# The Entrepreneur Who Bet His Company on a Fight With Apple

Joe Kiani has taken on Apple in a patent dispute that has cost his company millions of dollars to pursue. So far he is winning, but the fight isn't over.

*By Aaron Tilley* Follow

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Masimo MASI -1.32% ▼ Chief Executive Joe Kiani bet the future of the company he spent three decades building in an expensive legal battle with the world's most valuable company. So far, he is winning, but it isn't over.

His company, which pioneered a better method for measuring blood-oxygen levels, has spent around $100 million fighting Apple AAPL -3.71% ▼ in a dispute that temporarily halted Apple Watch sales.

Sales have resumed while a court weighs the company's request to stay the ban during an appeal. Kiani has vowed to fight on and said he won't settle with Apple unless the tech giant pays for his technology and agrees to change how it interacts with smaller companies.

Apple has denied allegations that it stole Masimo's technology and has accused the company of copying its technology.



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Joe Kiani, in a striped shirt, with family members in Alabama in the 1970s after their move from Iran. PHOTO: JOE KIANI

Kiani has prevailed in previous battles over his company's intellectual property and believes he will win this one as well. An Iranian immigrant, Kiani has a combination of pugnaciousness and idealism that friends and associates said leads him to fixate on what he thinks is fair.

"Justice isn't just blind but very slow," Kiani, 58 years old, said in an interview. "It's painful. It's an ugly thing to go through. It's like war."

Some have seen his aggressive use of the U.S. patent system as exploitation that stymies the innovation of others. In 2006, he prevailed in a seven-year patent spat with Nellcor, a company that was then a dominant provider of a rival pulse oximeter device. In 2016, he beat Royal Philips in another patent-infringement case.

Apple might be Kiani's biggest war yet, one that likely won't be settled for years.

The U.S. International Trade Commission in October ruled that Apple violated Masimo's patents and ordered a ban on some Apple Watches shipped to the U.S., which went into effect Dec. 26. Apple on Wednesday won a reprieve to resume sales. In addition to Apple's appeal, there are several related lawsuits working their way through the court system.



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Joe Kiani in Southern California after graduating with a master's degree from San Diego State University. PHOTO: JOE KIANI

Before taking on Apple, Masimo employees and friends of Kiani warned him on the risks of going forward. "People were telling me I'm crazy and I can't go against Apple," said Kiani. "They have unlimited resources."

A number of smaller companies have over the years made similar allegations against Apple over taking their ideas and violating their patents, The Wall Street Journal reported in April. When these companies attempt to claim patent infringements against Apple, the tech giant responds with an aggressive legal strategy through the U.S. patent system.

"No one is standing up to them," Kiani said. "If I can do it, it might change Apple for the better."

An Apple spokeswoman said previously about Masimo's claims: "We deeply respect intellectual property and innovation and do not take or use confidential information from other companies. We will continue to protect the innovations we advance on behalf of our customers against false claims."

Born in Iran, Kiani moved with his family to Alabama when he was 9 in order for his father to study engineering. The family brought $10,000 and lived for a time



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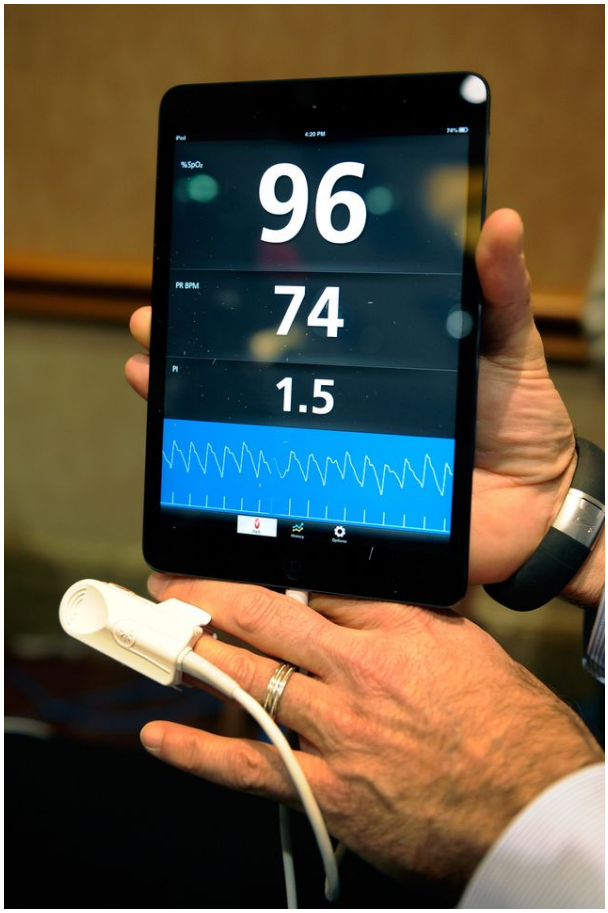
in public housing.




A Masimo pulse oximeter was displayed at a Las Vegas consumer technology trade show in 2013. PHOTO: DAVID BECKER/GETTY IMAGES

Kiani, who now has three children and counts himself as a lover of Persian poetry and Pink Floyd, excelled in math and was placed several grades ahead of his age. As a result, he was smaller than the rest of his classmates, making him a target. “I learned that you can’t walk away from bullies,” he said. “You have to punch back.”

When Kiani was 14, his parents had to move back to Iran, leaving him and his sister alone. He graduated early from high school and by 1987 had earned a master’s degree in electrical engineering from San Diego State University, he said. He founded Masimo in 1989, when he was 24, after the startup he had joined opted not to pursue his design for an improved pulse oximeter that didn’t produce erroneous false alarms when patients moved.

He next took on Nellcor, the leading pulse oximeter provider. In 1994, Nellcor offered to license Masimo’s technology. The money would have been enough for Kiani to retire at a young age, said Steve Jensen, Masimo’s longtime lawyer. Kiani walked away from the deal when Nellcor wouldn’t promise to quickly introduce his technology to patients, Kiani and Jensen said.

Later, Nellcor announced it had technology that allowed blood oxygen to be measured while the user was in motion. In 1999, Masimo sued over patent infringement. In 2006, Nellcor settled and began paying out for damages and royalties that eventually amounted to nearly $800 million. A spokeswoman for the company that now owns Nellcor said the company disagrees with Masimo’s



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characterizations of the early licensing discussions as well as the later patent battle, but declined to share more, citing confidential discussions.

In 2009, Masimo sued Royal Philips over a patent-infringement issue and eventually settled in 2016, with Philips paying out $300 million and agreeing to incorporate Masimo's technology into its product that Kiani said ended up generating more than $1 billion for Masimo.

At a 2013 consumer-technology show, Masimo revealed a portable pulse oximeter reader that hooked up to Apple devices. A few months later, Apple reached out.

Representatives of the two companies met in 2013. An Apple official said the company didn't dig deep into Masimo's technology, the meeting didn't last long and the two never met in-person again. At the time of the Apple Watch development, Apple met with many other smaller players, not just Masimo, the company said. Apple also said that the two never got close to working together because Masimo was more focused on the clinical side, too far outside Apple's consumer-focused plans.

A few months after that initial 2013 meeting, Apple hired Masimo's chief medical officer. Later it added a top engineer who was working at a Masimo spinoff, as well as dozens of other Masimo employees. In a later trial, the former Masimo chief medical officer and another former employee testified that Apple hadn't asked them to bring confidential Masimo information to the company and had, in fact, told them explicitly not to do so.

Apple announced the Apple Watch Series 6 with a pulse oximeter in 2020. PHOTO: APPLE



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In 2019, Apple published a number of patents related to sensing blood-oxygen levels, listing the former engineer of the Masimo spinoff as the inventor.

"It really felt like a knife in my stomach," said Mohamed Diab, a founding co-inventor of Masimo's technology. "It was truly painful."

Masimo sued Apple in January 2020 over allegations that Apple stole its trade secrets. Apple announced the Apple Watch Series 6 with a pulse oximeter later that year. The case, along with other legal efforts against Apple, has cost Masimo about $100 million so far. The publicly traded company posted about $144 million in profit in 2022.

Masimo's federal trade-secret case, which is separate from its complaint with the trade commission, went to trial, but it ended with a hung jury in spring 2023. The trade-secret case is scheduled to go back to court in 2024.

Apple has yet to engage in what Kiani sees as serious discussions about a settlement, Kiani said. He remains determined to take his war with Apple to the very end, he said, even if it means losing his company. The mounting legal bills have eaten into his company's profits.

"I feel like I have to do this," said Kiani. "If I can change the most powerful company in the world from continuing to act badly, that'll have more impact on the world than anything else I'm doing."

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