

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION

11 JUN 17 PM 3: 34

§ 87(2)(b)

1 : 11-cv-0824TWP -DML

2. MMP is the exclusive licensee and holder of all substantial rights and interest in and to: United States Patent No. 5,942,986, issued on August 24, 1999, for “System and Method for Automatic Critical Event Notification”, the Reexamination Certificate thereof, collectively referred to herein as “the Patent”. A true and correct copy of United States Patent No. 5,942,986 is attached hereto as Exhibit 1. A true and correct copy of Ex Parte Reexamination Certificate 5.942.986 C1 is attached hereto as Exhibit 2.

3. Each of the Defendants manufactures, provides, sells, offers for sale, imports and/or distributes infringing products and services; and/or induces others to use its products and services in an infringing manner; and/or contributes to the use of infringing products and services by others.

4. Plaintiff MMP seeks injunctive relief to prevent Defendants from continuing infringement of Plaintiff's valuable patent rights. Plaintiff MMP further seeks monetary damages and prejudgment interest for Defendants' past infringement of the Patent.

5. This is an exceptional case, and MMP is entitled to damages, enhanced damages, attorneys' fees, costs and expenses.

II. THE PARTIES

6. Plaintiff MMP Corporation is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 500 Newport Center Drive, 7th Floor, Newport Beach, California, 92660.

7. On information and belief, Defendant Philips Electronics North America Corporation is a Delaware corporation with a place of business located at 3000 Minuteman Rd., Andover, Massachusetts. Defendant Philips Electronics North America Corporation can be served with process by serving its registered agent for service of process in the State of Texas, Corporation Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

8. Defendant Oridion is a corporation organized and existing under the laws of the State of Delaware, with a place of business located at 160 Gould Street, Suite 205, Needham, MA 02494. Defendant Oridion can be served with process by serving its registered agent for service of process Corporation Service Company, 2711 Centerville Road Suite 400, Wilmington, DE 19808.

9. Defendant IWT Solutions is a corporation organized and existing under the laws of the State of Indiana, with a place of business located at 11984 Old Petersburg Road Evansville, IN 47725. Defendant IWT Solutions can be served with process by serving its registered agent for service of process Bernard Hogan, 11984 Old Petersburg Road Evansville, IN 47725.

10. Defendant OBS is a corporation organized and existing under the laws of the State of Delaware, with a place of business located at 10401 N Meridian Street, Two Meridian Plaza, Suite 300, Indianapolis, IN 46290. Defendant OBS can be served with process by serving its registered agent for service of process The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

III. JURISDICTION AND VENUE

11. This is an action for patent infringement which arises under the patent laws of the United States, in particular, 35 U.S.C. §§271, 281, 283, 284 and 285. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§1331 and 1338(a).

12. This Court has personal jurisdiction over each of the Defendants, and venue is proper in this Court pursuant to 28 U.S.C. §§1391(b), (c) and 1400.

IV. PLAINTIFF'S PATENT

13. The Patent discloses a novel and clinically important critical event notification system that can continuously monitor patient statistics and lab data to detect complex critical events, and that can automatically page a responsible physician or physicians, each having a handheld device. A computer can be used to continually access real-time data and multiple hospital databases which are periodically updated. These databases include patient chart databases, databases corresponding to patient history and databases maintained by various labs.

The computer is adapted to automatically review the data, make a critical event determination, and formulate a message that is informative as to the patient's condition and the reasons why a critical event was detected.

14. MMP holds all substantial rights and interest in and to the Patent, including all rights to recover for all past and future infringements thereof.

V. DEFENDANTS' ACTS

Philips

15. Philips manufactures, provides, sells, offers for sale and/or distributes infringing systems. The infringing Philips systems include, but are not limited to, systems marketed under the name IntelliVue Information Center ("IIC"), IntelliVue Patient Monitors, Event Surveillance, used in combination with Clinical Advisories, Patient Monitoring Gateway and/or Data Critical StatView, and related products. Philips provides related services, specifications and instructions for the installation and operation of such systems to its customers, who use the infringing systems and methods in accordance with Philips's instructions.

16. Through its actions, Philips has infringed the Patent and actively induced others to infringe and contributed to the infringement by others of the Patent throughout the United States.

17. Neither MMP nor any of its predecessors in interest in and to the Patent has granted Philips a license or any other right to make, use, offer for sale, sell or import the invention defined by the claims of the Patent.

18. MMP has been and will continue to suffer damages as a result of Defendant Philips's infringing acts unless and until enjoined.

Oridion

19. Oridion manufactures, provides, sells, offers for sale and/or distributes infringing

systems. The infringing Oridion systems include, but are not limited to, systems marketed under the name Capnostream Monitor, Microstream technology, Smart Capnography, and related products, and in combination with Masimo Patient Safety Net System. Oridion provides related services, specifications and instructions for the installation and operation of such systems to its customers, who use the infringing systems and methods in accordance with Oridion's instructions.

20. Through its actions, Oridion has infringed the Patent and actively induced others to infringe and contributed to the infringement by others of the Patent throughout the United States.

21. Neither MMP nor any of its predecessors in interest in and to the Patent has granted Oridion a license or any other right to make, use, offer for sale, sell or import the invention defined by the claims of the Patent.

22. MMP has been and will continue to suffer damages as a result of Defendant Oridion's infringing acts unless and until enjoined

IWT Solutions

23. IWT Solutions manufactures, provides, sells, offers for sale and/or distributes infringing systems. The infringing IWT Solutions systems include, but are not limited to, systems marketed under the name PICASO, and related products. IWT Solutions provides related services, specifications and instructions for the installation and operation of such systems to its customers, who use the infringing systems and methods in accordance with IWT's instructions.

24. Through its actions, IWT Solutions has infringed the Patent and actively induced others to infringe and contributed to the infringement by others of the Patent throughout the

United States.

25. Upon information and belief, Defendant IWT Solutions is willfully infringing one or more claims of the Patent, and has demonstrated at least objective recklessness in doing so.

26. Neither MMP nor any of its predecessors in interest in and to the Patent has granted IWT Solutions a license or any other right to make, use, offer for sale, sell or import the invention defined by the claims of the Patent.

27. MMP has been and will continue to suffer damages as a result of Defendant IWT Solutions's infringing acts unless and until enjoined.

OBS

28. OBS manufactures, provides, sells, offers for sale and/or distributes infringing systems. The infringing OBS systems include, but are not limited to, systems marketed under the name Visensia, and related products. OBS provides related services, specifications and instructions for the installation and operation of such systems to its customers, who use the infringing systems and methods in accordance with OBS's instructions.

29. Through its actions, OBS has infringed the Patent and actively induced others to infringe and contributed to the infringement by others of the Patent throughout the United States.

30. Upon information and belief, Defendant OBS is willfully infringing one or more claims of the Patent, and has demonstrated at least objective recklessness in doing so.

31. Neither MMP nor any of its predecessors in interest in and to the Patent has granted OBS a license or any other right to make, use, offer for sale, sell or import the invention defined by the claims of the Patent.

32. MMP has been and will continue to suffer damages as a result of Defendant OBS's infringing acts unless and until enjoined.

COUNT ONE
PATENT INFRINGEMENT

33. Plaintiff MMP realleges and incorporates herein paragraphs 1-32.

34. The Patent is valid and enforceable.

35. On information and belief, Defendants, without permission of MMP, have been and are presently infringing the Patent, as infringement is defined by 35 U.S.C. § 271(a), including through making, using, selling, offering for sale and importing methods and articles infringing one or more claims of the Patent. Defendants are thus liable for direct infringement of the Patent pursuant to 35 U.S.C. § 271(a).

36. On information and belief, at least since the filing of this Complaint, Defendants, without permission of MMP, have been and are presently indirectly infringing the Patent, including actively inducing infringement of the Patent under 35 U.S.C. § 271(b) and contributing to infringement of the '150 Patent under 35 U.S.C. § 271(c). Such inducements include without limitation, with specific intent to encourage the infringement, knowingly inducing consumers to use infringing articles and methods that these Defendants knew or should have known infringe one or more claims of the Patent.

37. On information and belief, Defendants, with knowledge of the Patent, provide instructions to their customers to use the accused instrumentalities in an infringing manner, and their customers do so.

38. As a result of Defendants' infringement of the Patent, MMP has suffered monetary damages that are adequate to compensate them for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

VI. JURY DEMAND

39. Plaintiff MMP hereby demands a jury on all issues so triable.

VII. REQUEST FOR RELIEF

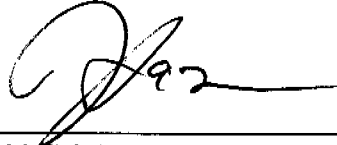
WHEREFORE, Plaintiff MMP respectfully requests that the Court:

- A. Award Plaintiff MMP past and future damages together with prejudgment and post-judgment interest to compensate for the infringement by Defendants of the Patent in accordance with 35 U.S.C. §284, and increase such award by up to three times the amount found or assessed in accordance with 35 U.S.C. §284
- B. In the alternative, that the Court permanently enjoin each Defendant, its agents, servants and employees, and all those in privity with each Defendant or in active concert and participation with any of the Defendants, from engaging in acts of infringement of the Patent pursuant to 35 U.S.C. §283;
- C. Declare this case exceptional pursuant to 35 U.S.C. §285; and
- D. Award Plaintiff MMP its costs, disbursements, attorneys' fees and such further and additional relief as is deemed appropriate by this Court.

Respectfully submitted,

Dated: June 17, 2011

By:

A handwritten signature in dark ink, appearing to be "H. Moore", written over a horizontal line.

Harold C. Moore
Indiana State Bar No. 19004-49
Michael A. Swift
Indiana State Bar No. 17779-49
Kelli D. Morin
Indiana State Bar No. 29396-49

Maginot, Moore & Beck, LLP
111 Monument Circle, Suite 3250
Indianapolis, IN 46204
Telephone: 317-638-2922
Facsimile: 317-638-2139