

FILED - WESTERN DIVISION
CLERK, U.S. DISTRICT COURT
JUN 20 2006
CENTRAL DISTRICT OF CALIFORNIA
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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

ENTERED
CLERK, U.S. DISTRICT COURT
JUN 21 2006
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

MASIMO CORPORATION, a
Delaware corporation,

Plaintiff,

v.

TYCO HEALTH CARE GROUP,
L.P., a Delaware corporation, et al.,

Defendants.

CASE NO. CV 02-4770 MRP (AJWx)

ORDER RE MOTION TO MODIFY
JUDGMENT AND FOR NEW
TRIAL

On March 23, 2006, the Court filed its Memorandum of Decision Re: Post-Trial Motions ruling on both plaintiff Masimo Corporation's ("Masimo"), and defendants' Tyco Health Care Group, L.P., and Mallinckrodt, Incorporated's ("Tyco") motions, and ordering a new trial on damages in this matter. On April 5, 2006, plaintiff Masimo filed its Motion to Modify Judgment and For New Trial ("Motion). Both Masimo and Tyco have filed briefs and exhibits in support of and in opposition to the Motion. On June 1, 2006, the Court heard oral argument in support of and in opposition to the Motion. Having considered

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1 all of the arguments of the parties, both oral and written, the Court affirms the
2 rulings made in its Memorandum of Decision filed on March 23, 2006, and
3 grants Masimo's Motion only in that the retrial on damages shall proceed on
4 three claims of liability: Section 1 of the Sherman Act, 15 U.S. C. § 1, Section 2
5 of the Sherman Act, 15 U.S. C. § 2, and Section 3 of the Clayton Act, 15
6 U.S.C. § 14. The Motion is otherwise denied.

7
8 Counsel shall confer with respect to dates available for the early retrial of
9 the damages issue. On or before June 30, 2006, counsel shall notify the Court's
10 clerk of alternate dates available to them. The Court will then confer with
11 counsel by telephone to select a date on the Court's trial calendar.

12 IT IS SO ORDERED.

13 DATED: *June 20, 2006*

14 
15 HONORABLE MARIANA R. PFAELZER
16 UNITED STATES DISTRICT JUDGE