

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KONINKLIJKE PHILIPS ELECTRONICS	)	
N.V. and PHILIPS ELECTRONICS NORTH	)	
AMERICA CORPORATION,	)	
	)	
Plaintiffs,	)	Civil Action No.
	)	
v.	)	<b>DEMAND FOR JURY TRIAL</b>
	)	
ZOLL LIFECOR CORPORATION,	)	
	)	
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 Lifecor 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. 5,593,427; 5,607,454; 5,735,879; 5,749,904; 5,749,905; 5,803,927; 5,836,978; and 6,047,212 (the “Patents-in-Suit”).

**PARTIES**

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

3. Plaintiff Philips Electronics North America Corporation is a corporation organized and existing under the laws of Delaware, with a place of business at 3000 Minuteman

Road, Andover, Massachusetts 01810. Philips Electronics North America Corporation is a wholly-owned subsidiary of Philips Holding USA, Inc., which, directly and indirectly, is a wholly-owned subsidiary of Plaintiff Koninklijke Philips Electronics N.V. Plaintiff Philips Electronics North America Corporation is the assignee and owner of United States Patent Nos. 5,593,427; 5,607,454; 5,735,879; 5,749,904; 5,749,905; 5,803,927; 5,836,978; and 6,047,212.

4. Upon information and belief, Defendant Zoll Lifecor Corp. is a corporation organized under the laws of Delaware, with a principal place of business at 121 Gamma Drive, Pittsburgh, Pennsylvania 15238.

#### **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 Pennsylvania and has voluntarily placed wearable defibrillators, including the LifeVest product, into the stream of commerce, knowing that Pennsylvania 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 Pennsylvania and in this judicial district.

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

10. 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 Pennsylvania and this judicial district.

11. 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.

12. 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. 5,593,427**

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

14. On January 14, 1997, the United States Patent and Trademark Office ("USPTO") duly and legally issued United States Patent No. 5,593,427 ("the '427 patent"), entitled "Electrotherapy Method," to the listed inventor Bradford E. Gliner of Bellevue, Washington, and other co-inventors in Washington. By assignment from the previous patent owner, Plaintiff Koninklijke Philips Electronics N.V. was the assignee and owner of the '427 patent, a copy of which is attached as Exhibit A, until August 18, 2010, when it assigned the '427 patent to Plaintiff Philips Electronics North America Corporation.

15. Upon information and belief, Zoll has infringed and continues to infringe the '427 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 wearable defibrillators, including the LifeVest product, and by contributing to and/or inducing infringement of the '427 patent.

16. Upon information and belief, Zoll has knowingly encouraged and induced third parties through advertisements, instruction manuals and other means to operate the LifeVest product in a manner that infringes the '427 patent—and third parties have so used the LiveVest.

17. Upon information and belief, Zoll has knowingly contributed to the infringement of the '427 patent by providing the LifeVest product to third parties who have used it in an infringing manner.

18. Zoll does not have a license or permission to use the '427 patent.

19. As a result of Zoll's infringement of the '427 patent, Philips has been irreparably injured. Unless such infringing acts are enjoined by this Court, Philips will continue to suffer additional irreparable injury.

20. As a result of Zoll's infringement of the '427 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.

21. In a letter dated November 17, 2008, Philips provided notice to Zoll of the '427 patent and its infringing conduct. The letter was sent to Stephen Korn, who upon information and belief was serving as the Secretary of Zoll Lifecor Corp. at the time.

22. Despite knowledge of the '427 patent, Zoll has continued to infringe this patent. Zoll acted with reckless disregard of the '427 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. 5,607,454**

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

24. 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. By assignment from the previous patent owner, Plaintiff Koninklijke Philips Electronics N.V. was the assignee and owner of the ’454 patent, a copy of which is attached as Exhibit B, until August 18, 2010, when it assigned the ’454 patent to Plaintiff Philips Electronics North America Corporation.

25. Upon information and belief, Philips and its predecessors, including Heartstream, Inc., Hewlett-Packard Company, and Agilent Technologies, Inc., have continuously marked their products with the ’454 patent number.

26. 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 wearable defibrillators, including the LifeVest product, and by contributing to and/or inducing infringement of the ’454 patent.

27. Upon information and belief, Zoll has knowingly encouraged and induced third parties through advertisements, instruction manuals and other means to operate the LifeVest product in a manner that infringes the ’454 patent—and third parties have so used the LiveVest.

28. Upon information and belief, Zoll has knowingly contributed to the infringement of the ’454 patent by providing the LifeVest product to third parties who have used it in an infringing manner.

29. Zoll does not have a license or permission to use the ’454 patent.

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