

ORANGE COUNTY BUSINESS JOURNAL

Knobbe Martens

INTELLECTUAL PROPERTY LAW

Why We Need Our Patent System: Masimo, OC's Shining Example

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Did you ever wonder how people can call for the end of our patent system? The answer is simple. They have no experience with great inspiring inventors. We at Knobbe Martens have the honor of frequently working with great inventors. These risk-takers enhance everyone's lives through spectacular innovation. No company better exemplifies the critical need for the patent system than Orange County's own Masimo Corporation.

Masimo was founded in 1989 by its current CEO, Joe Kiani. Kiani and fellow inventor, Mohammed Diab, created technology that revolutionized the field of pulse oximetry. That technology allows clinicians to noninvasively measure a patient's blood oxygen in the most-challenging conditions. Today, that measurement has become the most important vital sign. Masimo's technology saves lives, detects diseases, reduces blindness in premature infants, and reduces healthcare costs. Kiani and Masimo have received scores of awards, including the OCBJ's Excellence in Entrepreneurship Award in 2006.

Since 1991, Knobbe Martens has been protecting Masimo by obtaining patents on its pioneering technology. Masimo's patents enabled it to raise the capital necessary to bring its technology to market. Competitors then adopted it without permission, leaving Masimo no choice but to sue. Knobbe Martens was honored to present Masimo's achievements in two jury trials. The first verdict for \$134 million enabled Masimo to go public and enter into an agreement under which it is still receiving royalties. The second trial ended just last month and led to a \$466 million jury verdict. More importantly, Masimo's litigation success has led to rapid adoption of Masimo's life-saving technology, benefitting patients worldwide. Today, Masimo continues to develop cutting-edge technologies to

greatly improve healthcare.

Ill-informed critics of the patent system may cringe at the sight of such large jury awards for a patent owner. But these critics ignore how we all benefit from the great contributions of companies like Masimo. They ignore the critical role patents play in turning ideas into real products. No one would have invested in Masimo if not for its patents, and by now, many of those patents have expired and are free for all to use. Masimo shows that patents do "promote the progress of science and the useful arts," just as the Framers of the Constitution intended. Masimo and Knobbe Martens are proud to prove the wisdom of the Framers.

Joseph R. Re

Joseph R. Re joined Knobbe Martens in 1987 and handles high-stake patent cases from their Irvine office. He is a nationally recognized trial and appellate attorney, and has successfully tried numerous patents cases before juries throughout the country. He is lead counsel for Masimo in its intellectual property cases, including in both of the jury trials highlighted here. Mr. Re served as the president of the Federal Circuit Bar Association, and since 2005, has been serving as a member of the Federal Circuit's Advisory Council. For more information, please visit www.knobbe.com or contact Joe at joe.re@knobbe.com or 949.760.0404.

