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MASIMO CORPORATION
9

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
13

14
15 MASIMO CORPORATION, a
California corporation

16
17 Plaintiff,

18 v.

19 SOTERA WIRELESS, a California
corporation,

20 HON HAI PRECISION INDUSTRY
21 CO., LTD., a Taiwan corporation,

22 Defendants.
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Case No. **'19CV1100 BAS NLS**

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

Complaint

1 Plaintiff Masimo Corporation (“Masimo”) hereby complains of
2 Defendants Sotera Wireless, Inc. (“Sotera”) and Hon Hai Precision Industry Co.
3 Ltd. (“Foxconn”) and alleges as follows:

4 **I. THE PARTIES**

5 1. Plaintiff Masimo is a Delaware corporation having its principal
6 place of business at 52 Discovery, Irvine, California 92618.

7 2. Defendant Sotera is a California corporation having a principal
8 place of business at 10020 Huennekens Street, San Diego, CA 92121. Sotera
9 markets the ViSi Mobile Monitoring System, a monitoring platform and set of
10 products intended to compete with Masimo’s products.

11 3. Defendant Foxconn also known as Foxconn Technology Group, is
12 a corporation organized and existing under the laws of Taiwan, with its principal
13 place of business at No. 66, Zhongshan Road, Tucheng Industrial Zone,
14 Tucheng Dist., New Taipei City, Taiwan, R.O.C. Foxconn is a multinational
15 electronics manufacturing company. Foxconn owns an undisclosed stake in
16 Sotera, and on information and belief, Foxconn controls Sotera and Sotera’s
17 management team.

18 **II. JURISDICTION AND VENUE**

19 4. This is a civil action for patent infringement arising under the
20 patent laws of the United States, 35 U.S.C. §§ 100, *et seq.*, more particularly, 35
21 U.S.C. §§ 271 and 281.

22 5. This Court has subject matter jurisdiction pursuant to 28 U.S.C.
23 §§ 1331 and 1338(a).

24 6. Sotera resides in California and is subject to personal jurisdiction in
25 California, and, on information and belief, has committed the acts complained of
26 in this Judicial District.

27 7. Foxconn resides in Taiwan and is subject to specific and general
28 personal jurisdiction in California due to Foxconn’s substantial business in

1 California. For example, Foxconn maintains a branch office at 105 S. Puente
 2 Street, Brea, California 92821. Furthermore, Foxconn has filed suit in this
 3 judicial district. On information and belief, Foxconn has transacted business in
 4 this judicial district and committed acts within this judicial district giving rise to
 5 this action, directly and/or through subsidiaries, agents and partners.

6 8. Venue is proper in this Judicial District pursuant to 28 U.S.C.
 7 § 1400(b) as to Sotera because Sotera has its regular and established place of
 8 business in the County of San Diego within the Southern District of California.

9 9. Venue is proper in this Judicial District pursuant to 28 U.S.C.
 10 § 1391(c)(3) as to Foxconn.

11 **III. MASIMO'S INNOVATIVE TECHNOLOGY**

12 10. Masimo is a medical technology company that revolutionized pulse
 13 oximetry and is the only company to have succeeded in developing noninvasive
 14 patient monitoring technologies for hemoglobin, methemoglobin, and
 15 carboxyhemoglobin. Pulse oximetry is a noninvasive method for monitoring a
 16 person's arterial oxygen saturation (also called "SpO₂") and pulse rate from a
 17 sensor that is attached to a user. Before Masimo, pulse oximetry was plagued
 18 by unreliability, often when the measurement was needed most, due to patient
 19 motion and low peripheral blood flow (known as "low perfusion"). The
 20 industry had essentially given up on solving this problem, concluding it was
 21 largely unsolvable. Clinicians had to live with the results – patient monitors
 22 gave excessive false alarms, froze their measurements for prolonged periods of
 23 time despite potential changes in oxygen saturation or pulse rate, delayed
 24 notification of alarms due to long averaging times of sensor data, produced
 25 inaccurate measurements, or were unable to obtain data on the most critical
 26 patients and babies who cannot be instructed to stay still. Masimo's pioneering
 27 technology, known as Masimo Signal Extraction Technology ("Masimo SET"),
 28 solved this problem and dramatically improved patient safety by accurately

1 monitoring and reporting oxygen saturation and pulse rate even during motion
2 and low perfusion.

3 11. Following its success in pulse oximetry, Masimo subsequently
4 invested in developing additional breakthrough measurement technologies, such
5 as non-invasively measuring total hemoglobin, methemoglobin, and
6 carboxyhemoglobin. Masimo has continued to innovate, succeeding where
7 others have consistently failed. Masimo was the first, and remains the only,
8 company delivering these game-changing technologies to hospitals in the United
9 States.

10 12. With measurement innovation at its core, Masimo helped clinicians
11 benefit from continuous monitoring of key physiologic measurements and
12 intuitive centralized displays of real-time patient data. Masimo applied the
13 power of its breakthrough measurements to patient-worn monitors designed to
14 allow patient mobility and continuous monitoring. Masimo's small wearable
15 monitors allow untether monitoring that promote greater patient comfort and
16 independence. Masimo also developed monitors with wireless communications
17 technologies to further advance continuous monitoring. These advances also
18 reduce the need for nurses to disconnect a monitor each time a patient gets out
19 of bed.

20 13. To benefit clinicians and patients in comprehending Masimo's
21 gold-standard data, Masimo developed intuitive displays of real-time patient
22 data. Masimo's contributions include specific techniques for presenting large
23 amounts of data in a quickly comprehensible manner. Using color, animation,
24 arrangement, and organization, Masimo's technologies allow clinicians to
25 rapidly assess patient status. When paired with the reduction in false alarms and
26 overall accuracy of Masimo's technologies, these visual interfaces allow for
27 efficient monitoring of patient status and improve patient care.
28

1 14. Masimo’s technologies also include Masimo’s pioneering Patient
2 SafetyNet System (“Masimo Patient SafetyNet”), which improves patient safety
3 by providing remote monitoring and clinician notification of patient data such as
4 continuous pulse oximetry, heart rate, blood pressure, electrocardiogram, and
5 ventilation monitoring. Masimo Patient SafetyNet combines the gold-standard
6 performance of Masimo’s monitoring technologies with information collected
7 from any connected Masimo or third-party patient device to provide alarms,
8 alerts and near-real time information to be sent to remote locations, for example,
9 directly to clinicians. The system allows clinicians to monitor multiple patients
10 simultaneously and to automatically transfer data from medical devices to
11 electronic medical records. Masimo’s innovation in that space continue to drive
12 medical monitoring technologies and improve patient outcomes.

13 15. From its inception, Masimo has continuously developed cutting-
14 edge, noninvasive patient monitoring technologies. Masimo sought and
15 received numerous U.S. patents for many of its inventions in these areas.
16 Masimo’s revolutionary technology was a key to its gaining significant market
17 praise and penetration. After introduction into the market, many competitors,
18 much larger than Masimo, used Masimo’s technology without a license,
19 resulting in patent infringement lawsuits that resulted in jury verdicts of
20 infringement, damages, and confirmation of the validity of Masimo’s
21 innovations.

22 **IV. THE PATENTS-IN-SUIT**

23 16. Masimo is the owner by assignment of U.S. Patent No. 9,788,735
24 entitled “Body Worn Mobile Medical Patient Monitor” (“the ’735 patent”),
25 which the United States Patent and Trademark Office lawfully and duly issued
26 on October 17, 2017. A true and correct copy of the ’735 patent is attached
27 hereto as Exhibit 1.
28

1 17. Masimo is the owner by assignment of U.S. Patent No. 9,795,300
2 entitled “Wearable Portable Patient Monitor” (“the ’300 patent”), which the
3 United States Patent and Trademark Office lawfully and duly issued on
4 October 24, 2017. A true and correct copy of the ’300 patent is attached hereto
5 as Exhibit 2.

6 18. Masimo is the owner by assignment of U.S. Patent No. 9,872,623
7 entitled “Arm Mountable Portable Patient Monitor” (“the ’623 patent”), which
8 the United States Patent and Trademark Office lawfully and duly issued on
9 January 23, 2018. A true and correct copy of the ’623 patent is attached hereto
10 as Exhibit 3.

11 19. Masimo is the owner by assignment of U.S. Reissue Patent
12 No. RE47,218 entitled “Adaptive Alarm System” (“the RE218 patent”), which
13 the United States Patent and Trademark Office lawfully and duly issued on
14 February 5, 2019. A true and correct copy of the RE218 patent is attached
15 hereto as Exhibit 4.

16 20. Masimo is the owner by assignment of U.S. Reissue Patent
17 No. RE47,244 entitled “Alarm Suspend System” (“the RE244 patent”), which
18 the United States Patent and Trademark Office lawfully and duly issued on
19 February 19, 2019. A true and correct copy of the RE244 patent is attached
20 hereto as Exhibit 5.

21 21. Masimo is the owner by assignment of U.S. Reissue Patent
22 No. RE47,249 entitled “Alarm Suspend System” (“the RE249 patent”), which
23 the United States Patent and Trademark Office lawfully and duly issued on
24 February 19, 2019. A true and correct copy of the RE249 patent is attached
25 hereto as Exhibit 6.

26 22. Masimo is the owner by assignment of U.S. Patent No. 10,213,108
27 entitled “Arm Mountable Portable Patient Monitor” (“the ’108 patent”), which
28 the United States Patent and Trademark Office lawfully and duly issued on

1 February 26, 2019. A true and correct copy of the '108 patent is attached hereto
2 as Exhibit 7.

3 23. Masimo is the owner by assignment of U.S. Patent No. 10,255,994
4 entitled "Physiological Parameter Alarm Delay" ("the '994 patent"), which the
5 United States Patent and Trademark Office lawfully and duly issued on April 9,
6 2019. A true and correct copy of the '994 patent is attached hereto as Exhibit 8.

7 24. Masimo is the owner by assignment of U.S. Reissue Patent
8 No. RE47353 entitled "Alarm Suspend System" ("the RE47353 patent"), which
9 the United States Patent and Trademark Office lawfully and duly issued on
10 April 16, 2019. A true and correct copy of the RE353 patent is attached hereto
11 as Exhibit 9.

12 **V. DEFENDANTS' ACTIVITIES**

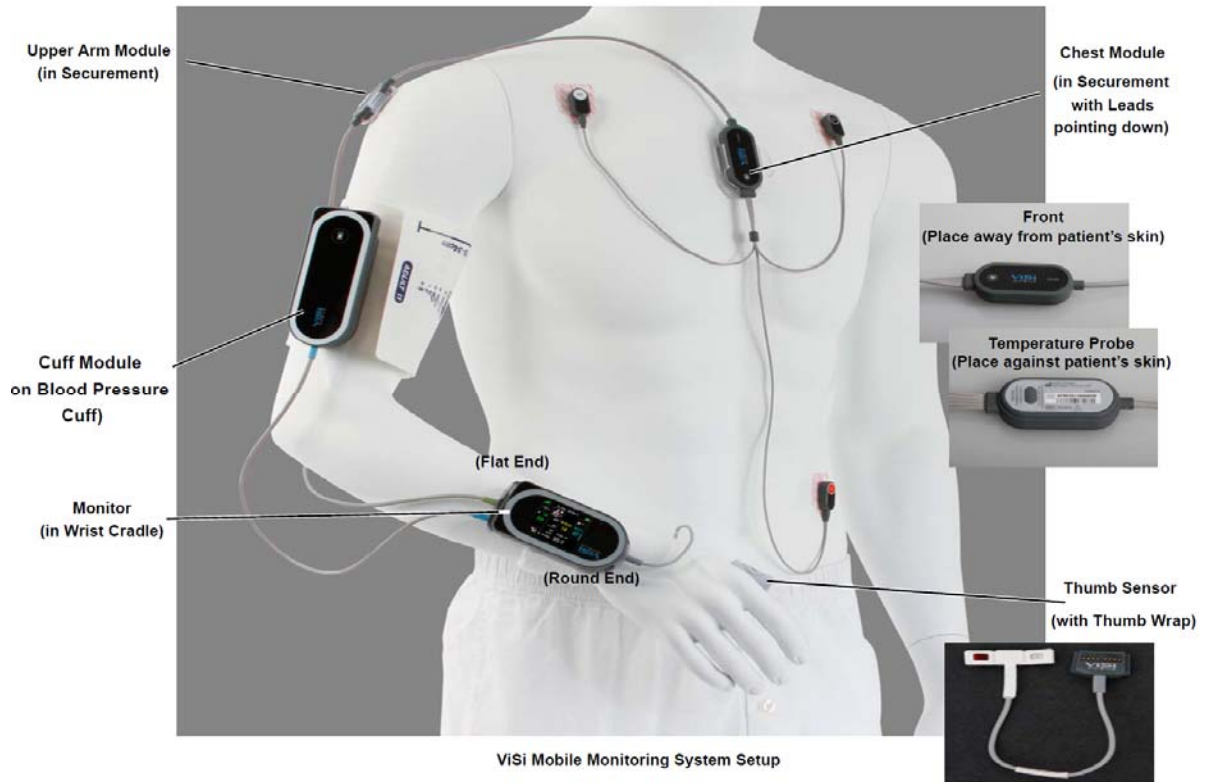
13 25. Sotera has made, used, offered to sell, and/or sold within the United
14 States, and/or has imported into the United States, products including at least
15 Sotera's ViSi Mobile Monitoring System, a platform for vital signs monitoring,
16 including pulse oximetry, pulse rate, and respiration rate. The ViSi Mobile
17 Monitoring System includes a ViSi Mobile Monitor, ViSi Mobile Thumb
18 Sensor, ViSi Mobile Cuff Module, ViSi Mobile Chest Sensor Cable, ViSi
19 Mobile Wrist Strap, and ViSi Mobile Wrist Cradle. A picture of the ViSi
20 Mobile Monitoring System from the product's User Manual is reproduced
21 below:

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26. On information and belief, Foxconn has directly or indirectly controlled activities by Sotera including making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, products including at least Sotera's ViSi Mobile Monitoring System. Foxconn has announced plans to make Sotera's ViSi Mobile Monitoring components and products, including at least batteries and sensors for the products.

VI. CLAIMS FOR PATENT INFRINGEMENT

VII. FIRST CLAIM FOR RELIEF

(Infringement of U.S. Patent No. 9,788,735)

27. Masimo realleges and reincorporates the allegations set forth in paragraphs 1 through 26.

28. Upon information and belief, Sotera products, including at least the ViSi Mobile Monitoring System products, infringe at least Claim 20 of the '735 patent under at least 35 U.S.C. § 271(a), (b), and (c).

1 29. Upon information and belief, Sotera has directly infringed one or
2 more claims of the '735 patent through manufacture use, sale, offer for sale,
3 and/or importation into the United States of medical monitoring devices,
4 including the ViSi Mobile Monitoring System.

5 30. Upon information and belief, Foxconn has directly infringed or
6 induced Sotera and/or Sotera's customers to infringe one or more claims of the
7 '735 patent. For example, on information and belief Foxconn has directed
8 Sotera to manufacture use, sell, offer for sale, and/or import into the United
9 States, electronic patient monitoring systems, including the ViSi Mobile
10 Monitoring System.

11 31. For example, the ViSi Mobile Monitor of the ViSi Mobile
12 Monitoring System includes all of the limitations of Claim 20 of the '735 patent.
13 The ViSi Mobile is a body worn portable patient monitoring device configured
14 to provide on-patient and remote monitoring of patient physiological
15 parameters, the portable patient monitoring device. The ViSi Mobile includes a
16 pulse oximetry sensor configured to be wrapped around a digit of a patient, the
17 patient's thumb. The ViSi Mobile pulse oximetry sensor includes a light emitter
18 configured to emit light into a tissue site of the patient's thumb. The ViSi
19 Mobile pulse oximetry sensor also includes a light detector configured output a
20 first signal. That first signal is responsive to at least a portion of the emitted
21 light after attenuation by tissue on the patient's thumb. ViSi Mobile pulse
22 oximetry sensor also includes a cable extending from the pulse oximetry sensor
23 and configured to electrically convey the first signal. The ViSi Mobile further
24 includes a blood pressure sensor configured to output a second signal responsive
25 to at least a blood pressure parameter of the patient. The ViSi Mobile also
26 includes an additional sensor arrangement, the ViSi Mobile chest sensor,
27 configured to output a third signal responsive to an additional physiological
28 parameter of the patient, temperature or respiration rate. The ViSi Mobile also

1 has a housing configured to be secured to a lower arm of the patient, the housing
2 having a size and shape configured to be secured to the lower arm of the patient.
3 The ViSi Mobile also has a strap mountable to the back side of the housing, the
4 strap configured to secure the housing to the lower arm of the patient. The ViSi
5 Mobile includes a display positioned on a front side of the housing that is
6 opposite a back side of the housing. The ViSi Mobile display is configured to
7 show the status of the ViSi Mobile and multiple parameter measurements, such
8 as SpO₂ and blood pressure, so as to be viewable by a user. The ViSi Mobile
9 display is positioned centrally on the front side of the ViSi Mobile and is sized
10 such that the display spans most of a length of a shortest dimension of the front
11 side of the housing. The front side of the ViSi Mobile housing comprises a
12 single user interface and a bezel. The ViSi Mobile also includes one or more
13 user input mechanisms, such as the touch screen of the device, configured to
14 control an operational mode of the ViSi Mobile in response to inputs from a
15 user. The ViSi Mobile also includes a first sensor port positioned on a face of a
16 first side of the housing. The face of the first side of the housing of the ViSi
17 Mobile is configured to face toward a hand having the digit of the patient under
18 measurement when the housing is secured to the lower arm of the patient. The
19 first sensor port of the ViSi Mobile is configured to removably physically
20 couple with the ViSi Mobile thumb pulse oximetry sensor via the cable and to
21 electrically receive the first signal from the pulse oximetry sensor. The cable of
22 the thumb sensor of the ViSi Mobile is configured to run from the first sensor
23 port, at least part way along a path substantially perpendicular to the face of the
24 first side of the housing, down the arm of the patient, and to the digit of the
25 patient, the thumb, to which the pulse oximetry sensor is configured to be
26 wrapped around. The front side of the housing of the ViSi Mobile is raised from
27 the strap and the lower arm of the patient to enable positioning of the first sensor
28 port on the first side of the housing between the lower arm of the patient and the

1 front side of the housing. The top of the first sensor port of the ViSi Mobile is
2 located below the front of the housing. The ViSi Mobile also includes a second
3 sensor port positioned on the housing and configured to provide wired electrical
4 communication with the ViSi Mobile blood pressure sensor arrangement. The
5 ViSi Mobile second sensor port electrically receives a second signal from the
6 blood pressure sensor arrangement. The ViSi Mobile also includes a third
7 sensor port positioned on the housing and configured to provide electrical wired
8 communication with the ViSi Mobile ECG sensor arrangement and electrically
9 receives the third signal from the additional sensor arrangement. The ViSi
10 Mobile also includes a rechargeable battery positioned within the housing and
11 configured to power the portable patient monitoring device such that the
12 portable patient monitoring device is portable and wearable by the patient. The
13 ViSi Mobile further includes one or more signal processing arrangements
14 positioned within the housing. The ViSi Mobile signal processors receive the
15 first signal from the pulse oximetry sensor via one or more sensor interfaces,
16 that first signal is provided at least partly as an analog signal. The ViSi Mobile
17 signal processor process the first signal from the pulse oximetry sensor to
18 determine measurements of oxygen saturation and pulse rate. The signal
19 processor also receives the second signal from the blood pressure sensor
20 arrangement via the one or more sensor interfaces, the second signal responsive
21 to at least a blood pressure parameter of the patient. The ViSi mobile signal
22 processor also receives the third signal from the additional sensor arrangement
23 via the one or more sensor interfaces, the third signal responsive to the at least
24 temperature or respiration rate of the patient. That third signal is provided at
25 least partly as a digital signal. The ViSi Mobile also causes the measurements
26 of oxygen saturation, pulse rate, blood pressure, and the at least one additional
27 physiological parameter, temperature or ECG from the chest sensor, to all be
28 displayed on the ViSi Mobile display. and a The ViSi Mobile includes an

1 802.11b transmitter positioned within the housing and configured to: wirelessly
2 transmit a transmit signal including the information indicating the measurements
3 of oxygen saturation, pulse rate, blood pressure, and the temperature or
4 respiration rate to a separate computing device, such as the ViSi Remote
5 Viewer. The ViSi Remote viewer is configured to display, on its remote
6 display, the measurements of oxygen saturation, pulse rate, blood pressure, and
7 temperature or respiration rate.

8 32. Upon information and belief, Sotera and Foxconn have monitored
9 Masimo's patents, including the '735 patent by hiring former Masimo
10 employees and after previous trade secret misappropriation litigation asserted
11 against Sotera by Masimo. Upon further information and belief, through the
12 knowledge of the '735 patent gained by monitoring Masimo's patents, Sotera
13 and Foxconn knew or should have known that these activities would cause
14 direct infringement. Sotera and Foxconn also had knowledge of the '735 patent
15 no later than the filing of this Complaint.

16 33. Upon information and belief, Sotera and Foxconn actively induce
17 others to infringe the '735 patent by marketing and selling the above ViSi
18 Mobile Monitoring Systems, knowing and intending that such systems would be
19 used by customers and end users in a manner that infringes the '735 patent. To
20 that end, Sotera provides instructions and teachings to customers and end users
21 that such ViSi Mobile Monitoring Systems be used to infringe the '735 patent.
22 Sotera's acts and Foxconn's acts constitute infringement of the '735 patent in
23 violation of 35 U.S.C. § 271(b).

24 34. Upon information and belief, Sotera and Foxconn actively induce
25 health-care service providers and users to directly infringe the asserted claims of
26 the '735 patent. By way of example only, upon information and belief, Sotera
27 and Foxconn actively induce direct infringement of the '735 patent by providing
28 directions, demonstrations, guides, manuals, training for use, and/or other

1 materials necessary for the use, refurbishing, and/or servicing of the ViSi
2 Mobile Monitor. Upon information and belief, Sotera and Foxconn knew or
3 should have known that these activities would cause direct infringement.

4 35. Upon information and belief, Sotera's acts and Foxconn's acts
5 constitute contributory infringement of the '735 patent in violation of 35 U.S.C.
6 § 271(c). Upon information and belief, Sotera and Foxconn contributorily
7 infringe because, among other things, Sotera offers to sell and/or sells within the
8 United States, and/or imports into the United States, components of the ViSi
9 Mobile Monitoring System that constitute material parts of the invention of the
10 asserted claims of the '735 patent, are not staple articles or commodities of
11 commerce suitable for substantial non-infringing use, and are known by Sotera
12 and Foxconn to be especially made or especially adapted for use in an
13 infringement of the '735 patent.

14 36. Upon information and belief, Sotera's infringement of the
15 '735 patent has been, and continues to be, willful, deliberate, and intentional by
16 continuing its acts of infringement after becoming aware of the '735 patent and
17 its infringement thereof, thus acting in reckless disregard of Masimo's patent
18 rights.

19 37. As a consequence of Sotera's and Foxconn's infringement of the
20 '735 patent, Masimo has suffered and will continue to suffer irreparable harm
21 and injury, including monetary damages in an amount to be determined at trial.

22 38. Upon information and belief, unless enjoined, Sotera, Foxconn,
23 and/or others acting on behalf of Sotera, will continue their infringing acts,
24 thereby causing additional irreparable injury to Masimo for which there is no
25 adequate remedy at law.

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1 **VIII. SECOND CLAIM FOR RELIEF**

2 **(Infringement of U.S. Patent No. 9,795,300)**

3 39. Masimo realleges and reincorporates the allegations set forth in
4 paragraphs 1 through 38.

5 40. Upon information and belief, Sotera products, including at least the
6 ViSi Mobile Monitoring System products, infringe at least Claims 16-20 of the
7 '300 patent under at least 35 U.S.C. § 271(a), (b), and (c).

8 41. Upon information and belief, Sotera has directly infringed one or
9 more claims of the '300 patent through manufacture use, sale, offer for sale,
10 and/or importation into the United States of medical monitoring devices,
11 including the ViSi Mobile Monitoring System.

12 42. Upon information and belief, Foxconn has directly infringed or
13 induced Sotera and/or Sotera's customers to infringe one or more claims of the
14 '300 patent. For example, on information and belief Foxconn has directed
15 Sotera to manufacture use, sell, offer for sale, and/or import into the United
16 States, electronic patient monitoring systems, including the ViSi Mobile
17 Monitoring System.

18 43. For example, the ViSi Mobile Monitor of the ViSi Mobile
19 Monitoring System includes all of the limitations of Claim 16 of the '300 patent.
20 The ViSi Mobile is a battery-powered wearable physiological monitoring device
21 configured to communicate with multiple types of sensor arrangements via a
22 plurality of sensor interfaces. The ViSi Mobile has three sensor communication
23 ports including: a first sensor communication port configured to provide wired
24 communication with a first type of physiological sensor arrangement, a ViSi
25 Mobile thumb pulse oximetry sensor. The first sensor port of the ViSi Mobile is
26 positioned on the device such that a wire extending from the first sensor
27 communication port to the first type of physiological sensor arrangement
28 extends from the device along an axis perpendicular to a face of the device upon

1 which the first sensor port is positioned. The ViSi Mobile also includes a
2 second sensor communication port configured to provide wired communication
3 with a second type of physiological sensor arrangement, a ViSi Mobile blood
4 pressure sensor. The blood pressure sensor is different from pulse oximetry
5 sensor. The ViSi Mobile also includes a third sensor communication port
6 configured to provide wired communication with a third type of physiological
7 sensor arrangement, an ECG. The ECG different from both the pulse oximetry
8 and blood pressure sensor arrangements. The ViSi Mobile includes a plurality
9 of sensor interfaces including a first sensor interface configured to receive a first
10 signal from a pulse oximetry sensor. The first signal includes analog
11 information. The ViSi Mobile includes a second sensor interface configured to
12 receive a second signal from a blood pressure sensor, the second signal
13 including digital information. The ViSi Mobile further includes a third sensor
14 interface, the ECG interface, configured to receive a third signal from an ECG
15 sensor arrangement. The plurality of sensor interfaces in the ViSi Mobile are
16 configured to output one or more signals indicative of physiological parameters
17 sensed by the first, second, and third sensor arrangements. The ViSi Mobile
18 further includes a display positioned on its face configured to display
19 information while the wearable physiological monitoring device is being worn
20 by a patient. The ViSi Mobile also includes a processor configured to be
21 responsive to the one or more signals indicative of the physiological parameters,
22 and cause to be displayed, on the display, physiological parameter
23 measurements. The ViSi Mobile combines information indicative of the one or
24 more signals into a single digital word or bit stream for transmission over
25 802.11b. The ViSi Mobile encodes the single digital word or bit stream to
26 generate a baseband signal for 802.11b. The ViSi Mobile also includes a
27 transmitter configured to: modulate the baseband signal with a carrier to
28 generate a transmit signal. In operation, the ViSi Mobile wirelessly transmits

1 the transmit signal to a receiving patient monitoring device that is not wired to
2 the wearable physiological monitoring device. The ViSi Mobile also includes a
3 single cell Li-ION battery configured to provide power to at least the processor,
4 the display, the transmitter, and the first sensor arrangement via the first sensor
5 communication port such that the wearable physiological monitoring device is
6 portable and wearable by a patient.

7 44. Upon information and belief, Sotera and Foxconn have monitored
8 Masimo's patents, including the '300 patent by hiring former Masimo
9 employees and following previous trade secret misappropriation litigation
10 asserted against Sotera by Masimo. Upon further information and belief,
11 through the knowledge of the '300 patent gained by monitoring Masimo's
12 patents, Sotera and Foxconn knew or should have known that these activities
13 would cause direct infringement. Sotera and Foxconn also had knowledge of
14 the '300 patent no later than the filing of this Complaint.

15 45. Upon information and belief, Sotera and Foxconn actively induce
16 others to infringe the '300 patent by marketing and selling the above ViSi
17 Mobile Monitoring Systems, knowing and intending that such systems would be
18 used by customers and end users in a manner that infringes the '300 patent. To
19 that end, Sotera provides instructions and teachings to its customers and end
20 users that such ViSi Mobile Monitoring Systems be used to infringe the '300
21 patent. Sotera's acts and Foxconn's acts constitute infringement of the
22 '300 patent in violation of 35 U.S.C. § 271(b).

23 46. Upon information and belief, Sotera and Foxconn actively induce
24 health-care service providers and users to directly infringe the asserted claims of
25 the '300 patent. By way of example only, upon information and belief, Sotera
26 and Foxconn actively induce direct infringement of the '300 patent by providing
27 directions, demonstrations, guides, manuals, training for use, and/or other
28 materials necessary for the use, refurbishing, and/or servicing of the ViSi

1 Mobile Monitor. Upon information and belief, Sotera and Foxconn knew or
2 should have known that these activities would cause direct infringement.

3 47. Upon information and belief, Sotera's acts and Foxconn's acts
4 constitute contributory infringement of the '300 patent in violation of 35 U.S.C.
5 § 271(c). Upon information and belief, Sotera and Foxconn contributorily
6 infringe because, among other things, Sotera offers to sell and/or sells within the
7 United States, and/or imports into the United States, components of the ViSi
8 Mobile Monitoring System that constitute material parts of the invention of the
9 asserted claims of the '300 patent, are not staple articles or commodities of
10 commerce suitable for substantial non-infringing use, and are known by Sotera
11 and Foxconn to be especially made or especially adapted for use in an
12 infringement of the '300 patent.

13 48. Upon information and belief, Sotera's and Foxconn's infringement
14 of the '300 patent has been, and continues to be, willful, deliberate, and
15 intentional by continuing its acts of infringement after becoming aware of the
16 '300 patent and its infringement thereof, thus acting in reckless disregard of
17 Masimo's patent rights.

18 49. As a consequence of Sotera's and Foxconn's infringement of the
19 '300 patent, Masimo has suffered and will continue to suffer irreparable harm
20 and injury, including monetary damages in an amount to be determined at trial.

21 50. Upon information and belief, unless enjoined, Sotera, Foxconn,
22 and/or others acting on behalf of Sotera, will continue their infringing acts,
23 thereby causing additional irreparable injury to Masimo for which there is no
24 adequate remedy at law.

25 **THIRD CLAIM FOR RELIEF**

26 **(Infringement of U.S. Patent No. 9,872,623)**

27 51. Masimo realleges and reincorporates the allegations set forth in
28 paragraphs 1 through 50.

1 52. Upon information and belief, Sotera products, including at least the
2 ViSi Mobile Monitoring System products, infringe at least Claims 1-16 of the
3 '623 patent under at least 35 U.S.C. § 271(a), (b), and (c).

4 53. Upon information and belief, Sotera has directly infringed one or
5 more claims of the '623 patent through manufacture use, sale, offer for sale,
6 and/or importation into the United States of medical monitoring devices,
7 including the ViSi Mobile Monitoring System.

8 54. Upon information and belief, Foxconn has directly infringed or
9 induced Sotera and/or Sotera's customers to infringe one or more claims of the
10 '623 patent. For example, on information and belief Foxconn has directed
11 Sotera to manufacture use, sell, offer for sale, and/or import into the United
12 States, electronic patient monitoring systems, including the ViSi Mobile
13 Monitoring System.

14 55. For example, the ViSi Mobile Monitor of the ViSi Mobile
15 Monitoring System includes all of the limitations of Claim 1 of the '623 patent.
16 The ViSi Mobile Monitor is an arm mountable portable patient monitoring
17 device configured for both on-patient monitoring of parameter measurements
18 using one or more sensors operatively connected to the portable patient
19 monitoring device and wireless transmission of parameter measurements. The
20 ViSi Mobile Monitor includes a pulse oximetry sensor at its thumb sensor
21 configured to be wrapped around a digit of a patient. The pulse oximetry sensor
22 of the ViSi Mobile Monitor includes a light emitter configured to emit light into
23 a tissue site of the digit of the patient; a light detector configured output a signal
24 responsive to at least a portion of the emitted light after attenuation by tissue of
25 the tissue site; and a tail configured to electrically convey the signal. The ViSi
26 Mobile Monitor includes a housing configured for, and having a size and shape
27 configured for, mounting to a lower arm of the patient. The ViSi Mobile
28 Monitor includes a display positioned on a front side of the housing that is

1 opposite a back side of the housing. The display of the ViSi Mobile Monitor is
2 configured to show a status of the portable patient monitoring device and one or
3 more parameter measurements so as to be viewable by a user. The ViSi Mobile
4 Monitor includes a first sensor port positioned on a first side of the housing and
5 the first side of the housing is configured to face toward a hand having the digit
6 of the patient under measurement. The first sensor port of the ViSi Mobile
7 Monitor is configured to physically couple to the tail of the pulse oximetry
8 sensor and to electrically receive the signal from the pulse oximetry sensor. The
9 first sensor port of the ViSi Mobile Monitor is positioned on the first side of the
10 housing such that, when the tail is physically coupled to the first sensor port, the
11 tail extends from the first sensor port along an axis perpendicular to a face of the
12 first side of the housing on which the first sensor port is positioned. The ViSi
13 Mobile Monitor also includes a second sensor port configured to receive
14 information from an EKG sensor arrangement via a wired connection and a third
15 sensor port configured to receive information from a blood pressure sensor
16 arrangement via a wired connection. The ViSi Mobile Monitor includes a Li-
17 Ion rechargeable battery configured to power the ViSi Mobile Monitor including
18 the pulse oximetry sensor. The ViSi Mobile Monitor includes one or more
19 signal processing arrangements configured to receive the signal from the pulse
20 oximetry sensor; derive, based on the signal, measurements of oxygen saturation
21 and pulse rate; and cause to be displayed, on the display, the measurements of
22 oxygen saturation and pulse rate. The ViSi Mobile Monitor includes a
23 transmitter configured to wirelessly transmit a transmit signal indicative of the
24 measurements of oxygen saturation and pulse rate to a separate computing
25 device configured to display the measurements of oxygen saturation and pulse
26 rate. The ViSi Mobile Monitor includes a wrist strap mountable to the back side
27 of the housing. The wrist strap of the ViSi Mobile Monitor is configured to
28 secure the housing to the lower arm of the patient.

1 56. Upon information and belief, Sotera and Foxconn have monitored
2 Masimo's patents, including the '623 patent by hiring former Masimo
3 employees and following previous trade secret misappropriation litigation
4 asserted against Sotera by Masimo. Upon further information and belief,
5 through the knowledge of the '623 patent gained by monitoring Masimo's
6 patents, Sotera and Foxconn knew or should have known that these activities
7 would cause direct infringement. Sotera and Foxconn also had knowledge of
8 the '623 patent no later than the filing of this Complaint.

9 57. Upon information and belief, Sotera and Foxconn have actively
10 induced others to infringe the '623 patent by marketing and selling the above
11 ViSi Mobile Monitoring Systems, knowing and intending that such systems
12 would be used by customers and end users in a manner that infringes the
13 '623 patent. To that end, Sotera provides instructions and teachings to its
14 customers and end users that such ViSi Mobile Monitoring Systems be used to
15 infringe the '623 patent. Sotera's acts and Foxconn's acts constitute
16 infringement of the '623 patent in violation of 35 U.S.C. § 271(b).

17 58. Upon information and belief, Sotera and Foxconn actively induce
18 health-care service providers and users to directly infringe the asserted claims of
19 the '623 patent. By way of example only, upon information and belief, Sotera
20 actively induces direct infringement of the '623 patent by providing directions,
21 demonstrations, guides, manuals, training for use, and/or other materials
22 necessary for the use, refurbishing, and/or servicing of the ViSi Mobile Monitor.
23 Upon information and belief, Sotera knew or should have known that these
24 activities would cause direct infringement.

25 59. Upon information and belief, Sotera's acts and Foxconn's acts
26 constitute contributory infringement of the '623 patent in violation of 35 U.S.C.
27 § 271(c). Upon information and belief, Sotera and Foxconn contributorily
28 infringe because, among other things, Sotera offers to sell and/or sells within the

1 United States, and/or imports into the United States, components of the ViSi
 2 Mobile Monitoring System that constitute material parts of the invention of the
 3 asserted claims of the '623 patent, are not staple articles or commodities of
 4 commerce suitable for substantial non-infringing use, and are known by Sotera
 5 and Foxconn to be especially made or especially adapted for use in an
 6 infringement of the '623 patent.

7 60. Upon information and belief, Sotera's and Foxconn's infringement
 8 of the '623 patent has been, and continues to be, willful, deliberate, and
 9 intentional by continuing its acts of infringement after becoming aware of the
 10 '623 patent and its infringement thereof, thus acting in reckless disregard of
 11 Masimo's patent rights.

12 61. As a consequence of Sotera's and Foxconn's infringement of the
 13 '623 patent, Masimo has suffered and will continue to suffer irreparable harm
 14 and injury, including monetary damages in an amount to be determined at trial.

15 62. Upon information and belief, unless enjoined, Sotera, Foxconn,
 16 and/or others acting on behalf of Sotera, will continue their infringing acts,
 17 thereby causing additional irreparable injury to Masimo for which there is no
 18 adequate remedy at law.

19 **FOURTH CLAIM FOR RELIEF**

20 **(Infringement of U.S. Reissue Patent No. RE47,218)**

21 63. Masimo realleges and reincorporates the allegations set forth in
 22 paragraphs 1 through 62.

23 64. Upon information and belief, Sotera products, including at least the
 24 ViSi Mobile Monitoring System products, infringe at least Claims 1-10, and 12-
 25 18 of the RE218 patent under at least 35 U.S.C. § 271(a), (b), and (c).

26 65. Upon information and belief, Sotera has directly infringed one or
 27 more claims of the RE218 patent through manufacture use, sale, offer for sale,
 28

1 and/or importation into the United States of medical monitoring devices,
2 including the ViSi Mobile Monitoring System.

3 66. Upon information and belief, Foxconn has directly infringed or
4 induced Sotera and/or Sotera's customers to infringe one or more claims of the
5 RE218 patent. For example, on information and belief Foxconn has directed
6 Sotera to manufacture use, sell, offer for sale, and/or import into the United
7 States, electronic patient monitoring systems, including the ViSi Mobile
8 Monitoring System.

9 67. For example, the ViSi Mobile Monitor of the ViSi Mobile
10 Monitoring System includes all of the limitations of Claim 1 of the RE218
11 patent. The ViSi Mobile Monitoring System is a system for reducing electronic
12 alarms in a medical patient monitoring system. The ViSi Mobile Monitoring
13 System includes a ViSi Mobile Monitor having an optical sensor at its thumb
14 sensor configured to transmit optical radiation into a tissue site of a patient and
15 detect attenuated optical radiation indicative of at least one physiological
16 parameter of a patient. The ViSi Mobile Monitor includes one or more
17 hardware processors in electronic communication with the optical sensor. The
18 one or more hardware processors of the ViSi Mobile Monitor is configured to
19 determine oxygen saturation values of the patient over a first period of time and,
20 when at least one oxygen saturation value obtained over the first period of time
21 exceeds a first alarm threshold, determine whether a first alarm should be
22 triggered. The one or more hardware processors of the ViSi Mobile Monitor is
23 configured to access a second alarm threshold to be applied during a second
24 period of time subsequent to the first period of time. The second alarm
25 threshold replaces the first alarm threshold, and the second alarm threshold has a
26 value less than the at least one oxygen saturation value and greater than a lower
27 limit and at an offset from the at least one oxygen saturation value. The offset is
28 diminished as a difference between the at least first oxygen saturation value and

1 the lower limit diminishes. The one or more hardware processors of the ViSi
2 Mobile Monitor is also configured to determine oxygen saturation values of the
3 patient over the second period of time and trigger a second alarm based on at
4 least one value of the oxygen saturation values obtained over the second period
5 of time exceeding the second alarm threshold.

6 68. Upon information and belief, Sotera and Foxconn have monitored
7 Masimo's patents, including the RE218 patent by hiring former Masimo
8 employees and after previous trade secret misappropriation litigation asserted
9 against Sotera by Masimo. Upon further information and belief, through the
10 knowledge of the RE218 patent gained by monitoring Masimo's patents, Sotera
11 and Foxconn knew or should have known that these activities would cause
12 direct infringement. Sotera and Foxconn also had knowledge of the RE218
13 patent no later than the filing of this Complaint.

14 69. Upon information and belief, Sotera and Foxconn have actively
15 induced others to infringe the RE218 patent by marketing and selling the above
16 ViSi Mobile Monitoring Systems, knowing and intending that such systems
17 would be used by customers and end users in a manner that infringes the RE218
18 patent. To that end, Sotera provides instructions and teachings to its customers
19 and end users that such ViSi Mobile Monitoring Systems be used to infringe the
20 RE218 patent. Sotera's acts and Foxconn's acts constitute infringement of the
21 RE218 patent in violation of 35 U.S.C. § 271(b).

22 70. Upon information and belief, Sotera and Foxconn actively induce
23 health-care service providers and users to directly infringe the asserted claims of
24 the RE218 patent. By way of example only, upon information and belief, Sotera
25 actively induces direct infringement of the RE218 patent by providing
26 directions, demonstrations, guides, manuals, training for use, and/or other
27 materials necessary for the use, refurbishing, and/or servicing of the ViSi
28

1 Mobile Monitor. Upon information and belief, Sotera and Foxconn knew or
2 should have known that these activities would cause direct infringement.

3 71. Upon information and belief, Sotera's acts and Foxconn's acts
4 constitute contributory infringement of the RE218 patent in violation of 35
5 U.S.C. § 271(c). Upon information and belief, Sotera and Foxconn
6 contributorily infringe because, among other things, Sotera offers to sell and/or
7 sells within the United States, and/or imports into the United States, components
8 of the ViSi Mobile Monitoring System that constitute material parts of the
9 invention of the asserted claims of the RE218 patent, are not staple articles or
10 commodities of commerce suitable for substantial non-infringing use, and are
11 known by Sotera and Foxconn to be especially made or especially adapted for
12 use in an infringement of the RE218 patent.

13 72. Upon information and belief, Sotera's and Foxconn's infringement
14 of the RE218 patent has been, and continues to be, willful, deliberate, and
15 intentional by continuing its acts of infringement after becoming aware of the
16 RE218 patent and its infringement thereof, thus acting in reckless disregard of
17 Masimo's patent rights.

18 73. As a consequence of Sotera's and Foxconn's infringement of the
19 RE218 patent, Masimo has suffered and will continue to suffer irreparable harm
20 and injury, including monetary damages in an amount to be determined at trial.

21 74. Upon information and belief, unless enjoined, Sotera, Foxconn,
22 and/or others acting on behalf of Sotera, will continue their infringing acts,
23 thereby causing additional irreparable injury to Masimo for which there is no
24 adequate remedy at law.

25 **FIFTH CLAIM FOR RELIEF**

26 **(Infringement of U.S. Reissue Patent No. RE47,244)**

27 75. Masimo realleges and reincorporates the allegations set forth in
28 paragraphs 1 through 74.

1 76. Upon information and belief, Sotera products, including at least the
2 ViSi Mobile Monitoring System products, infringe at least Claims 1-2, 6, 8, 9,
3 13-15, 18-26 of the RE244 patent under at least 35 U.S.C. § 271(a), (b), and (c).

4 77. Upon information and belief, Sotera has directly infringed one or
5 more claims of the RE244 patent through manufacture use, sale, offer for sale,
6 and/or importation into the United States of medical monitoring devices,
7 including the ViSi Mobile Monitoring System.

8 78. Upon information and belief, Foxconn has directly infringed or
9 induced Sotera and/or Sotera's customers to infringe one or more claims of the
10 RE244 patent. For example, on information and belief Foxconn has directed
11 Sotera to manufacture use, sell, offer for sale, and/or import into the United
12 States, electronic patient monitoring systems, including the ViSi Mobile
13 Monitoring System.

14 79. For example, the ViSi Mobile Monitor of the ViSi Mobile
15 Monitoring System includes all of the limitations of Claim 1 of the RE244
16 patent. The ViSi Mobile Monitoring System is a physiological measurement
17 system including a ViSi Mobile Monitor. The ViSi Mobile Monitor includes a
18 noninvasive physiological sensor at its thumb sensor configured to be positioned
19 on a patient and output a signal responsive to a physiological condition of the
20 patient. The ViSi Mobile Monitor includes one or more processors in
21 communication with the noninvasive physiological sensor. The one or more
22 processors of the ViSi Mobile Monitor is configured to electronically process
23 the signal; responsive to processing the signal, determine a measurement of a
24 physiological parameter based at least in part upon the signal; and determine
25 that the measurement of the physiological parameter satisfies an alarm
26 activation threshold. The one or more processors of the ViSi Mobile Monitor is
27 also configured to electronically initiate a parameter-specific alarm delay or
28 suspension period of time corresponding to the physiological parameter. The

1 parameter-specific alarm delay or suspension period of time is one of a plurality
2 of parameter-specific alarm delay or suspension periods of time, and the
3 parameter-specific alarm delay or suspension period of time is different from at
4 least one other parameter-specific alarm delay or suspension period of time
5 corresponding to at least one other physiological parameter for which the one or
6 more processors are configured to determine at least one measurement. The one
7 or more processors of the ViSi Mobile Monitor is configured to electronically
8 activate an alarm for the physiological parameter in response to expiration of an
9 amount of delay or suspension associated with the parameter-specific alarm
10 delay or suspension period of time.

11 80. Upon information and belief, Sotera and Foxconn have monitored
12 Masimo's patents, including the RE244 patent by hiring former Masimo
13 employees and after previous trade secret misappropriation litigation asserted
14 against Sotera by Masimo. Upon further information and belief, through the
15 knowledge of the RE244 patent gained by monitoring Masimo's patents, Sotera
16 and Foxconn knew or should have known that these activities would cause
17 direct infringement. Sotera and Foxconn also had knowledge of the RE244
18 patent no later than the filing of this Complaint.

19 81. Upon information and belief, Sotera and Foxconn have actively
20 induced others to infringe the RE244 patent by marketing and selling the above
21 ViSi Mobile Monitoring Systems, knowing and intending that such systems
22 would be used by customers and end users in a manner that infringes the RE244
23 patent. To that end, Sotera provides instructions and teachings to its customers
24 and end users that such ViSi Mobile Monitoring Systems be used to infringe the
25 RE244 patent. Sotera's acts and Foxconn's acts constitute infringement of the
26 RE244 patent in violation of 35 U.S.C. § 271(b).

27 82. Upon information and belief, Sotera and Foxconn actively induce
28 health-care service providers and users to directly infringe the asserted claims of

1 the RE244 patent. By way of example only, upon information and belief, Sotera
2 actively induces direct infringement of the RE244 patent by providing
3 directions, demonstrations, guides, manuals, training for use, and/or other
4 materials necessary for the use, refurbishing, and/or servicing of the ViSi
5 Mobile Monitor. Upon information and belief, Sotera and Foxconn knew or
6 should have known that these activities would cause direct infringement.

7 83. Upon information and belief, Sotera's acts and Foxconn's acts
8 constitute contributory infringement of the RE244 patent in violation of 35
9 U.S.C. § 271(c). Upon information and belief, Sotera and Foxconn
10 contributorily infringe because, among other things, Sotera offers to sell and/or
11 sells within the United States, and/or imports into the United States, components
12 of the ViSi Mobile Monitoring System that constitute material parts of the
13 invention of the asserted claims of the RE244 patent, are not staple articles or
14 commodities of commerce suitable for substantial non-infringing use, and are
15 known by Sotera and Foxconn to be especially made or especially adapted for
16 use in an infringement of the RE244 patent.

17 84. Upon information and belief, Sotera's and Foxconn's infringement
18 of the RE244 patent has been, and continues to be, willful, deliberate, and
19 intentional by continuing its acts of infringement after becoming aware of the
20 RE244 patent and its infringement thereof, thus acting in reckless disregard of
21 Masimo's patent rights.

22 85. As a consequence of Sotera's and Foxconn's infringement of the
23 RE244 patent, Masimo has suffered and will continue to suffer irreparable harm
24 and injury, including monetary damages in an amount to be determined at trial.

25 86. Upon information and belief, unless enjoined, Sotera, Foxconn,
26 and/or others acting on behalf of Sotera, will continue their infringing acts,
27 thereby causing additional irreparable injury to Masimo for which there is no
28 adequate remedy at law.

SIXTH CLAIM FOR RELIEF

(Infringement of U.S. Reissue Patent No. RE47,249)

87. Masimo realleges and reincorporates the allegations set forth in paragraphs 1 through 86.

88. Upon information and belief, Sotera products, including at least the ViSi Mobile Monitoring System products, infringe at least Claims 1-2, 6-9, 13-15, and 18-24 of the RE249 patent under at least 35 U.S.C. § 271(a), (b), and (c).

89. Upon information and belief, Sotera has directly infringed one or more claims of the RE249 patent through manufacture use, sale, offer for sale, and/or importation into the United States of medical monitoring devices, including the ViSi Mobile Monitoring System.

90. Upon information and belief, Foxconn has directly infringed or induced Sotera and/or Sotera's customers to infringe one or more claims of the RE249 patent. For example, on information and belief Foxconn has directed Sotera to manufacture use, sell, offer for sale, and/or import into the United States, electronic patient monitoring systems, including the ViSi Mobile Monitoring System.

91. For example, the ViSi Mobile Monitor of the ViSi Mobile Monitoring System includes all of the limitations of Claim 1 of the RE249 patent. The ViSi Mobile Monitoring System is a physiological measurement system including a ViSi Mobile Monitor. The ViSi Mobile Monitor includes a noninvasive physiological sensor at its thumb sensor configured to be positioned on a patient and output a signal responsive to a physiological condition of the patient. The ViSi Mobile Monitor includes one or more processors in communication with the noninvasive physiological sensor. The one or more processors of the ViSi Mobile Monitor is configured to electronically determine a measurement of a physiological parameter based at least in part upon the

1 signal, and determine whether an alarm condition exists by determining whether
2 an activation threshold has been satisfied by the measurement of the
3 physiological parameter. The one or more processors of the ViSi Mobile
4 Monitor is also configured to electronically access an alarm hold initiator for a
5 parameter-specific alarm hold period of time corresponding to the physiological
6 parameter. The parameter-specific alarm hold period of time is one of a
7 plurality of parameter-specific alarm hold periods of time, and the parameter-
8 specific alarm hold period of time is different from at least one other parameter-
9 specific alarm hold period of time corresponding to at least one other
10 physiological parameter for which the one or more processors are configured to
11 determine at least one measurement. The one or more processors of the ViSi
12 Mobile Monitor is configured to electronically determine that the alarm hold
13 initiator indicates to hold an indication of an alarm for the alarm condition and,
14 in response to determining that the alarm hold initiator indicates to hold the
15 indication of the alarm, hold the indication of the alarm for the parameter-
16 specific alarm hold period of time. The one or more processors of the ViSi
17 Mobile Monitor is configured to electronically, subsequent to the parameter-
18 specific alarm hold period of time passing, activate the indication of the alarm
19 while the measurement of the physiological parameter satisfies the activation
20 threshold.

21 92. Upon information and belief, Sotera and Foxconn have monitored
22 Masimo's patents, including the RE249 patent by hiring former Masimo
23 employees and after previous trade secret misappropriation litigation asserted
24 against Sotera by Masimo. Upon further information and belief, through the
25 knowledge of the RE249 patent gained by monitoring Masimo's patents, Sotera
26 and Foxconn knew or should have known that these activities would cause
27 direct infringement. Sotera and Foxconn also had knowledge of the RE249
28 patent no later than the filing of this Complaint.

1 93. Upon information and belief, Sotera and Foxconn have actively
2 induced others to infringe the RE249 patent by marketing and selling the above
3 ViSi Mobile Monitoring Systems, knowing and intending that such systems
4 would be used by customers and end users in a manner that infringes the RE249
5 patent. To that end, Sotera provides instructions and teachings to its customers
6 and end users that such ViSi Mobile Monitoring Systems be used to infringe the
7 RE249 patent. Sotera's acts and Foxconn's acts constitute infringement of the
8 RE249 patent in violation of 35 U.S.C. § 271(b).

9 94. Upon information and belief, Sotera and Foxconn actively induce
10 health-care service providers and users to directly infringe the asserted claims of
11 the RE249 patent. By way of example only, upon information and belief, Sotera
12 actively induces direct infringement of the RE249 patent by providing
13 directions, demonstrations, guides, manuals, training for use, and/or other
14 materials necessary for the use, refurbishing, and/or servicing of the ViSi
15 Mobile Monitor. Upon information and belief, Sotera and Foxconn knew or
16 should have known that these activities would cause direct infringement.

17 95. Upon information and belief, Sotera's acts and Foxconn's acts
18 constitute contributory infringement of the RE249 patent in violation of 35
19 U.S.C. § 271(c). Upon information and belief, Sotera and Foxconn
20 contributorily infringe because, among other things, Sotera offers to sell and/or
21 sells within the United States, and/or imports into the United States, components
22 of the ViSi Mobile Monitoring System that constitute material parts of the
23 invention of the asserted claims of the RE249 patent, are not staple articles or
24 commodities of commerce suitable for substantial non-infringing use, and are
25 known by Sotera and Foxconn to be especially made or especially adapted for
26 use in an infringement of the RE249 patent.

27 96. Upon information and belief, Sotera's and Foxconn's infringement
28 of the RE249 patent has been, and continues to be, willful, deliberate, and

1 intentional by continuing its acts of infringement after becoming aware of the
 2 RE249 patent and its infringement thereof, thus acting in reckless disregard of
 3 Masimo's patent rights.

4 97. As a consequence of Sotera's and Foxconn's infringement of the
 5 RE249 patent, Masimo has suffered and will continue to suffer irreparable harm
 6 and injury, including monetary damages in an amount to be determined at trial.

7 98. Upon information and belief, unless enjoined, Sotera, Foxconn,
 8 and/or others acting on behalf of Sotera, will continue their infringing acts,
 9 thereby causing additional irreparable injury to Masimo for which there is no
 10 adequate remedy at law.

11 **SEVENTH CLAIM FOR RELIEF**

12 **(Infringement of U.S. Patent No. 10,213,108)**

13 99. Masimo realleges and reincorporates the allegations set forth in
 14 paragraphs 1 through 98.

15 100. Upon information and belief, Sotera products, including at least the
 16 ViSi Mobile Monitoring System products, infringe at least Claims 1-22 of the
 17 '108 patent under at least 35 U.S.C. § 271(a), (b), and (c).

18 101. Upon information and belief, Sotera has directly infringed one or
 19 more claims of the '108 patent through manufacture use, sale, offer for sale,
 20 and/or importation into the United States of medical monitoring devices,
 21 including the ViSi Mobile Monitoring System.

22 102. Upon information and belief, Foxconn has directly infringed or
 23 induced Sotera and/or Sotera's customers to infringe one or more claims of the
 24 '108 patent. For example, on information and belief Foxconn has directed
 25 Sotera to manufacture use, sell, offer for sale, and/or import into the United
 26 States, electronic patient monitoring systems, including the ViSi Mobile
 27 Monitoring System.
 28

1 103. For example, the ViSi Mobile Monitor of the ViSi Mobile
2 Monitoring System includes all of the limitations of Claim 1 of the '108 patent.
3 The ViSi Mobile Monitor is an arm mountable portable patient monitoring
4 device configured to receive physiological information from a plurality of
5 sensors attached to a patient at least two different measurement sites via wired
6 connections for on-patient monitoring of parameter measurements and wireless
7 transmission of parameter measurements to separate monitoring devices. The
8 ViSi Mobile Monitor includes a housing configured to be secured to an arm of a
9 patient under measurement. The ViSi Mobile Monitor includes a wrist strap
10 mountable to a back side of the housing and configured to secure the housing to
11 the arm of the patient. The ViSi Mobile Monitor includes a display positioned
12 on a front side of the housing. The display of the ViSi Mobile Monitor is
13 configured to show at least one status indicator of the portable patient
14 monitoring device and one or more parameter measurements. The ViSi Mobile
15 Monitor includes a first sensor port positioned on a first side of the housing and
16 the first side of the housing is configured to face toward a hand of the arm of the
17 patient when the housing is secured to the arm of the patient. The first sensor
18 port of the ViSi Mobile Monitor is configured to electrically receive a signal
19 from a thumb-type pulse oximetry sensor via a wired connection from the pulse
20 oximetry sensor to the first sensor port. The wired connection is configured to
21 extend from the first sensor port along a path substantially perpendicular to the
22 first side of the housing. The ViSi Mobile Monitor also includes a second
23 sensor port positioned on the housing and configured to receive a signal from a
24 second sensor arrangement via a wired connection, and a third sensor port
25 positioned on the housing configured to receive a signal from a third sensor
26 arrangement via a wired connection. The ViSi Mobile Monitor includes one or
27 more signal processing arrangements configured to receive the signal from the
28 pulse oximetry sensor and cause to be displayed, on the display, at least

1 measurements of oxygen saturation and pulse rate derived from the signal. The
2 ViSi Mobile Monitor includes a transmitter configured to wirelessly transmit
3 information indicative of the measurements of oxygen saturation and pulse rate
4 to a separate monitoring device configured to receive the information indicative
5 of the measurements of oxygen saturation and pulse rate.

6 104. Upon information and belief, Sotera and Foxconn have monitored
7 Masimo's patents, including the '108 patent by hiring former Masimo
8 employees and after previous trade secret misappropriation litigation asserted
9 against Sotera by Masimo. Upon further information and belief, through the
10 knowledge of the '108 patent gained by monitoring Masimo's patents, Sotera
11 and Foxconn knew or should have known that these activities would cause
12 direct infringement. Sotera and Foxconn also had knowledge of the '108 patent
13 no later than the filing of this Complaint.

14 105. Upon information and belief, Sotera and Foxconn have actively
15 induced others to infringe the '108 patent by marketing and selling the above
16 ViSi Mobile Monitoring Systems, knowing and intending that such systems
17 would be used by customers and end users in a manner that infringes the '108
18 patent. To that end, Sotera provides instructions and teachings to its customers
19 and end users that such ViSi Mobile Monitoring Systems be used to infringe the
20 '108 patent. Sotera's acts and Foxconn's acts constitute infringement of the
21 '108 patent in violation of 35 U.S.C. § 271(b).

22 106. Upon information and belief, Sotera and Foxconn actively induce
23 health-care service providers and users to directly infringe the asserted claims of
24 the '108 patent. By way of example only, upon information and belief, Sotera
25 actively induces direct infringement of the '108 patent by providing directions,
26 demonstrations, guides, manuals, training for use, and/or other materials
27 necessary for the use, refurbishing, and/or servicing of the ViSi Mobile Monitor.
28

1 Upon information and belief, Sotera and Foxconn knew or should have known
2 that these activities would cause direct infringement.

3 107. Upon information and belief, Sotera's acts and Foxconn's acts
4 constitute contributory infringement of the '108 patent in violation of 35 U.S.C.
5 § 271(c). Upon information and belief, Sotera and Foxconn contributorily
6 infringe because, among other things, Sotera offers to sell and/or sells within the
7 United States, and/or imports into the United States, components of the ViSi
8 Mobile Monitoring System that constitute material parts of the invention of the
9 asserted claims of the '108 patent, are not staple articles or commodities of
10 commerce suitable for substantial non-infringing use, and are known by Sotera
11 and Foxconn to be especially made or especially adapted for use in an
12 infringement of the '108 patent.

13 108. Upon information and belief, Sotera's and Foxconn's infringement
14 of the '108 patent has been, and continues to be, willful, deliberate, and
15 intentional by continuing its acts of infringement after becoming aware of the
16 '108 patent and its infringement thereof, thus acting in reckless disregard of
17 Masimo's patent rights.

18 109. As a consequence of Sotera's and Foxconn's infringement of the
19 '108 patent, Masimo has suffered and will continue to suffer irreparable harm
20 and injury, including monetary damages in an amount to be determined at trial.

21 110. Upon information and belief, unless enjoined, Sotera, Foxconn,
22 and/or others acting on behalf of Sotera, will continue their infringing acts,
23 thereby causing additional irreparable injury to Masimo for which there is no
24 adequate remedy at law.

25 **EIGHTH CLAIM FOR RELIEF**

26 **(Infringement of U.S. Patent No. 10,255,994)**

27 111. Masimo realleges and reincorporates the allegations set forth in
28 paragraphs 1 through 110.

1 112. Upon information and belief, Sotera products, including at least the
2 ViSi Mobile Monitoring System products, infringe at least Claims 1-8 of the
3 '994 patent under at least 35 U.S.C. § 271(a), (b), and (c).

4 113. Upon information and belief, Sotera has directly infringed one or
5 more claims of the '994 patent through manufacture use, sale, offer for sale,
6 and/or importation into the United States of medical monitoring devices,
7 including the ViSi Mobile Monitoring System.

8 114. Upon information and belief, Foxconn has directly infringed or
9 induced Sotera and/or Sotera's customers to infringe one or more claims of the
10 '994 patent. For example, on information and belief Foxconn has directed
11 Sotera to manufacture use, sell, offer for sale, and/or import into the United
12 States, electronic patient monitoring systems, including the ViSi Mobile
13 Monitoring System.

14 115. For example, the ViSi Mobile Monitor of the ViSi Mobile
15 Monitoring System includes all of the limitations of Claim 1 of the '994 patent.
16 The ViSi Mobile Monitoring System is a system configured to reduce a
17 frequency of alarms from a physiological monitoring system. The ViSi Mobile
18 Monitoring System includes a ViSi Mobile Monitor having a physiological
19 sensor configured to detect signals representative of a physiological condition of
20 a patient. The ViSi Mobile Monitor includes one or more processors configured
21 to receive the detected signals and determine a physiological parameter of the
22 patient. The one or more processors of the ViSi Mobile Monitor is further
23 configured to detect an alarm condition for the physiological parameter and
24 delay a notification of the alarm condition until the alarm condition persists for a
25 predetermined alarm notification delay time. The one or more processors of the
26 ViSi Mobile Monitor is configured to provide a notification of the alarm
27 condition responsive to the alarm condition persisting through the alarm
28 notification delay time. The one or more processors of the ViSi Mobile Monitor

1 is associated with a care unit. The ViSi Mobile Monitor also includes a
2 reporting module configured to simulate, using measurements obtained from the
3 care unit, different alarm notification delay times to determine whether any of
4 the different alarm notification delay times would have resulted in an alarm
5 notification event. The alarm notification event for each different alarm
6 notification delay time indicates that an alarm condition persisted for at least
7 that alarm notification delay time. The reporting module of the ViSi Mobile
8 Monitor is configured to provide an indicator of the effect of a change in alarm
9 notification delay time on frequency of alarm notification events. The indicator
10 is indicative of a change in the alarm notification delay time that is effective to
11 reduce the frequency of transient or false alarms. The indicator is configured to
12 be used to program one or more physiological monitoring systems with alarm
13 notification delay times.

14 116. Upon information and belief, Sotera and Foxconn have monitored
15 Masimo's patents, including the '994 patent by hiring former Masimo
16 employees and after previous trade secret misappropriation litigation asserted
17 against Sotera by Masimo. Upon further information and belief, through the
18 knowledge of the '994 patent gained by monitoring Masimo's patents, Sotera
19 and Foxconn knew or should have known that these activities would cause
20 direct infringement. Sotera and Foxconn also had knowledge of the '994 patent
21 no later than the filing of this Complaint.

22 117. Upon information and belief, Sotera and Foxconn have actively
23 induced others to infringe the '994 patent by marketing and selling the above
24 ViSi Mobile Monitoring Systems, knowing and intending that such systems
25 would be used by customers and end users in a manner that infringes the '994
26 patent. To that end, Sotera provides instructions and teachings to its customers
27 and end users that such ViSi Mobile Monitoring Systems be used to infringe the
28

1 '994 patent. Sotera's acts and Foxconn's acts constitute infringement of the
2 '994 patent in violation of 35 U.S.C. § 271(b).

3 118. Upon information and belief, Sotera and Foxconn actively induce
4 health-care service providers and users to directly infringe the asserted claims of
5 the '994 patent. By way of example only, upon information and belief, Sotera
6 actively induces direct infringement of the '994 patent by providing directions,
7 demonstrations, guides, manuals, training for use, and/or other materials
8 necessary for the use, refurbishing, and/or servicing of the ViSi Mobile Monitor.
9 Upon information and belief, Sotera and Foxconn knew or should have known
10 that these activities would cause direct infringement.

11 119. Upon information and belief, Sotera's acts and Foxconn's acts
12 constitute contributory infringement of the '994 patent in violation of 35 U.S.C.
13 § 271(c). Upon information and belief, Sotera and Foxconn contributorily
14 infringe because, among other things, Sotera offers to sell and/or sells within the
15 United States, and/or imports into the United States, components of the ViSi
16 Mobile Monitoring System that constitute material parts of the invention of the
17 asserted claims of the '994 patent, are not staple articles or commodities of
18 commerce suitable for substantial non-infringing use, and are known by Sotera
19 and Foxconn to be especially made or especially adapted for use in an
20 infringement of the '994 patent.

21 120. Upon information and belief, Sotera's and Foxconn's infringement
22 of the '994 patent has been, and continues to be, willful, deliberate, and
23 intentional by continuing its acts of infringement after becoming aware of the
24 '994 patent and its infringement thereof, thus acting in reckless disregard of
25 Masimo's patent rights.

26 121. As a consequence of Sotera's and Foxconn's infringement of the
27 '994 patent, Masimo has suffered and will continue to suffer irreparable harm
28 and injury, including monetary damages in an amount to be determined at trial.

122. Upon information and belief, unless enjoined, Sotera, Foxconn, and/or others acting on behalf of Sotera, will continue their infringing acts, thereby causing additional irreparable injury to Masimo for which there is no adequate remedy at law.

NINTH CLAIM FOR RELIEF

(Infringement of U.S. Patent No. RE47,353)

123. Masimo realleges and reincorporates the allegations set forth in paragraphs 1 through 122.

124. Upon information and belief, Sotera products, including at least the ViSi Mobile Monitoring System products, infringe at least Claims 1-2, 5-9, 13-15, 18-25 of the RE353 patent under at least 35 U.S.C. § 271(a), (b), and (c).

125. Upon information and belief, Sotera has directly infringed one or more claims of the RE353 patent through manufacture use, sale, offer for sale, and/or importation into the United States of medical monitoring devices, including the ViSi Mobile Monitoring System.

126. Upon information and belief, Foxconn has directly infringed or induced Sotera and/or Sotera's customers to infringe one or more claims of the RE353 patent. For example, on information and belief Foxconn has directed Sotera to manufacture use, sell, offer for sale, and/or import into the United States, electronic patient monitoring systems, including the ViSi Mobile Monitoring System.

127. For example, the ViSi Mobile Monitor of the ViSi Mobile Monitoring System includes all of the limitations of Claim 1 of the RE353 patent. The ViSi Mobile Monitor system is a physiological measurement system including a ViSi Mobile Monitor. The ViSi Mobile Monitor includes a noninvasive physiological sensor at its thumb sensor configured to be positioned on a patient and output a signal responsive to a physiological condition of the patient. The ViSi Mobile Monitor includes one or more processors in

1 communication with the noninvasive physiological sensor. The one or more
2 processors of the ViSi Mobile Monitor is configured to electronically process
3 the signal to determine a measurement of a physiological parameter based at
4 least in part upon the signal and determine that an alarm should be activated in
5 response to the measurement of the physiological parameter satisfying an alarm
6 activation threshold. The one or more processors of the ViSi Mobile Monitor is
7 also configured to electronically determine that an alarm suspension should be
8 initiated for a parameter-specific alarm suspension period of time corresponding
9 to the physiological parameter. The parameter-specific alarm suspension period
10 of time is one of at least a plurality of parameter-specific alarm suspension
11 periods of time, and the parameter-specific alarm suspension period of time is
12 different from at least one other parameter-specific alarm suspension period of
13 time corresponding to at least one other physiological parameter for which the
14 one or more processors are configured to determine at least one measurement.
15 The one or more processors of the ViSi Mobile Monitor is configured to
16 electronically suspend the alarm for the parameter-specific alarm suspension
17 period of time and activate the alarm when the measurement of the
18 physiological parameter satisfies the alarm activation threshold after the
19 parameter-specific alarm suspension period of time has passed.

20 128. Upon information and belief, Sotera and Foxconn have monitored
21 Masimo's patents, including the RE353 patent by hiring former Masimo
22 employees and after previous trade secret misappropriation litigation asserted
23 against Sotera by Masimo. Upon further information and belief, through the
24 knowledge of the RE353 patent gained by monitoring Masimo's patents, Sotera
25 and Foxconn knew or should have known that these activities would cause
26 direct infringement. Sotera and Foxconn also had knowledge of the RE353
27 patent no later than the filing of this Complaint.
28

1 129. Upon information and belief, Sotera and Foxconn have actively
2 induced others to infringe the RE353 patent by marketing and selling the above
3 ViSi Mobile Monitoring Systems, knowing and intending that such systems
4 would be used by customers and end users in a manner that infringes the RE353
5 patent. To that end, Sotera provides instructions and teachings to its customers
6 and end users that such ViSi Mobile Monitoring Systems be used to infringe the
7 RE353 patent. Sotera's acts and Foxconn's acts constitute infringement of the
8 RE353 patent in violation of 35 U.S.C. § 271(b).

9 130. Upon information and belief, Sotera and Foxconn actively induce
10 health-care service providers and users to directly infringe the asserted claims of
11 the RE353 patent. By way of example only, upon information and belief, Sotera
12 and Foxconn actively induce direct infringement of the RE353 patent by
13 providing directions, demonstrations, guides, manuals, training for use, and/or
14 other materials necessary for the use, refurbishing, and/or servicing of the ViSi
15 Mobile Monitor. Upon information and belief, Sotera and Foxconn knew or
16 should have known that these activities would cause direct infringement.

17 131. Upon information and belief, Sotera's acts and Foxconn's acts
18 constitute contributory infringement of the RE353 patent in violation of 35
19 U.S.C. § 271(c). Upon information and belief, Sotera contributorily infringes
20 because, among other things, Sotera offers to sell and/or sells within the United
21 States, and/or imports into the United States, components of the ViSi Mobile
22 Monitoring System that constitute material parts of the invention of the asserted
23 claims of the RE353 patent, are not staple articles or commodities of commerce
24 suitable for substantial non-infringing use, and are known by Sotera and
25 Foxconn to be especially made or especially adapted for use in an infringement
26 of the RE353 patent.

27 132. Upon information and belief, Sotera's and Foxconn's infringement
28 of the RE353 patent has been, and continues to be, willful, deliberate, and

1 intentional by continuing its acts of infringement after becoming aware of the
2 RE353 patent and its infringement thereof, thus acting in reckless disregard of
3 Masimo's patent rights.

4 133. As a consequence of Sotera's and Foxconn's infringement of the
5 RE353 patent, Masimo has suffered and will continue to suffer irreparable harm
6 and injury, including monetary damages in an amount to be determined at trial.

7 134. Upon information and belief, unless enjoined, Sotera, Foxconn,
8 and/or others acting on behalf of Sotera, will continue their infringing acts,
9 thereby causing additional irreparable injury to Masimo for which there is no
10 adequate remedy at law.

11 **IX. PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff Masimo prays for judgment and seeks relief as
13 follows:

14 (1) Pursuant to 35 U.S.C. § 271, a determination that Sotera, Foxconn,
15 and their officers, agents, servants, employees, attorneys and all others in active
16 concert and/or participation with them have infringed each of the '735, '300,
17 '623, RE218, RE244, RE249, '108, '994, and RE353 patents through the
18 manufacture, use, importation, offer for sale, and/or sale of infringing products
19 and/or any of the other acts prohibited by 35 U.S.C. § 271;

20 (2) Pursuant to 35 U.S.C. § 283, an injunction enjoining Sotera,
21 Foxconn, and their officers, agents, servants, employees, attorneys and all others
22 in active concert and/or participation with them from infringing the '735, '300,
23 '623, RE218, RE244, RE249, '108, '994, and RE353 patents through the
24 manufacture, use, importation, offer for sale, and/or sale of infringing products
25 and/or any of the other acts prohibited by 35 U.S.C. § 271, including
26 preliminary and permanent injunctive relief;

27 (3) Pursuant to 35 U.S.C. § 284, an award of compensating Masimo
28 for Sotera's and Foxconn's infringement of the '735, '300, '623, RE218,

1 RE244, RE249, '108, '994, and RE353 patents through payment of not less than
2 a reasonable royalty on Sotera's sales of infringing products;

3 (4) Pursuant to 35 U.S.C. § 284, an award increasing damages up to
4 three times the amount found or assessed by the jury for Sotera's and Foxconn's
5 infringement of each of the '735, '300, '623, RE218, RE244, RE249, '108,
6 '994, and RE353 patents in view of the willful and deliberate nature of the
7 infringement;

8 (5) Pursuant to 35 U.S.C. § 285, a finding that this is an exceptional
9 case, and an award of reasonable attorneys' fees and non-taxable costs;

10 (6) An assessment of prejudgment and post-judgment interest and
11 costs against Sotera and Foxconn, together with an award of such interest and
12 costs, pursuant to 35 U.S.C. § 284;

13 (7) An award of taxable costs; and

14 (8) That Masimo be granted such other and further relief as the Court
15 deems equitable and just in the circumstances.

16 Respectfully submitted,

17 KNOBBE, MARTENS, OLSON & BEAR, LLP

18
19 Dated: June 12, 2019

By: /s/ Brian C. Claassen

20 Joseph R. Re

21 Stephen C. Jensen

22 Irfan A. Lateef

Brian C. Claassen

23 Attorneys for Plaintiff

24 MASIMO CORPORATION
25
26
27
28

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff Masimo Corporation demands a trial by jury of all issues raised by the pleadings which are triable by jury.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: June 12, 2019

By: /s/ Brian C. Claassen

Joseph R. Re
Stephen C. Jensen
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