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19 Attorneys for Plaintiffs,
20 Masimo Corporation and Cercacor Laboratories, Inc.

21 **IN THE UNITED STATES DISTRICT COURT**
22 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
23 **SOUTHERN DIVISION**

24 MASIMO CORPORATION,) Case No. 8:20-cv-00048-JVS-JDE
25 a Delaware corporation; and)
26 CERCACOR LABORATORIES, INC.,) **SECOND AMENDED**
27 a Delaware corporation) **COMPLAINT FOR**
28 Plaintiffs,) **(1) PATENT INFRINGEMENT**
v.) **(2) TRADE SECRET**
APPLE INC., a California corporation) **MISAPPROPRIATION**
(3) CORRECTION OF
INVENTORSHIP AND
(4) OWNERSHIP OF PATENTS
Defendant.) **DEMAND FOR JURY TRIAL**
Hon. James V. Selna

**REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL**

1 Plaintiffs MASIMO CORPORATION (“Masimo”) and CERCACOR
2 LABORATIES, INC. (“Cercacor”) hereby complain of Defendant APPLE INC.
3 (“Apple”), and allege 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. Plaintiff Cercacor is a Delaware corporation having its principal
8 place of business at 15750 Alton Pkwy, Irvine, California 92618.

9 3. Upon information and belief, Defendant Apple is a California
10 corporation having a principal place of business at One Apple Park Way,
11 Cupertino, California, 95014.

12 **II. JURISDICTION AND VENUE**

13 4. This civil action includes claims for patent infringement arising
14 under the patent laws of the United States, 35 U.S.C. §§ 100, *et seq.*, more
15 particularly, 35 U.S.C. §§ 271 and 281. This civil action includes claims for
16 correction of inventorship of certain United States patents arising under the
17 patent law of the United States, more particularly 35 U.S.C. § 256. This
18 Complaint further alleges trade secret misappropriation and seeks a declaration
19 of ownership of certain patents and patent applications.

20 5. This Court has subject matter jurisdiction over claims 1-12 and 14-
21 18 pursuant to at least 28 U.S.C. §§ 1331 and 1338(a), and has at least
22 supplemental jurisdiction over claims 13 and 19-24 pursuant to at least 28
23 U.S.C. §§ 1367(a), including because, as alleged in more detail below, they are
24 sufficiently related to the claims over which this Court has original jurisdiction
25 that they form part of the same case or controversy under Article III of the
26 United States Constitution.

1 6. Apple has its principal place of business in California. Apple is
2 subject to personal jurisdiction in California and has committed the acts
3 complained of in this Judicial District.

4 7. Venue is proper in the Southern Division of the Central District of
5 California pursuant to 28 U.S.C. § 1400(b) with respect to patent infringement
6 because Defendant has a regular and established place of business in the County
7 of Orange within the Central District of California and committed acts of
8 infringement in this Judicial District. Defendant also committed acts of
9 misappropriation in this Judicial District. Inventive contributions to the patents
10 and patent application as to which Plaintiffs seek correction of inventorship
11 and/or declarations of ownership also took place in this Judicial District. Thus,
12 venue is proper pursuant to 28 U.S.C. §§ 1391(b) because a substantial part of
13 the events or omissions giving rise to the claims occurred in this Judicial
14 District.

15 **III. STATEMENT OF THE CASE**

16 8. This action seeks relief for the theft of Plaintiffs' highly
17 confidential information and trade secrets, and infringement of Masimo's
18 patents by Defendant, correction of inventorship, and ownership of patents
19 assigned to or filed by Apple on subject matter that belongs to Plaintiffs.

20 **IV. STATEMENT OF FACTS**

21 9. Masimo is a medical technology company that revolutionized non-
22 invasive monitoring of physiological parameters, such as pulse rate, arterial
23 oxygen saturation and many others.

24 10. Most of these parameters are measured using light that is
25 transmitted through the body tissue. The received light, that has been attenuated
26 by the various components of the body tissue, including the blood, is known in
27 the industry as a photoplethysmograph or "PPG." The transmission and receipt
28

1 of this light is typically accomplished through a sensor that is applied to a body
2 part such as a finger, arm, toe, forehead or ear.

3 11. Before Masimo, non-invasive measurements from the PPG were
4 plagued by unreliability, often when the measurement was needed most, due to
5 the person moving or having low peripheral blood flow (known as “low
6 perfusion”). The industry had essentially given up on solving these problems,
7 concluding they were largely unsolvable. In the medical context, clinicians had
8 to live with the results – patient monitors gave excessive false alarms, froze
9 their measurements for prolonged periods of time despite potential changes in
10 the physiological parameter (e.g., oxygen saturation or pulse rate), delayed
11 notification of alarms due to long averaging times of sensor data, produced
12 inaccurate measurements, or were unable to obtain data on the most critical
13 patients and babies who cannot be instructed to stay still. Masimo’s pioneering
14 technology, known as Masimo Signal Extraction Technology (“Masimo SET”),
15 solved this problem and dramatically improved the reliability of monitoring and
16 reporting physiological signals derived from the PPG.

17 12. Following its initial success with Masimo SET, Masimo invested
18 heavily in developing additional breakthrough measurement technologies, such
19 as non-invasively measuring total hemoglobin, carboxyhemoglobin, and
20 methemoglobin. Masimo has continued to innovate, succeeding where others
21 have consistently failed. Masimo was the first, and remains the only, company
22 delivering these game-changing technologies to hospitals in the United States.
23 Use of Masimo’s technology in the clinical setting has been proven to reduce
24 blindness in premature infants, detect congenital heart disease in infants, save
25 lives on the general care floor and post-surgery, and improve transfusion
26 management, while saving money.

27 13. From its inception, Masimo has continuously developed cutting-
28 edge noninvasive patient monitoring technologies. Masimo sought and received

1 numerous U.S. patents for many of its inventions. Masimo's revolutionary
2 technology was a key to its gaining significant market praise and penetration.
3 After introduction into the market, many competitors, much larger than
4 Masimo, used Masimo's technology without a license, resulting in patent
5 infringement lawsuits that ultimately confirmed the validity of Masimo's
6 innovations. Masimo also maintains some technology as trade secrets. Masimo
7 also closely guards its future product and market plans. Only select employees
8 have knowledge of and access to these guarded secrets.

9 14. Masimo's innovations also include important advances in sensor
10 technologies that work together as part of Masimo's system and algorithms.
11 Masimo's sensors are integral to the success of the revolutionary technologies
12 Masimo has developed.

13 15. In 1998, Masimo spun certain technologies off into a new
14 company, Masimo Laboratories, Inc. or "Masimo Labs," to further research and
15 develop the technologies. The name of the company was later changed to
16 Cercacor Laboratories Inc. or "Cercacor." Cercacor and Masimo have a cross-
17 license agreement to facilitate confidential collaboration between the
18 companies. Cercacor is not owned by Masimo.

19 16. Like Masimo, Cercacor is an innovator of non-invasive monitoring
20 technologies. Cercacor is on the frontline of understanding how measuring,
21 tracking, and analyzing physiological parameters can impact pre-diabetic and
22 diabetic patients, sports training and performance and overall health and
23 wellness principally in the consumer market. Cercacor continued the
24 development that started at Masimo on non-invasive total hemoglobin (SpHb®),
25 methemoglobin (SpMet®), and carboxyhemoglobin (SpCO®) and other non-
26 invasive physiological parameters.

27 17. Leading hospitals around the world use Cercacor technology
28 licensed to Masimo and sold under the name Masimo rainbow SET. Like

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