

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

_____		)	
KONINKLIJKE PHILIPS ELECTRONICS	)		
N.V. and PHILIPS ELECTRONICS NORTH	)		
AMERICA CORPORATION,	)		
	)		
Plaintiffs,	)		
	)		
v.	)	Civil Action No. 10-11041	
	)		
ZOLL MEDICAL CORPORATION,	)	<b>DEMAND FOR JURY TRIAL</b>	
	)		
Defendant.	)		
_____		)	

**COMPLAINT**

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

**NATURE OF ACTION**

1. This is an action for patent infringement under 35 U.S.C. § 271, *et seq.*, by Philips against Zoll for infringement of United States Patent Nos. 5,607,454; 5,721,482; 5,735,879; 5,749,905; 5,773,961; 5,800,460; 5,803,927; 5,836,978; 5,879,374; 6,047,212; 6,178,357; 6,304,783; 6,356,785; 6,441,582; and 6,871,093 (the “Patents-in-Suit”).

**PARTIES**

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

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

4. Upon information and belief, Defendant Zoll is a corporation organized under the laws of the Commonwealth of Massachusetts, with a principal place of business at 269 Mill Road, Chelmsford, Massachusetts 01824.

#### **JURISDICTION AND VENUE**

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

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

7. Upon information and belief, Zoll maintains its principal place of business within Massachusetts and has voluntarily placed automatic external defibrillator products into the stream of commerce, knowing that Massachusetts is the likely destination of a substantial quantity of such products.

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

9. Upon information and belief, Zoll is subject to personal jurisdiction in this district because it is a corporation organized under the laws of the Commonwealth of Massachusetts.

10. Upon information and belief, Zoll is subject to personal jurisdiction in this district because it maintains or has maintained continuous and systematic contacts with Massachusetts and this judicial district.

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

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

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

**COUNT 1: PATENT INFRINGEMENT OF U.S. PATENT NO. 5,607,454**

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

15. On March 4, 1997, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 5,607,454 (“the ’454 patent”), entitled “Electrotherapy Method and Apparatus,” to the listed inventor David Cameron of Seattle, Washington, and other co-inventors in Washington. Plaintiff Koninklijke Philips Electronics N.V. is the assignee and owner of the ’454 patent, a copy of which is attached as Exhibit A.

16. Upon information and belief, Zoll has infringed and continues to infringe the ’454 patent under 35 U.S.C. § 271(a), (b), and/or (c), by making, using, offering for sale, selling, and/or importing in the United States automated external defibrillators, including the AED Plus and AED Pro automated external defibrillators, and by contributing to and/or inducing infringement of the ’454 patent.

17. Zoll does not have a license or permission to use the '454 patent.

18. As a result of Zoll's infringement of the '454 patent, Philips has been irreparably injured. Unless such infringing acts are enjoined by this Court, Philips will continue to suffer additional irreparable injury.

19. As a result of Zoll's infringement of the '454 patent, Philips has suffered, and continues to suffer, damages, in an amount not yet determined, of at least a reasonable royalty and/or lost profits due to loss of sales, profits, and potential sales that Philips would have made but for Zoll's infringing acts.

20. In a letter dated November 17, 2008, Philips provided notice to Zoll of the '454 patent and its infringing conduct.

21. Despite knowledge of the '454 patent, Zoll has continued to infringe this patent. Zoll acted with reckless disregard of the '454 patent by continuing to infringe the patent when it knew or should have known that its actions constituted infringement.

**COUNT 2: PATENT INFRINGEMENT OF U.S. PATENT NO. 5,721,482**

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

23. On February 24, 1998, the USPTO duly and legally issued United States Patent No. 5,721,482 ("the '482 patent"), entitled "Intelligent Battery and Method for Providing an Advance Low Battery Warning for a Battery Powered Device such as a Defibrillator," to the listed inventor Carl E. Benvegar of McMinnville, Oregon, and other co-inventors in Oregon and Washington. Plaintiff Koninklijke Philips Electronics N.V. is the assignee and owner of the '482 patent, a copy of which is attached as Exhibit B.

24. Upon information and belief, Zoll has infringed and continues to infringe the '482 patent under 35 U.S.C. § 271(a), (b), and/or (c), by making, using, offering for sale, selling,

and/or importing in the United States infringing products, including the Zoll Smart Battery and automated external defibrillators, including the AED Pro automated external defibrillator, and by contributing to and/or inducing infringement of the '482 patent.

25. Zoll does not have a license or permission to use the '482 patent.

26. As a result of Zoll's infringement of the '482 patent, Philips has been irreparably injured. Unless such infringing acts are enjoined by this Court, Philips will continue to suffer additional irreparable injury.

27. As a result of Zoll's infringement of the '482 patent, Philips has suffered, and continues to suffer, damages, in an amount not yet determined, of at least a reasonable royalty and/or lost profits due to loss of sales, profits, and potential sales that Philips would have made but for Zoll's infringing acts.

28. In a letter dated November 17, 2008, Philips provided notice to Zoll of the '482 patent and its infringing conduct.

29. Despite knowledge of the '482 patent, Zoll has continued to infringe this patent. Zoll acted with reckless disregard of the '482 patent by continuing to infringe the patent when it knew or should have known that its actions constituted infringement.

**COUNT 3: PATENT INFRINGEMENT OF U.S. PATENT NO. 5,735,879**

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

31. On April 7, 1998, the USPTO duly and legally issued United States Patent No. 5,735,879 ("the '879 patent"), entitled "Electrotherapy Method for External Defibrillators," to the listed inventor Bradford E. Gliner of Bellevue, Washington, and other co-inventors in Washington. Plaintiff Koninklijke Philips Electronics N.V. is the assignee and owner of the '879 patent, a copy of which is attached as Exhibit C.

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