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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92046058
Party	Plaintiff MASIMO CORPORATION MASIMO CORPORATION ,
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Submission	Answer to Counterclaim
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Signature	/Stacey R. Halpern/
Date	10/27/2006
Attachments	2006-10-27 E-filed Answer to Counter-Claim.pdf (3 pages)(73316 bytes)

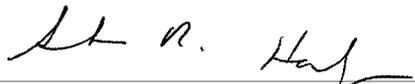
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Masimo Corporation,)
)
 Petitioner,)
)
 v.)
)
 Medtronic, Inc.,)
)
 Registrant.)
)
 _____)
 Medtronic, Inc.,)
)
 Counter-Claim Petitioner,)
)
 v.)
)
 Masimo Corporation,)
)
 Counter-Claim Respondent.)
)
 _____)

Cancellation No. 92,046,058

I hereby certify that this correspondence and all marked attachments are being electronically filed with the Trademark Trial and Appeal Board of the U.S. Patent and Trademark Office through their website located at <http://esta.uspto.gov> on:

October 27, 2006
(Date)


Stacey R. Halpern

ANSWER TO COUNTER-CLAIM FOR CANCELLATION

Commissioner for Trademarks
P.O. Box 1451
Arlington, VA 22313-1451

Dear Sir:

Masimo Corporation (“Masimo”) hereby answers the Counter-Claim for Cancellation filed by Medtronic, Inc. (“Medtronic”) against Registration No. 2,834,864 for the mark ACCURATE MONITORING WHEN YOU NEED IT MOST.

1. Answering Paragraph 1 of the Counter-Claim, Masimo does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 1 and accordingly denies each and every allegation therein.

2. Answering Paragraph 2 of the Counter-Claim, Masimo admits that Medtronic uses the phrase “confidence where it’s needed most.” With regard to the remaining allegations in

Paragraph 2, Masimo does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 2 and accordingly denies the same.

3. Answering Paragraph 3 of the Counter-Claim, Masimo admits the allegations contained therein.

4. Answering Paragraph 4 of the Counter-Claim, Masimo denies each and every allegation contained therein.

5. Answering Paragraph 5 of the Counter-Claim, Masimo denies each and every allegation contained therein.

6. Answering Paragraph 6 of the Counter-Claim, Masimo admits the allegations contained therein.

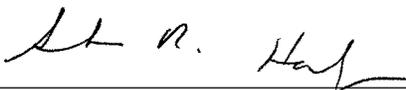
7. No response is necessary to Paragraph 7 of the Counter-Claim.

WHEREFORE, Masimo prays that the Counter-Claim for Cancellation be dismissed in its entirety. Please charge Deposit Account No. 11-1410 for any fees which may be required, or credit any overpayment to this account.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: October 27, 2006

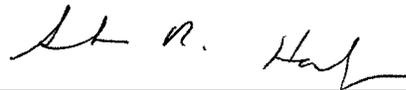
By: 

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Deborah S. Shepherd
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Attorneys for Petitioner
and Counter-Claim Respondent,
Masimo Corporation

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **ANSWER TO COUNTER-CLAIM FOR CANCELLATION** upon Respondent/Counter-Claim Petitioner's counsel by depositing one copy thereof in the United States Mail, first-class postage prepaid, on October 27, 2006 addressed as follows:

Dean R. Karau
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 554021425



Stacey R. Halpern