

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

<b>CTPRIMES, LLC</b>	)	
	)	Case No. 6:23-cv-173
PLAINTIFF,	)	
	)	
v.	)	
	)	<b>JURY TRIAL</b>
<b>PHILIPS MEDICAL SYSTEMS (CLEVELAND) INC.;</b>	)	
<b>PHILIPS INDIA LTD.;</b>	)	<b>DEMANDED</b>
<b>PHILIPS MEDICAL SYSTEMS TECHNOLOGIES LTD.</b>	)	
<b>PHILIPS HEALTHCARE (SUZHOU) CO.</b>	)	
<b>PHILIPS KONINKLIJKE PHILIPS N.V.; and</b>	)	
<b>PHILIPS NORTH AMERICA LLC,</b>	)	
	)	
DEFENDANTS.	)	

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff CTPRIMES, LLC (“CTPrimes” or “Plaintiff”) files its Original Complaint for Patent Infringement against Defendants, PHILIPS MEDICAL SYSTEMS (CLEVELAND) INC., PHILIPS INDIA LTD., PHILIPS MEDICAL SYSTEMS TECHNOLOGIES LTD., PHILIPS HEALTHCARE (SUZHOU) CO., PHILIPS KONINKLIJKE PHILIPS N.V., and PHILIPS NORTH AMERICA LLC, (each individually referred to as Defendant, collectively referred to as “Philips” or “Defendants”), and alleging infringement of U.S. Patent Nos. 8,238,513 (the “513 Patent”); 8,553,831 (the “831 Patent”); and 9,226,722 (the “722 Patent”) (collectively, the “Patent-in-Suit”).

**PARTIES**

1. Plaintiff CTPrimes is a Texas Limited Liability Company with its principal place of business located at 208 Euphoria Circle, Cary, NC 27519.

2. Upon information and belief, Defendant PHILIPS MEDICAL SYSTEMS (CLEVELAND) INC. is a California Corporation with a principal place of business in Cleveland, Ohio. Upon Information and belief, this Defendant is authorized to do business in Texas, conducts regular business throughout this District and may be served by serving its registered agent Corporation Service Company, 701 Brazos Street, Suite 1050 Austin, TX 78701.

3. Upon information and belief, Defendant PHILIPS INDIA LTD. is a foreign corporation with a principal place of business in Bangalore, India.

4. Upon information and belief, Defendant PHILIPS MEDICAL SYSTEMS TECHNOLOGIES LTD. is a foreign corporation with a principal place of business in Haifa, Israel.

5. Upon information and belief, Defendant PHILIPS HEALTHCARE (SUZHOU) CO. is a foreign corporation with a principal place of business in Suzhou, Jiangsu, China.

6. Upon information and belief, Defendant PHILIPS KONINKLIJKE PHILIPS N.V. is a foreign corporation with a principal place of business in Amsterdam, Netherlands.

7. Upon information and belief, Defendant PHILIPS NORTH AMERICA LLC is a Delaware corporation with a principal place of business in Andover, Massachusetts.

### **JURISDICTION AND VENUE**

8. This is an action for patent infringement in violation of the Patent Act of the United States, 35 U.S.C. §§1, *et. seq.*

9. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

10. This Court has personal jurisdiction over the Defendants because (i) the Defendants are present within or have minimum contact with the State of Texas and this judicial district; (ii)

the Defendants have purposefully availed themselves of the privileges of conducting business in the State of Texas and in this judicial district; and (iii) Plaintiff's cause of action arises directly from the Defendants' business contacts and other activities in the State of Texas and in this judicial district.

11. Venue is proper in this District under 28 U.S.C. §§ 1391(b), (c), and 1400. The Defendants have committed acts of infringement and have a regular and established place of business in this District. Further, venue is proper because the Defendants conduct substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; (ii) have a registered agent in this District; and (iii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals and other businesses in Texas and this District.

## **FACTUAL BACKGROUND**

### **Dr. Feng Ma and CTPrimes**

12. Dr. Ma is the inventor/co-inventor of the three Patents-in-Suit owned by CTPrimes. Dr. Ma received a PhD in Electrical Engineering and a PhD in Astrophysics from the University of Texas at Austin. He has completed postdoctoral research at the Microelectronics Research Center of the University of Texas, and at the Texas Medical Center (Baylor College of Medicine) in the areas of Radiation Oncology.

### **Philips**

13. Upon information and belief, Philips develops, manufactures, and sells medical imaging systems ("Systems") that are used in hospitals and medical centers. The Systems include

a number of CT and PET scanner systems, which include “Brilliance”, “Ingenuity”, “Vereos”, “IQon”, “iCT”, “Big Bore”, and “MX16” models.

14. Upon information and belief, the Philips IQon Spectral CT system (“the Philips IQon system”) is used in hospitals and medical centers in the United State and is shipped from Philips facilities in Cleveland, Ohio; Haifa, Isreal; and Suzhou, China, among others.

15. Upon information and belief, the Philips IQon system relies on a dual layer detector, referred to as NanoPanel Prism detector, that implements a Dual Energy CT capability.

16. Upon information and belief, Philips first became aware of Dr. Ma and the ‘513 patent when Dr. Ma’s U.S. Published Patent Application No. 2009/0016593 (which issued as the ‘513 patent) was cited during prosecution of Philips’ own patent application 13/319,151 in a Notice of References Cited attached to the Office Action dated April 3, 2013 (see **Exhibit A**, page 3, item C).

17. Upon information and belief, Philips, and specifically, Mr. Douglas McKnight Esq., later became aware of Dr. Ma’s ‘513 patent when it was cited during prosecution of Philips’ own patent application 14/766,142 in a Notice of References Cited attached to a Notice of Allowability dated April 6, 2016 (**Exhibit B**, page 1, the Examiner-Initiated Interview Summary shows that Mr. McKnight is the attorney of record for Philips; page 2, Notice of Cited References, item G, lists Dr. Ma’s ‘513 patent).

18. On August 16, 2018, Dr. Ma notified Philips of the Patents-in-Suit and their relevance to the Philips IQon system by way of a letter sent to Mr. James Mark Matter II (Chief Executive Officer of Philips Medical Systems (Cleveland), Inc. and Senior Vice President of Philips North America LLC), enclosing the Patents-in-Suit.

19. On information and belief, Philips received Dr. Feng Ma's August 16, 2018 letter and accompanying Patents-in-Suit on August 21, 2018.

20. On August 28, 2018, Mr. Douglas McKnight, Esq., Senior IP Counsel of Philips Intellectual Property and Standards, responded by way of email to the August 16, 2018 letter acknowledging receipt of the same. Thereafter, on September 5, 2018, Mr. McKnight, Esq. further responded to the August 16, 2018 letter by way of email.

21. On September 6, 2018, Dr. Ma notified Philips of infringement of the Patents-in-Suit by way of an email sent to Mr. Douglas McKnight, Esq., including claim charts for all of those patents, which identified Philips' infringement of multiple claims, on an element-by-element basis.

22. Mr. Douglas McKnight, Esq., acknowledged Philips' receipt of the September 6, 2018 email and the accompanying claim charts by way of an email sent on September 20, 2018.

23. Thereafter, Dr. Ma responded to Philips by an email sent on September 24, 2018 seeking a business resolution on the matter.

24. Despite Dr. Ma's attempt to seek a resolution with Philips, on information and belief, Philips has continued its ongoing willful infringement of the Patents-in-Suit.

25. On August 25, 2022, in preparation for this action, Dr. Ma executed assignments of the Patents-in-Suit to the Plaintiff CTPrimes.

26. Plaintiff now brings this action to seek just compensation for Philips' past and ongoing infringement of the Patents-in-Suit.

### **The Asserted Patents**

27. U.S. Patent No. 8,238,513 ("the '513 Patent") entitled "Imaging System and Method Utilizing Primary Radiation" was duly and legally issued to Feng Ma by the United States

Patent and Trademark Office (“USPTO”) on August 7, 2012. A true and correct copy of the ‘513 Patent is attached as **Exhibit C**. Plaintiff is the lawful owner by assignment of the ‘513 Patent and holds all rights, title and interest in that patent.

28. U.S. Patent No. 8,553,831 (“the ‘831 Patent”) entitled “Imaging System and Method Utilizing Primary and Scattered Radiations” was duly and legally issued to Feng Ma by the USPTO on October 8, 2013. A true and correct copy of the ‘831 Patent is attached as **Exhibit D**. Plaintiff is the lawful owner by assignment of the ‘831 Patent and holds all rights, title and interest in that patent.

29. U.S. Patent No. 9,226,722 (“the ‘722 Patent”) entitled “Medical Imaging System and Method with Separate Primary and Scattered Components” was duly and legally issued to Yongwang Li, Li Ma, and Feng Ma, by the USPTO on January 5, 2016. A true and correct copy of the ‘722 Patent is attached as **Exhibit E**. Plaintiff is the lawful owner by assignment of the ‘722 Patent and holds all rights, title and interest in that patent.

## COUNT I

### (INFRINGEMENT OF U.S. PATENT NO. 8,238,513)

30. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 29 above as fully set forth herein.

#### **Direct Infringement**

31. Philips has directly infringed and continues to directly infringe, literally or under the doctrine of equivalents, one or more claims of the ‘513 Patent in violation of 35 U.S.C. § 271 (a) in the United States. In particular, Philips’ infringement includes: (1) making, using, offering to sell, and/or importing the imaging system of claim 1 and claims dependent thereon; and (2)

making, using, offering to sell, and/or importing the non-transient computer readable medium of claim 16. Independent claims 1 and 16 and claims dependent thereon are the Asserted Claims of the '513 Patent.

32. Philips' direct infringement includes without limitation: having made, used, offered to sell, sold, and/or imported, in the United States, imaging systems in the manner called for by the asserted claims of the '513 Patent.

33. By way of example, claim 1 of the '513 Patent recites as follows:

- An imaging system configured to construct a Computed Tomography (CT) image of an internal structure of an object based on a primary radiation, wherein the imaging system is configured to separate the primary radiation from a scattered radiation based on a mathematical model, the imaging system comprising:
- a computer configured to calculate a scatter-to-primary ratio (SPR) based on the mathematical model to thereby: separate of the primary radiation from the scattered radiation using the SPR in the mathematical model; and construct a CT image based on the primary radiation derived from the mathematical model, wherein the mathematical model is built upon that the primary radiation propagates in a way different from the scattered radiation; and
- a detector configured to detect radiation intensities in a first position and in a second position, wherein the detector comprises two layers of flat-panel X-ray detector arrays disposed respectively at the first position

and the second position and configured to measure a decreasing radiation flux versus distance.

34. The imaging system of claim 1 of the '513 Patent, as well as the computer-readable medium of claim 16, provides a solution to a technical problem, which is separating primary and scattered radiation to improve imaging systems. (See **Exhibit C**, U.S. Patent No. 8,238,513 col. 1, lines 29-63).

35. Philips has made, used, offered to sell, and/or imported Philips imaging systems such as the Philips IQon system that includes every limitation of claim 1 of the '513 Patent and claims dependent thereon, as well as every limitation of independent claim 16 of the '513 Patent, and has been placed on notice of infringement as of its receipt of Dr. Feng Ma's letter of August 16, 2018, as well as the September 6, 2018 email along with the accompanying claim charts. The letter and email identified the '513 Patent, explained its relevance to the Philips IQon system, and provided a claim chart detailing on an element-by-element basis Philips's infringement of claim 1 of the '513 Patent, as well as other Asserted Claims of the '513 Patent.

36. The claims of the '513 Patent are understandable to a person having ordinary skill in the art who has the requisite education, training, and experience with the technology at issue in this case.

37. A person having ordinary skill in the art understands Plaintiff's theory of how Defendants' accused Philips IQon system infringe the claims of the '513 Patent upon a plain reading of this Complaint, the '513 Patent (**Exhibit C**), and the Exemplary Claim Chart (**Exhibit F**).

38. Philips is liable for direct infringement of one or more of the Asserted Claims of the '513 Patent under 35 U.S.C. §271(a).



39. Plaintiff reserves the right to modify its infringement theories as discovery progresses in this case; it shall not be estopped for infringement contention or claim construction purposes by the claim charts that it provides with this Complaint. The Exemplary Claim Chart (**Exhibit F**) is intended to satisfy the notice requirements of Rule 8(a)(2) of the Federal Rule of Civil Procedure; they do not represent Plaintiff's preliminary or final infringement contentions or preliminary or final claim construction positions.

### **Indirect Infringement**

### **Induced Infringement**

40. Upon information and belief, Philips had actual knowledge of the '513 Patent at least as of its receipt of Dr. Feng Ma's letter of August 16, 2018.

41. Upon information and belief, Philips actively and knowingly induced another to infringe one or more claims of the '513 Patent and possessed specific intent to encourage such infringement.

42. Despite being notified of infringement of the '513 Patent via Dr. Ma's August 16, 2018 letter and the email of September 6, 2018 along with the accompanying claim charts, Philips continued to offer the Philips IQon system, providing trainings, and software updates, among other things.

43. Philips knew or should have known that its actions would induce actual infringement of the '513 Patent.

44. Philips is liable for induced infringement of one or more of the Asserted Claims of the '513 Patent under 35 U.S.C. §271(b).

### **Contributory Infringement**

45. Upon information and belief, Philips had actual knowledge of the '513 Patent at least as of its receipt of Dr. Feng Ma's letter of August 16, 2018.

46. Upon information and belief, Philips sells, offers to sell and/or imports the Philips IQon system, which is a material part of the claimed invention of the '513 Patent. In particular, the Philips IQon system incorporates computer-readable medium of the '513 Patent.

47. Upon information and belief, there are no substantial non-infringing uses for the Philips IQon system.

48. Upon information and belief, at least as of its receipt of Dr. Feng Ma's letter of August 16, 2018 and the email of September 6, 2018 along with the accompanying claim charts, Philips had knowledge that the Philips IQon system were especially made for or adapted for use with the computer-readable medium of the '513 Patent.

49. Upon information and belief, Philips has contributed to infringement by customers who use the Philips IQon system.

50. Upon information and belief, Philips has contributed to and continues to contribute to the infringement by another of one or more of the Asserted Claims of the '513 Patent under 35 U.S.C. §271(c).

### **Willful Infringement**

51. Upon information and belief, Philips had actual knowledge of the '513 Patent at least as of its receipt of Dr. Feng Ma's letter of August 16, 2018, if not sooner, when, for example, Philips became aware of the '513 patent when it was cited during prosecution of Philips' own

patent application 14/766,142 in a Notice of References Cited attached to a Notice of Allowability dated April 6, 2016 (**Exhibit B**).

52. Upon information and belief, upon gaining knowledge of the ‘513 Patent, it was or became apparent to Philips that manufacture, use, sale, offer for sale and/or importation of the Philips IQon system resulted in infringement of the ‘513 Patent. Notwithstanding its knowledge (or willful blindness thereto), upon information and belief, Philips continued to manufacture, use, sell, offer for sale and/or import Philips controllers and systems.

53. Philips has willfully infringed and continues to willfully infringe the ‘513 Patent.

54. As a direct and proximate cause of the direct infringement, inducement to infringe and contributory infringement by Philips, the Plaintiff is being and will continue to be substantially and irreparably harmed in its business and property rights unless Philips is enjoined from manufacturing, importing, offering to sell, selling making, using, offering to sell, selling and/or importing the Philips IQon system in the United States.

55. In addition, the Plaintiff is suffering injury for which it is entitled to monetary relief as a result of Philips’ direct infringement.

## **COUNT II**

### **(INFRINGEMENT OF U.S. PATENT NO. 8,553,831)**

56. The Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 55 above as fully set forth herein.

#### **Direct Infringement**

57. Philips has directly infringed and continues to directly infringe, literally or under the doctrine of equivalents, one or more claims of the ‘831 Patent in violation of 35 U.S.C. § 271

(a) in the United States. In particular, Philips' infringement includes using the image reconstruction method of claim 12 and at least one claim dependent thereon. Independent claim 12 and at least one claim dependent thereon are the Asserted Claims of the '831 Patent.

58. Philips' direct infringement includes without limitation: having used in the United States, Philips' software-based image reconstruction method in conjunction with at least the Philips IQon system.

59. By way of example, claim 12 of the '831 Patent recites as follows:

- An image reconstruction method for Computed Tomography (CT), the method comprising:
- determining a scatter-to-primary ratio (SPR) of a wide beam based on a narrow beam;
- determining a primary component of the wide beam based on the SPR to thereby separate the primary component from a scattered component of the wide beam; and
- constructing an image of an internal structure of an object using the primary component.

60. The image reconstruction method of claim 12 of the '831 Patent provides a solution to a technical problem, which is separating primary and scattered radiation to improve imaging systems. (See **Exhibit D**, U.S. Patent No. 8,553,831 col. 3, line 18 – col. 4, line 42).

61. Upon information and belief, Philips has used Philips' software-based image reconstruction method in conjunction with at least the Philips IQon system in the manner called for by claim 12 of the '831 Patent and at least one claim dependent thereon. Philips employees utilize Philips' image reconstruction method in conjunction with Philips IQon system at their

workplace and Philips uses Philips' image reconstruction method in conjunction with at least the Philips IQon system to demonstrate the capabilities of the Philips IQon system.

62. Philips has been placed on notice of infringement as of its receipt of Dr. Feng Ma's letter of August 16, 2018 and the September 6, 2018 email along with the accompanying claim charts. The letter and the email specifically identified the '831 Patent, explained its relevance to the Philips IQon system, and provided a claim chart detailing on an element-by-element basis Philips's infringement of claim 12 of the '831 Patent.

63. The claims of the '831 Patent are understandable to a person having ordinary skill in the art who has the requisite education, training, and experience with the technology at issue in this case.

64. A person having ordinary skill in the art understands Plaintiff's theory of how the Defendant's accused software-based image reconstruction method, as employed in conjunction with the Philips IQon system, infringes the claims of the '831 Patent upon a plain reading of this Complaint, the '831 Patent (**Exhibit D**), and the Exemplary Claim Chart (**Exhibit G**).

65. Philips is liable for direct infringement of one or more of the Asserted Claims of the '831 Patent under 35 U.S.C. §271(a).

66. Plaintiff reserves the right to modify its infringement theories as discovery progresses in this case; it shall not be estopped for infringement contention or claim construction purposes by the claim charts that it provides with this Complaint. The Exemplary Claim Chart (**Exhibit G**) is intended to satisfy the notice requirements of Rule 8(a)(2) of the Federal Rule of Civil Procedure; they do not represent Plaintiff's preliminary or final infringement contentions or preliminary or final claim construction positions.

### **Indirect Infringement**

#### **Induced Infringement**

67. Upon information and belief, Philips had actual knowledge of the '831 Patent at least as of its receipt of Dr. Feng Ma's letter of August 16, 2018.

68. Upon information and belief, Philips actively and knowingly induced another to infringe one or more claims of the '831 Patent and possessed specific intent to encourage such infringement.

69. Despite being notified of infringement of the '831 Patent via Dr. Ma's August 16, 2018 letter and the email of September 6, 2018 along with the accompanying claim charts, Philips continued to offer the Philips IQon system which relies on Philips' software-based image reconstruction method.

70. Philips knew or should have known that its actions would induce actual infringement of the '831 Patent.

71. In particular, Philips knew or should have known that its actions would induce and have induced customers to use the Philips IQon system in conjunction with Philips' software-based image reconstruction method.

72. Philips is liable for induced infringement of one or more of the Asserted Claims of the '831 Patent under 35 U.S.C. §271(b).

#### **Contributory Infringement**

73. Upon information and belief, Philips had actual knowledge of the '831 Patent at least as of its receipt of Dr. Feng Ma's letter of August 16, 2018.

74. Upon information and belief, Philips sells, offers to sell and/or imports the Philips IQon system, which is a material part of the claimed invention of the '831 Patent. In particular,

the Philips IQon system incorporates software that performs Philips' image reconstruction method in accordance with the claimed image reconstruction method of the '831 Patent.

75. Upon information and belief, there are no substantial non-infringing uses for the Philips IQon system (including Philips' software which performs Philips' image reconstruction method).

76. Upon information and belief, at least as of its receipt of Dr. Feng Ma's letter of August 16, 2018 and the email of September 6, 2018 along with the accompanying claim charts, Philips had knowledge that the Philips IQon system (including Philips' software which performs Philips' image reconstruction method) were especially made for or adapted for use in performing the claimed image reconstruction method of the '831 Patent.

77. Upon information and belief, Philips has contributed to infringement by customers who use the Philips IQon system (including Philips' software which performs Philips' image reconstruction method).

78. Upon information and belief, Philips has contributed to and continues to contribute to the infringement by another of one or more of the Asserted Claims of the '831 Patent under 35 U.S.C. §271(c).

### **Willful Infringement**

79. Upon information and belief, Philips had actual knowledge of the '831 Patent at least as of its receipt of Dr. Feng Ma's letter of August 16, 2018.

80. Upon information and belief, upon gaining knowledge of the '831 Patent, it was or became apparent to Philips that use of Philips' image reconstruction method in conjunction with the Philips IQon system resulted in infringement of the '831 Patent. Notwithstanding its

knowledge (or willful blindness thereto), on information and belief, Philips continued to use Philips' image reconstruction method in conjunction with at least the Philips IQon system, and continued to induce and contribute to the infringement of the '831 Patent by others.

81. Philips has willfully infringed, and continues to willfully infringe the '831 Patent.

82. As a direct and proximate cause of the direct infringement, inducement to infringe and contributory infringement by Philips, the Plaintiff is being and will continue to be substantially and irreparably harmed in its business and property rights unless Philips is enjoined from using Philips' image reconstruction method in conjunction with the Philips IQon system, and from inducing and contributing to the infringement of the '831 Patent by others in the United States.

83. In addition, the Plaintiff is suffering injury for which it is entitled to monetary relief as a result of Philips' infringement, inducement to infringe and contributory infringement.

### **COUNT III**

#### **(INFRINGEMENT OF U.S. PATENT NO. 9,226,722)**

84. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 83 above as fully set forth herein.

#### **Direct Infringement**

85. Philips has directly infringed and continues to directly infringe, literally or under the doctrine of equivalents, one or more claims of the '722 Patent in violation of 35 U.S.C. § 271 (a) in the United States. In particular, Philips' infringement includes using the image reconstruction method of claim 12 and at least one claim dependent thereon. Independent claim 12 and at least one claim dependent thereon are the Asserted Claims of the '722 Patent.



86. Philips' direct infringement includes without limitation: having used in the United States, Philips' software-based image reconstruction method in conjunction with at least the Philips IQon system, which incorporates a dual layer detector.

87. By way of example, claim 12 of the '722 Patent recites as follows:

- An image reconstruction method for Computed Tomography (CT), the method comprising:
- determining a scatter-to-primary ratio (SPR) of a wide beam based on a narrow beam with a detector system including a plurality of layers of detector arrays, and a filling material disposed between layers, wherein the filling material has measurable or known attenuation properties;
- calculating a primary component of the wide beam based on the SPR to thereby separate the primary component from a scattered component of the wide beam; and
- constructing an image of an object inside a patient using the primary component.

88. The image reconstruction method of claim 12 of the '722 Patent provides a solution to a technical problem, which is separating primary and scattered radiation to improve imaging systems. (*See Exhibit E*, U.S. Patent No. 9,226,722 col. 3, line 50 – col. 4, line 57).

89. Philips has used Philips' software-based image reconstruction method in conjunction with at least the Philips IQon system in the manner called for by claim 12 of the '722 Patent and at least one claim dependent thereon. Upon information and belief, Philips employees utilize Philips' image reconstruction method in conjunction with the Philips IQon system at their

workplace and Philips uses Philips' image reconstruction method in conjunction with at least the Philips IQon system to demonstrate the capabilities of the Philips IQon system.

90. Philips has been placed on notice of infringement as of its receipt of Dr. Feng Ma's letter of August 16, 2018 and the September 6, 2018 email along with the accompanying claim charts. The letter and email specifically identified the '722 Patent, explained its relevance to the Philips IQon system, and provided a claim chart detailing on an element-by-element basis Philips's infringement of claim 12 of the '722 Patent.

91. The claims of the '722 Patent are understandable to a person having ordinary skill in the art who has the requisite education, training, and experience with the technology at issue in this case.

92. A person having ordinary skill in the art understands Plaintiff's theory of how Defendants' accused software-based image reconstruction method, as employed in conjunction with the Philips IQon system, infringes the claims of the '722 Patent upon a plain reading of this Complaint, the '722 Patent, and the Exemplary Claim Chart (**Exhibit H**).

93. Philips is liable for direct infringement of one or more of the Asserted Claims of the '722 Patent under 35 U.S.C. §271(a).

94. Plaintiff reserves the right to modify its infringement theories as discovery progresses in this case; it shall not be estopped for infringement contention or claim construction purposes by the claim charts that it provides with this Complaint. The Exemplary Claim Chart (**Exhibit H**) is intended to satisfy the notice requirements of Rule 8(a)(2) of the Federal Rule of Civil Procedure; they do not represent Plaintiff's preliminary or final infringement contentions or preliminary or final claim construction positions.

### **Indirect Infringement**

#### **Induced Infringement**

95. Upon information and belief, Philips had actual knowledge of the ‘722 Patent at least as of its receipt of Dr. Feng Ma’s letter of August 16, 2018.

96. Upon information and belief, Philips actively and knowingly induced another to infringe one or more claims of the ‘722 Patent and possessed specific intent to encourage such infringement.

97. Despite being notified of infringement of the ‘722 Patent via Dr. Ma’s August 16, 2018 letter and the email of September 6, 2018 along with the accompanying claim charts, Philips continued to offer the Philips IQon system which relies on Philips’ software-based image reconstruction method.

98. Philips knew or should have known that its actions would induce actual infringement of the ‘722 Patent.

99. In particular, Philips knew or should have known that its actions would induce and have induced customers to use the Philips IQon system in conjunction with Philips’ software-based image reconstruction method.

100. Philips is liable for induced infringement of one or more of the Asserted Claims of the ‘722 Patent under 35 U.S.C. §271(b).

#### **Contributory Infringement**

101. Upon information and belief, Philips had actual knowledge of the ‘722 Patent at least as of its receipt of Dr. Feng Ma’s letter of August 16, 2018.

102. Upon information and belief, Philips sells, offers to sell and/or imports the Philips IQon system, which is a material part of the claimed invention of the ‘722 Patent. In particular,

the Philips IQon system incorporates a dual layer detector and software that performs Philips' image reconstruction method in accordance with the claimed image reconstruction method of the '722 Patent.

103. Upon information and belief, there are no substantial non-infringing uses for the Philips IQon system (including Philips' software which performs Philips' image reconstruction method).

104. Upon information and belief, at least as of its receipt of Dr. Feng Ma's letter of August 16, 2018 and the email of September 6, 2018 along with the accompanying claim charts, Philips had knowledge that the Philips IQon system (including Philips' software which performs Philips' image reconstruction method) were especially made for or adapted for use in performing the claimed image reconstruction method of the '722 Patent.

105. Upon information and belief, Philips has contributed to infringement by customers who use the Philips IQon system (including Philips' software which performs Philips' image reconstruction method).

106. Upon information and belief, Philips has contributed to and continues to contribute to the infringement by another of one or more of the Asserted Claims of the '722 Patent under 35 U.S.C. §271(c).

### **Willful Infringement**

107. Upon information and belief, Philips had actual knowledge of the '722 Patent at least as of its receipt of Dr. Feng Ma's letter of August 16, 2018.

108. Upon information and belief, upon gaining knowledge of the '722 Patent, it was or became apparent to Philips that use use of Philips image reconstruction method in conjunction

with the Philips IQon system resulted in infringement of the '722 Patent. Notwithstanding its knowledge (or willful blindness thereto), on information and belief, Philips continued to use Philips' image reconstruction method in conjunction with at least the Philips IQon system, and continued to induce and contribute to the infringement of the '722 Patent by others.

109. Philips has willfully infringed, and continues to willfully infringe the '722 Patent.

110. As a direct and proximate cause of the direct infringement, inducement to infringe and contributory infringement by Philips, the Plaintiff is being and will continue to be substantially and irreparably harmed in its business and property rights unless Philips is enjoined from using Philips' image reconstruction method in conjunction with the Philips IQon system, and from inducing and contributing to the infringement of the '722 Patent by others in the United States.

111. In addition, the Plaintiff is suffering injury for which it is entitled to monetary relief as a result of Philips' infringement, inducement to infringe and contributory infringement.

### **JURY DEMAND**

The Plaintiff hereby requests a trial by jury on issues so triable by right.

### **PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff prays for relief as follows:

- (a) Declaring that the Patents-in-Suit are valid and enforceable;
- (b) Declaring that Philips has infringed and continues to infringe, either literally or under the doctrine of equivalents, at least one valid and enforceable claim of each of the Patents-in-Suit under 35 U.S.C. §271(a);

- (c) Declaring that Philips has induced and continues to induce the infringement of at least one valid and enforceable claim of each of the Patents-in-Suit under 35 U.S.C. §271(b);
- (d) Declaring that Philips has contributed and continues to contribute to the infringement of at least one valid and enforceable claim of the Patents-in-Suit under 35 U.S.C. §271(c);
- (e) Declaring that Philips' infringement is willful, and the Plaintiff is entitled to treble damages under 35 U.S.C. § 284 for past infringement;
- (f) Awarding the Plaintiff damages adequate to compensate for Philips' infringement, and in no event less than a reasonable royalty for past infringement;
- (g) Either (1) permanently enjoining Philips, its officers, agents, servants, and employees and those persons in active concert or participation with any of them from manufacturing, importing, offering to sell, selling, or using within the United States the Philips IQon system or (2) awarding damages *in lieu* of an injunction, in an amount consistent with the fact that for future infringement Philips will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law;
- (h) Declaring that this is an exceptional case under 35 U.S.C. §285 and awarding the Plaintiff its attorney's fees, costs, and expenses, based in part on, but not limited to, Philips' willful infringement; and
- (i) Granting the Plaintiff such other and further relief as this Court deems just, proper, and equitable.

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