

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MASIMO CORPORATION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 09-80-LPS
	)	C.A. No. 11-742-LPS
PHILIPS ELECTRONICS NORTH	)	
AMERICA CORPORATION and PHILIPS	)	
MEDIZIN SYSTEME BÖBLINGEN GMBH,	)	
	)	
Defendants.	)	

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**ORDER**

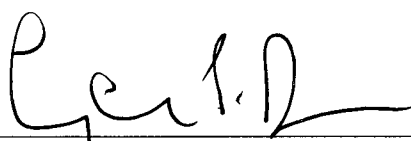
At Wilmington this 1st day of December, 2015:

For the reasons set forth in the Memorandum Opinion issued this date, the Court ADOPTS IN PART and REJECTS IN PART the recommendations contained in Chief Magistrate Judge Thyng’s Report and Recommendation. The Court also OVERRULES IN PART and SUSTAINS IN PART the parties’ objections to the Report and Recommendation. Defendants’ motion for summary judgment is DENIED.

IT IS HEREBY ORDERED that the disputed claim language of U.S. Patent Nos. 6,157,850 (the “850 patent”), 7,509,154 (the “154 patent”), 8,019,400 (the “400 patent”), and 5,337,745 (the “745 patent”) shall be construed as follows:

Term	Court's Construction
<p>“based upon said physiological signal, determining at least two possible indications of said physiological parameter based on at least two alternative calculations for said physiological parameter” and related terms</p>	<p>“determining at least two possible indications of said physiological parameter based on at least two alternative calculations on at least some of the same sensed physiological signal data.”</p>
<p>“said scan”</p>	<p>“the analysis to qualify the plurality of indication values to be considered as possible resulting indications for the physiological parameter.”</p>
<p>“determine a resulting indication that likely most closely correlates to the physiological parameter.”</p>	<p>“determine a resulting indication from the possible indications that likely most closely correlates to the physiological parameter.”</p>
<p>“a selection module responsive to the result of said scan to identify at least one resulting indication as representative of said physiological parameter”</p>	<p>This element is construed under 35 U.S.C. § 112(f) as follows:</p> <p><u>Function:</u> identifying at least one resulting indication as representative of said physiological parameter</p> <p><u>Structure:</u> a processor that receives as an input the result of the analysis to qualify the plurality of indication values to be considered as possible resulting indications for the physiological parameter and is programmed to identify at least one resulting indication as representative of the physiological parameter, and equivalents thereof</p>
<p>“a processor configured to perform a method comprising . . . selecting one of the plurality of possible oxygen saturation values as an oxygen saturation measurement based upon an analysis to determine which of the plurality of possible oxygen saturation values corresponds to the oxygen saturation of the pulsing blood”</p>	<p>This element does not need construction under 35 U.S.C. § 112(f)</p>
<p>“determination of confidence in the accuracy of physiological signals”</p>	<p>“determination of the level of certainty that the signal accurately represents a physiological parameter”</p>

“adjustably smooth the plurality of values”	“average the plurality of resulting values by adjusting the filter weights”
“speed up the adjustable smoothing”	“give higher weight to the newest measurement”
“slow down the adjustable smoothing”	“give lower weight to the newest measurement”
“concentration”	“the quantity of an absorptive substance in the blood relative to the quantity or volume of solvent in the blood”

  
UNITED STATES DISTRICT COURT