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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DESIGNS FOR VISION, INC., : 15 Civ. 07391 (VEC) (JCF)  
 :  
 Plaintiff, : **AMENDED COMPLAINT**  
 :  
 -against - : JURY TRIAL DEMANDED  
 :  
 GENERAL SCIENTIFIC CORPORATION :  
 d/b/a SURGITEL, :  
 :  
 Defendant. :  
 :  
 :  
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Plaintiff Designs for Vision, Inc. (“Designs”), by and through its attorneys, Pryor Cashman LLP, as and for its Amended Complaint against defendant General Scientific Corporation d/b/a SurgiTel (“SurgiTel”), alleges as follows:

**NATURE OF THE ACTION**

1. This is a civil action by Designs against SurgiTel for infringement of U.S. Patent No. US RE 46463 E, which resulted from the reissuance of U.S. Patent No. 8,851,709 B2 (the “Original Patent”), arising under the patent laws of the United States as set forth in Title 35 of the U.S. Code. A true and correct copy of the Original Patent is attached hereto as Exhibit A.

2. The Original Patent has been the subject of a successful Reexamination in the United States Patent and Trademark Office (“PTO”) with certain claims amended, some

cancelled, and new claims added. A true and correct copy of the Reexamination Certificate is attached hereto as Exhibit B.

3. The Original Patent has also been the subject of a successful Reissue proceeding in the PTO with many new claims added. A true and correct copy of the Original Patent as Reissued, U.S. Patent No. US RE 46463 E (the "Reissued Patent"), and its claims is attached hereto as Exhibit C.

### **PARTIES**

4. Designs for Vision, Inc. is a New York domestic business corporation with its principal place of business at 760 Koehler Ave., Ronkonkoma, New York 11779.

5. Upon information and belief, General Scientific Corporation d/b/a SurgiTel is a Michigan corporation with its principal place of business at 77 Enterprise Dr., Ann Arbor, MI, 48103.

### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Upon information and belief, SurgiTel is subject to personal jurisdiction in the Southern District of New York consistent with principles of due process and New York law, including §§ 301 and/or 302 of the N.Y. Civil Practice Law and Rules, because SurgiTel: (a) regularly does and/or solicits business in this District and/or derives substantial revenue from goods used in this District; (b) is selling and/or offering to sell its accused infringing ECLIPSE product(s) to New York consumers and transacts business in this District; (c) has committed patent infringement within this District that has injured Designs in this District; and (d) has

otherwise purposefully availed itself of the benefits and protections of New York law in this District.

8. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), 1391(c), 1391(d), and 1400(b).

### **BACKGROUND**

9. On October 7, 2014, the PTO duly and lawfully issued the Original Patent, *i.e.*, U.S. Patent No. 8,851,709, entitled “Remote Control of Illuminating Headlamp,” based upon an application filed by the first named inventor, Richard Feinbloom, and others.

10. After Designs commenced this litigation, SurgiTel commenced a Reexamination Proceeding in which it submitted new prior art to the PTO and alleged that such prior art rendered the claims of the Original Patent invalid on the basis of absence of novelty and obviousness.

11. On October 17, 2016, the PTO duly and lawfully concluded the reexamination of the Original Patent and issued a Reexamination Certificate with many amended and new claims confirmed as patentable, novel and nonobvious over the prior art.

12. After the issuance of the Reexamination Certificate, Designs commenced a Reissue Proceeding in the PTO. On July 4, 2017, the PTO issued the Reissued Patent bearing Patent Number US RE46463 with many amended and new claims, all confirmed by the PTO as patentable, novel and nonobvious over the prior art.

13. Prior to the issuance of the Original Patent and the Reissued Patent, all right, title, and interest in the Original Patent application and the Reissued Patent application was transferred and assigned by the several inventors to Designs. Designs therefore was and is the sole and exclusive owner of all right, title and interest in the Original Patent and the Reissued Patent.

14. The Reissued Patent was issued conditioned upon the surrender of the Original Patent. The claims of the Reissued Patent define the scope of protection under 35 U.S.C. §252.

15. Upon information and belief, SurgiTel, without authorization from Designs, has been and is directly and indirectly infringing the Reissued Patent by selling ECLIPSE devices that fall within and are claimed in the Reissued Patent.

16. Upon information and belief, SurgiTel, without authorization from Designs, has been and is contributing to others' infringement of the Reissued Patent by selling ECLIPSE products which are then resold and/or distributed to consumers, *e.g.*, dentists and other medical practitioners, which fall within the scope of the Reissued Patent.

17. Upon information and belief, SurgiTel, without authorization from Designs, has been and is inducing others to infringe the Reissued Patent by providing ECLIPSE medical/dental optic systems that are claimed in the Reissued Patent.

18. By way of example and not limitation, SurgiTel is a provider of lighting systems, including but not limited to the SurgiTel ECLIPSE Headlight System, that are distributed to purchasers, *e.g.*, dentists, in New York and other states. Such sales and offers for sale are prohibited acts of infringement, unless authorized by the Reissued Patent owner, Designs, which has neither authorized nor licensed SurgiTel or anyone else under the Reissued Patent.

19. Prior to the filing of the original Complaint in this action and again in 2017, Designs, through an agent, purchased a SurgiTel ECLIPSE Micro Neutral Portable LED Headlight System which was reviewed and its manner of operation and features inspected.

20. The Surgitel ECLIPSE Headlight System for a dentist or medical practitioner uses an infrared transmitter and proximal sensor for detecting reflected infrared light to control the On-Off illumination and operation of a focused LED light. The SurgiTel ECLIPSE Micro

Neutral Portable LED Headlight System, as sold to end user consumers, provides the claimed invention and the features of the claimed invention of the Reissued Patent.

21. On September 18, 2015, counsel for Designs sent correspondence to SurgiTel in which it demanded, *inter alia*, that SurgiTel cease and desist from its unlawful conduct.

22. SurgiTel refused to cease and desist and continued its unlawful conduct.

23. On October 26, 2016, after the issuance of the Reexamination Certificate, counsel for Designs sent correspondence to SurgiTel and its counsel in which it demanded once again, *inter alia*, that SurgiTel cease and desist from its unlawful conduct.

24. SurgiTel again refused to cease and desist and continued its unlawful conduct.

25. On July 10, 2017, after the issuance of the Reissued Patent, counsel for Designs sent correspondence to SurgiTel's counsel in which it demanded once again, *inter alia*, that SurgiTel cease and desist from its unlawful conduct.

26. SurgiTel again refused to cease and desist and continued its unlawful conduct.

27. Designs intends to launch a new Headlamp System with features which fall within the scope of the Reissued Patent.

28. Upon information and belief, SurgiTel intends to continue its unlawful acts of infringement of the Reissued Patent.

29. SurgiTel's ECLIPSE Micro Neutral Portable LED Headlight System will compete with Designs' new Headlamp System and falls within the scope of the Reissued Patent.

**CLAIM FOR RELIEF**  
**PATENT INFRINGEMENT**

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

31. Upon information and belief, SurgiTel has been and is directly and/or contributorily infringing one or more claims of the Reissued Patent, and/or has been and is inducing others to infringe the Reissued Patent, by, *inter alia*, making, using, offering to sell, or selling in the United States, or importing into the United States, ECLIPSE and possibly other LED Headlight Systems and end products covered by one or more of the claims of the Reissued Patent.

32. SurgiTel's acts of infringement include, by way of example and not limitation, offering for sale to consumers remotely on-off controlled headlamp devices using IR transmission and reflected IR detection, including but not limited to the SurgiTel ECLIPSE Micro Neutral Portable LED Headlight System.

33. SurgiTel has committed the foregoing infringing activities without authorization or license from Designs.

34. SurgiTel has profited through its infringement of the Reissued Patent.

35. As a result of SurgiTel directly and/or contributorily infringing, and/or inducing the infringement of, one or more claims of the Reissued Patent, Designs has suffered, and will continue to suffer, monetary damages, as well as irreparable injury for which monetary damages will not make Designs whole.

36. Designs is entitled to recover from SurgiTel the damages suffered by it as a result of SurgiTel's unlawful acts of infringement, but in no event less than a reasonable royalty.

37. Designs has no adequate remedy at law and will continue to suffer both monetary and irreparable harm from SurgiTel's unlawful infringement unless the same is enjoined by this Court.

38. Design's loss of control over the terms and offering of its own patented apparatus and SurgiTel's offering of the patented apparatus to consumers constitutes non-monetary harm to Designs that can only be remedied by this Court's issuance of a permanent injunction.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Designs respectfully prays for judgment in its favor and against Defendant SurgiTel as follows:

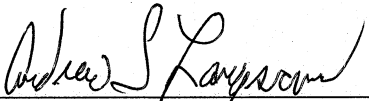
- A. Declaring that Defendant has infringed the Reissued Patent;
- B. Awarding Plaintiff damages adequate to compensate it for Defendant's infringement of the Reissued Patent pursuant to 35 U.S.C. §284, but in no event less than a reasonable royalty for Defendant's sale of products and apparatus claimed in the Reissued Patent;
- C. Awarding Plaintiff pre- and post-judgment interest;
- D. Enjoining Defendant, its officers, agents, servants, employees and attorneys, and all those in active concert or participation with it, from any further acts of infringement pursuant to 35 U.S.C. § 283; and
- E. Declaring that this case is exceptional and, therefore, that Plaintiff is entitled to recovery of its expenses, costs, and attorney's fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure;
- F. Awarding to Plaintiff such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff respectfully requests a trial by jury for all issues so triable.

Dated: New York, New York  
August 4, 2017

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– Attorneys for Defendant –