Upon information and belief, Zoll is subject to personal jurisdiction in this district
9 because it purposefully engaged in activities that gave rise to Philips' claims for patent
10 infringement and which were directed to residents of Washington and this judicial district.

11 11. Upon information and belief, Zoll resides in this district for purposes of 28 U.S.C.
12 §§ 1391(c) and 1400(b) because it is subject to personal jurisdiction in this district.

13 12. Upon information and belief, venue for this civil action in this judicial district is
14 proper under 28 U.S.C. §§ 1391(b), 1391(c), and/or 1400(b), as Zoll is subject to personal
15 jurisdiction in this district.

16
17
18 **COUNT 1: PATENT INFRINGEMENT OF U.S. PATENT NO. 5,441,520**

19 13. Philips incorporates by reference paragraphs 1-12 as if fully set forth herein.

20 14. On August 15, 1995, the United States Patent and Trademark Office ("USPTO")
21 duly and legally issued United States Patent No. 5,441,520 ("the '520 patent"), entitled
22 "Defibrillator Patient Connection System with Automatic Identification," to the listed inventor
23 Kurt F. Olsen of McMinnville, Oregon, and other co-inventors in Oregon and Massachusetts. By
24 assignment from the previous patent owner, Plaintiff Koninklijke Philips Electronics N.V. was
25

the assignee and owner of the '520 patent, a copy of which is attached as Exhibit A, until August 18, 2010, when it assigned the '520 patent to Plaintiff Philips Electronics North America Corporation.

15. Upon information and belief, Zoll has infringed and continues to infringe the '520 patent under 35 U.S.C. § 271(a), (b), and/or (c), by making, using, offering for sale, selling, and/or importing in the United States defibrillators, including the E Series, M Series, R Series ALS, and R Series Plus defibrillators, and by contributing to and/or inducing infringement of the '520 patent.

16. Zoll does not have a license or permission to use the '520 patent.

17. As a result of Zoll's infringement of the '520 patent, Philips has been irreparably injured. Unless such infringing acts are enjoined by this Court, Philips will continue to suffer additional irreparable injury.

18. As a result of Zoll's infringement of the '520 patent, Philips has suffered, and continues to suffer, damages, in an amount not yet determined, of at least a reasonable royalty and/or lost profits due to loss of sales, profits, and potential sales that Philips would have made but for Zoll's infringing acts.

COUNT 2: PATENT INFRINGEMENT OF U.S. PATENT NO. 6,021,349

19. Philips incorporates by reference paragraphs 1-18 as if fully set forth herein.

20. On February 1, 2000, the USPTO duly and legally issued United States Patent No. 6,021,349 ("the '349 patent"), entitled "Defibrillator with Automatic and Manual Modes," to the listed inventor Patricia A. Arand of McMinville, Oregon, and other co-inventors in Oregon. By assignment from the previous patent owner, Plaintiff Koninklijke Philips Electronics N.V. was

1 the assignee and owner of the '349 patent, a copy of which is attached as Exhibit B, until August
 2 18, 2010, when it assigned the '349 patent to Plaintiff Philips Electronics North America
 3 Corporation.

4 21. Upon information and belief, Zoll has infringed and continues to infringe the '349
 5 patent under 35 U.S.C. § 271(a), (b), and/or (c), by making, using, offering for sale, selling,
 6 and/or importing in the United States defibrillators, including the E Series, M Series, and R
 7 Series Plus defibrillators, and by contributing to and/or inducing infringement of the '349 patent.
 8

9 22. Zoll does not have a license or permission to use the '349 patent.

10 23. As a result of Zoll's infringement of the '349 patent, Philips has been irreparably
 11 injured. Unless such infringing acts are enjoined by this Court, Philips will continue to suffer
 12 additional irreparable injury.

13 24. As a result of Zoll's infringement of the '349 patent, Philips has suffered, and
 14 continues to suffer, damages, in an amount not yet determined, of at least a reasonable royalty
 15 and/or lost profits due to loss of sales, profits, and potential sales that Philips would have made
 16 but for Zoll's infringing acts.
 17

18 **COUNT 3: PATENT INFRINGEMENT OF U.S. PATENT NO. 6,088,617**

19 25. Philips incorporates by reference paragraphs 1-24 as if fully set forth herein.

20 26. On July 11, 2000, the USPTO duly and legally issued United States Patent No.
 21 6,088,617 ("the '617 patent"), entitled "Defibrillator with Automatic and Manual Modes," to the
 22 listed inventor Patricia A. Arand of McMinville, Oregon, and other co-inventors in Oregon. By
 23 assignment from the previous patent owner, Plaintiff Koninklijke Philips Electronics N.V. was
 24 the assignee and owner of the '617 patent, a copy of which is attached as Exhibit C, until August
 25

18, 2010, when it assigned the '617 patent to Plaintiff Philips Electronics North America Corporation.

27. Upon information and belief, Zoll has infringed and continues to infringe the '617 patent under 35 U.S.C. § 271(a), (b), and/or (c), by making, using, offering for sale, selling, and/or importing in the United States defibrillators, including the E Series, M Series, and R Series Plus defibrillators, and by contributing to and/or inducing infringement of the '617 patent.

28. Zoll does not have a license or permission to use the '617 patent.

29. As a result of Zoll's infringement of the '617 patent, Philips has been irreparably injured. Unless such infringing acts are enjoined by this Court, Philips will continue to suffer additional irreparable injury.

30. As a result of Zoll's infringement of the '617 patent, Philips has suffered, and continues to suffer, damages, in an amount not yet determined, of at least a reasonable royalty and/or lost profits due to loss of sales, profits, and potential sales that Philips would have made but for Zoll's infringing acts.

COUNT 4: PATENT INFRINGEMENT OF U.S. PATENT NO. 6,314,320

31. Philips incorporates by reference paragraphs 1-12 as if fully set forth herein.

32. On November 6, 2001, the USPTO duly and legally issued United States Patent No. 6,314,320 ("the '320 patent"), entitled "Method and Apparatus for Selectively Inactivating AED Functionality," to the listed inventor Daniel J. Powers of Issaquah, Washington, and other co-inventors in Washington. By assignment from the previous patent owner, Plaintiff Koninklijke Philips Electronics N.V. was the assignee and owner of the '320 patent, a copy of

1 which is attached as Exhibit D, until August 18, 2010, when it assigned the '320 patent to
2 Plaintiff Philips Electronics North America Corporation.

3 33. Upon information and belief, Zoll has infringed and continues to infringe the '320
4 patent under 35 U.S.C. § 271(a), (b), and/or (c), by making, using, offering for sale, selling,
5 and/or importing in the United States defibrillators, including the E Series, M Series, R Series
6 ALS, and R Series Plus defibrillators, and by contributing to and/or inducing infringement of the
7 '320 patent.

8 34. Zoll does not have a license or permission to use the '320 patent.

9 35. As a result of Zoll's infringement of the '320 patent, Philips has been irreparably
10 injured. Unless such infringing acts are enjoined by this Court, Philips will continue to suffer
11 additional irreparable injury.
12

13 36. As a result of Zoll's infringement of the '320 patent, Philips has suffered, and
14 continues to suffer, damages, in an amount not yet determined, of at least a reasonable royalty
15 and/or lost profits due to loss of sales, profits, and potential sales that Philips would have made
16 but for Zoll's infringing acts.
17

18 **COUNT 5: PATENT INFRINGEMENT OF U.S. PATENT NO. 6,405,083**

19 37. Philips incorporates by reference paragraphs 1-36 as if fully set forth herein.
20

21 38. On November 6, 2001, the USPTO duly and legally issued United States Patent
22 No. 6,405,083 ("the '083 patent"), entitled "Defibrillator with Wireless Communication of ECG
23 Signals," to the listed inventor Martin G. Rockwell of Sherwood, Oregon, and other co-inventors
24 in Oregon and Washington. Plaintiff Koninklijke Philips Electronics N.V. was the assignee and
25

owner of the '083 patent, a copy of which is attached as Exhibit E, until August 18, 2010, when it assigned the '083 patent to Plaintiff Philips Electronics North America Corporation.

39. Upon information and belief, Zoll has infringed and continues to infringe the '083 patent under 35 U.S.C. § 271(a), (b), and/or (c), by making, using, offering for sale, selling, and/or importing in the United States defibrillators, including the E Series and M Series defibrillators, and by contributing to and/or inducing infringement of the '083 patent.

40. Zoll does not have a license or permission to use the '083 patent.

41. As a result of Zoll's infringement of the '083 patent, Philips has been irreparably injured. Unless such infringing acts are enjoined by this Court, Philips will continue to suffer additional irreparable injury.

42. As a result of Zoll's infringement of the '083 patent, Philips has suffered, and continues to suffer, damages, in an amount not yet determined, of at least a reasonable royalty and/or lost profits due to loss of sales, profits, and potential sales that Philips would have made but for Zoll's infringing acts.

COUNT 6: PATENT INFRINGEMENT OF U.S. PATENT NO. 7,463,922

43. Philips incorporates by reference paragraphs 1-42 as if fully set forth herein.

44. On December 9, 2008, the USPTO duly and legally issued United States Patent No. 7,463,922 ("the '922 patent"), entitled "Circuit and Method for Analyzing a Patient's Heart Function Using Overlapping Analysis Windows," to the listed inventor David E. Snyder of Bainbridge Island, Washington, and another other co-inventor in Washington. Plaintiff Koninklijke Philips Electronics N.V. was the assignee and owner of the '922 patent, a copy of

1 which is attached as Exhibit F, until August 18, 2010, when it assigned the '922 patent to
2 Plaintiff Philips Electronics North America Corporation.

3 45. Upon information and belief, Zoll has infringed and continues to infringe the '922
4 patent under 35 U.S.C. § 271(a), (b), and/or (c), by making, using, offering for sale, selling,
5 and/or importing in the United States defibrillators, including the E Series, M Series, R Series
6 ALS, and R Series Plus defibrillators, and by contributing to and/or inducing infringement of the
7 '922 patent.

8 46. Zoll does not have a license or permission to use the '922 patent.

9 47. As a result of Zoll's infringement of the '922 patent, Philips has been irreparably
10 injured. Unless such infringing acts are enjoined by this Court, Philips will continue to suffer
11 additional irreparable injury.
12

13 48. As a result of Zoll's infringement of the '922 patent, Philips has suffered, and
14 continues to suffer, damages, in an amount not yet determined, of at least a reasonable royalty
15 and/or lost profits due to loss of sales, profits, and potential sales that Philips would have made
16 but for Zoll's infringing acts.
17

18 PRAYER FOR RELIEF

19 WHEREFORE, Philips respectfully requests the following relief:

20 (a) a declaration that Zoll infringes Patents-in-Suit under 35 U.S.C. § 271(a), (b),
21 and/or (c) and a final judgment incorporating the same;
22

23 (b) equitable relief under 35 U.S.C. § 283, including, but not limited to, an injunction
24 that enjoins Zoll and any of its officers, agents, employees, assigns, representatives, privies,
25 successors, and those acting in concert or participation with them from infringing, contributing

1 to, and/or inducing infringement of Patents-in-Suit;

2 (c) an award of damages sufficient to compensate Philips for infringement of Patents-
3 in-Suit by Zoll, together with prejudgment and post-judgment interest under 35 U.S.C. § 284;

4 (d) entry of an order compelling Zoll to compensate Philips for any ongoing and/or
5 future infringement of the Patents-in-Suit, in an amount and under terms appropriate under the
6 circumstances;

7 (e) a declaration or order finding that Zoll's infringement is willful and/or an order
8 increasing damages under 35 U.S.C. § 284;

9 (f) a judgment holding that this is an exceptional case under 35 U.S.C. § 285 and
10 awarding Philips its reasonable attorney fees, costs, and expenses; and

11 (g) such other relief deemed just and proper.
12

13 **JURY DEMAND**

14 Under Rule 38 of the Federal Rules of Civil Procedure, Philips hereby demands trial by
15 jury of all issues so triable by a jury in this action.
16

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

Dated: January 5, 2012

Respectfully submitted,

DORSEY & WHITNEY LLP

/s/ Douglas F. Stewart

Douglas F. Stewart, WSBA #34,068
Columbia Center
701 Fifth Avenue, Suite 6100
Seattle, Washington 98104-7043
Telephone: (206) 903-8800
Facsimile: (206) 903-8820

J. Michael Jakes, *pro hac vice pending*
Robert F. Shaffer, *pro hac vice pending*
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001
Telephone: (202) 408-4000
Facsimile: (202) 408-4400