

JUDGE DANIELS

15 CV 00158

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

VOLUMETRICS IMAGING SYSTEMS, LLC,

Plaintiff,

v.

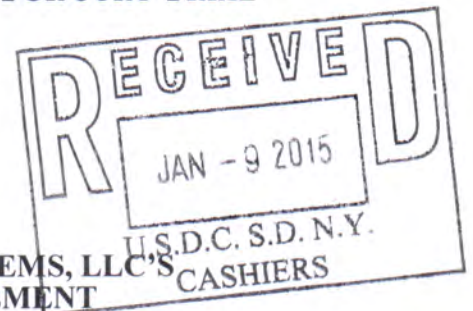
KONINKLIJKE PHILIPS N.V.,
PHILIPS ELECTRONICS NORTH AMERICA
CORPORATION, and PHILIPS ULTRASOUND,
INC.

Defendants.

Case No.

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL



**PLAINTIFF VOLUMETRIC IMAGING SYSTEMS, LLC'S
COMPLAINT FOR PATENT INFRINGEMENT
AND DEMAND FOR JURY TRIAL**

Plaintiff Volumetrics Imaging Systems, LLC ("VIS" or "Plaintiff") by and for its
Complaint against defendants Koninklijke Philips N.V., Philips Electronics North America
Corporation and Philips Ultrasound, Inc. (collectively "Philips" or "Defendants") hereby alleges
as follows:

NATURE OF THE CASE

1. This is an action for patent infringement arising under the patent laws of the
United States. VIS holds the rights in U.S. Patent Nos. 6,276,211 ("the '211 patent") and
6,530,888 ("the '888 patent"). The United States patent laws grant the holder of a patent the right
to exclude infringers from making, using, selling or importing the invention claimed in a patent,
and to recover damages for the infringer's violations of these rights, and to recover treble
damages where the infringer willingly infringed the patent. Under 35 U.S.C. § 282(a), the '211
Patent and the '888 Patent are entitled to a presumption of validity. VIS is suing Defendants for

COMPLAINT FOR PATENT INFRINGEMENT

infringing its patents, and doing so willfully. VIS seeks to recover damages from Defendants, including treble damages for willful infringement.

THE PARTIES

2. VIS is a limited liability company, organized and existing under the laws of the State of Delaware, having a principal place of business at 4711 Hope Valley Road, Ste 4F #148, Durham, North Carolina 27707.

3. Upon information and belief, Koninklijke Philips N.V., is a company organized and existing under the laws of the Netherlands, with its principal place of business located at Amstelplein 2, Breitner Center, 1070 MX Amsterdam, The Netherlands.

4. Upon information and belief, Philips Electronics North America Corporation (“Philips Electronics”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 3000 Minuteman Rd., Andover, Massachusetts 01810. Philips Electronics can be served with process through its agent The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

5. Upon information and belief, Philips Ultrasound, Inc. (“Philips Ultrasound”) is a corporation organized and existing under the laws of the State of Washington, with its principal place of business located at 22100 Bothell-Everett Highway Bothell, Washington 98021-8431. Philips Ultrasound can be service with process through its agent Corporation Service Company, 300 Deschutes Way SW Suite 304, Tumwater, WA, 98501.

JURISDICTION

6. This is an action for patent infringement arising under the patent laws of the United States of America, more specifically under 35 U.S.C. § 100, *et seq.* Subject matter jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 and 1338.

7. The Court has personal jurisdiction over Defendants because Defendants, among other things, conduct business in, and avail themselves of the laws of, the State of New York. In addition, upon information and belief, Defendants through their own acts and/or through the acts of their affiliated companies (acting as their agents or alter egos) make, use, offer to sell, sell (directly or through intermediaries), import, license and/or supply, in this District and elsewhere in the United States, products, through regular distribution channels, knowing such products would be used, offered for sale and/or sold in this District. Plaintiff's cause of action arises directly from Defendants' business contacts and other activities in the State of New York and in this District.

8. Upon information and belief, Defendants directly or through their subsidiaries or intermediaries, make, use, offer for sale, sell, import, advertise, make available and/or market and, at all relevant time have made, used, offered for sale, sold, imported, advertised and made available and/or marketed products within the Southern District of New York, including without limitation, through their www.healthcare.philips.com website, thereby infringing the '211 and '888 patents.

VENUE

9. Venue properly lies within this judicial district and division, pursuant to 28 U.S.C. §§ 1391(b), (c), and (d), and 1400(b).

10. Upon information and belief, Defendants reside in this District for the purposes of venue, insofar as they are subject to the personal jurisdiction in this District, have committed acts of infringement in this District, solicit business in this District, and conduct other business in this District.

INFRINGEMENT OF U.S. PATENT NO. 6,276,211

11. VIS incorporates by reference the allegations set forth in the preceding paragraphs.

12. On August 21, 2001, the '211 patent, entitled "Methods and Systems for Selective Processing of Transmit Ultrasound Beams to Display Views of Selected Slices of a Volume," was duly and lawfully issued based upon an application filed by the inventor, Stephen W. Smith. A true and correct copy of the '211 Patent is attached hereto as Exhibit 1.

13. VIS is the assignee and the owner of all right, title and interest in and to the '211 patent, and has the right to sue and recover damages for infringement thereof.

14. Upon information and belief, Defendants have engaged in the design, manufacture, marketing and sale of one or more Philips-branded ultrasound imaging systems that infringe the '211 patent, including but not limited to the iE33 xMATRIX Echocardiography System, the EPIQ 5 Ultrasound System, the EPIQ 7 Ultrasound System, the iU33, as well as the iU22 xMATRIX Ultrasound System (collectively "the '211 Accused Products").

15. Upon information and belief, Defendants have been and continue to be engaged in making, using, importing, selling and/or offering for sale infringing products, including, but not limited to, the '211 Accused Products in the United States generally, and in the Southern District of New York specifically.

16. Upon information and belief, by acts including, but not limited to use, making, importation, offers to sell, sales and marketing of products that fall within the scope of at least claim 9 of the '211 patent, Defendants have directly infringed literally and/or upon information and belief, equivalently, and are continuing to infringe the '211 patent and are thus liable to VIS pursuant to 35 U.S.C. § 271.

17. Defendants have indirectly infringed and continue to infringe at least claim 9 of the '211 patent by inducement under 35 U.S.C. 271(b). Defendants have induced and continue to induce users and retailers of the accused products to directly infringe at least claim 9 of the '211 patent.

18. Upon information and belief, Defendants knowingly induced customers to use the '211 Accused Products, including, for example, by promoting the '211 Accused Products online (e.g., www.healthcare.philips.com) and/or providing customers with instructions and/or manuals for using the '211 Accused Products. Likewise, Defendants knowingly induced retailers to market and sell the '211 Accused Products.

19. Defendants' infringement of the '211 patent is without consent of, authority of, or license from VIS.

20. Upon information and belief, Defendants' infringement of the '211 patent is willful. This action, therefore, is "exceptional" within the meaning of 35 U.S.C. § 285 entitling VIS to its attorneys' fees and expenses.

21. As a result of Defendants' acts of infringement, VIS has suffered and will continue to suffer damages in an amount to be proven at trial.

INFRINGEMENT OF U.S. PATENT NO. 6,530,888

22. VIS incorporates by reference the allegations set forth in the preceding paragraphs.

23. On March 11, 2003, the '888 patent, entitled "Imaging Probes and Catheters for Volumetric Intraluminal Ultrasound Imaging," was duly and lawfully issued based upon an application filed by the inventors, Stephen W. Smith and Edward D. Light. A true and correct copy of the '888 Patent is attached hereto as Exhibit 2.

24. VIS is the assignee and the owner of all right, title and interest in and to the '888 patent, and has the right to sue and recover damages for infringement thereof.

25. Upon information and belief, Defendants have engaged in the design, manufacture, marketing and sale of one or more Philips-branded ultrasound imaging devices that infringe the '888 patent, including but not limited to the X7-2t TEE, C10-4ec Broadband Curved Array, C10-3v Broadband Curved Array, C9-5ec Broadband Curved Array Transducer, C8-4v Broadband Curved Array Transducer, C5-1 Broadband Curved Array, S7-3t Pediatric TEE Broadband Sector Array, X7-2t and Live 3d TEE xMatrix Array, as well as the D5cwc Continuous Wave Transducer (Pedoff) (collectively "the '888 Accused Products").

26. Upon information and belief, Defendants have been and continue to be engaged in making, using, importing, selling and/or offering for sale infringing products, including, but not limited to, the '888 Accused Products in the United States generally, and in the Southern District of New York specifically.

27. Upon information and belief, by acts including, but not limited to use, making, importation, offers to sell, sales and marketing of products that fall within the scope of at least claim 1 of the '888 patent, Defendants have directly infringed literally and/or upon information and belief, equivalently, and are continuing to infringe the '888 patent and are thus liable to VIS pursuant to 35 U.S.C. § 271.

28. Defendants have indirectly infringed and continue to infringe at least claim 1 of the '888 patent by inducement under 35 U.S.C. 271(b). Defendants have induced and continue to induce users and retailers of the accused products to directly infringe at least claim 1 of the '888 patent.

29. Upon information and belief, Defendants knowingly induced customers to use their '888 Accused Products, including, for example, by promoting the '888 Accused Products online (e.g., www.healthcare.philips.com) and/or providing customers with instructions and/or manuals for using the '888 Accused Products. Likewise, Defendants knowingly induced retailers to market and sell the '888 Accused Products.

30. Defendants' infringement of the '888 patent is without consent of, authority of, or license from VIS.

31. Upon information and belief, Defendants' infringement of the '888 patent is willful. This action, therefore, is "exceptional" within the meaning of 35 U.S.C. § 285 entitling VIS to its attorneys' fees and expenses.

32. As a result of Defendants' acts of infringement, VIS has suffered and will continue to suffer damages in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, VIS requests this Court enter judgment as follows:

- A. That the '211 and '888 patents are valid and enforceable;
- B. That Defendants have directly and indirectly infringed at least claim 9 of the '211 patent and at least claim 1 of the '888 patent;
- C. That such infringement is willful;

D. That Defendants account for and pay to VIS all damages pursuant to 35 U.S.C. § 284 to adequately compensate VIS for Defendants' infringement of the '211 and '888 patents, but in no event less than a reasonable royalty for the use made by Defendants of the invention set forth in the '211 and '888 patents;

E. That VIS receives enhanced damages, in the form of treble damages, pursuant to 35 U.S.C. § 284;

F. That this is an exceptional case under 35 U.S.C. § 285;

G. That Defendants pay VIS all of VIS's reasonable attorneys' fees and expenses pursuant to 35 U.S.C. § 285;

H. That VIS be granted pre-judgment and post-judgment interest in accordance with 35 U.S.C. § 284 on the damages caused to it by reason of Defendants' infringement of the '211 and '888 patents, including pre-judgment and post-judgment interest on any enhanced damages or attorneys' fees award;

I. That costs be awarded in accordance with 35 U.S.C. § 284 to VIS; and

J. That VIS be granted such other and further relief as the Court may deem just and proper under the circumstances.

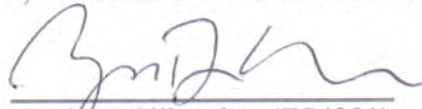
DEMAND FOR JURY TRIAL

VIS hereby demands a trial by jury on all issues so triable in this action.

Dated: January 9, 2014

KROUB, SILBERSHER & KOLMYKOV PLLC

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