

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 09-61515-CIV-COOKE/BANDSTRA

ASPEX EYEWEAR, INC. and
CONTOUR OPTIK, INC.,

Plaintiffs,

vs.

HARDY LIFE, LLC, MARCHON
EYEWEAR, INC., NIKE, INC.,
REVOLUTION EYEWEAR, INC., and
GARY MARTIN ZELMAN, an
individual,

Defendants.

PLAINTIFFS' NOTICE OF APPEAL

On December 16, 2010, the Court issued its "Order Granting The Agreed Motion To Stay" (D.E. # 214): (1) staying the counterclaims for breach of contract and breach of the implied covenant of good faith and fair dealing raised by Defendants Marchon Eyewear, Inc. and Nike, Inc., pending appeal by Plaintiffs Aspex Eyewear, Inc. and Contour Optik, Inc. (collectively, "Plaintiffs") to the Court of Appeals for the Federal Circuit of this Court's "Omnibus Order On Cross Motions For Summary Judgment" (D.E. # 210); and (2) dismissing without prejudice all of the named Defendants' counterclaims asserting invalidity and non-infringement of U.S. Patent No. RE 37,545 ("545 Patent"). The same day, the Court issued its "Final Judgment" (D.E. # 215) in favor of the Defendants on all counts of the Complaint, on the ground that Plaintiffs' infringement claims under the '545 Patent were barred by the doctrine of claim preclusion.

This matter now being ripe for appeal, Plaintiffs, pursuant to Fed. R. Civ. P. 54(b), hereby appeal to the Court of Appeals for the Federal Circuit the "Order Construing Claims Of

U.S. Patent RE37,545” (D.E. # 209), the “Order On Omnibus Cross Motions For Summary Judgment” (D.E. # 210), the “Final Judgment” (D.E. # 215),¹ as well as all other related Orders of this Court.

Dated: December 22, 2010

Respectfully submitted,

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¹ Copies of these Court documents are attached hereto as Composite Exhibit A.

CERTIFICATE OF SERVICE

I HEREBY certify that on this 22nd day of December, 2010, I electronically filed the foregoing document with the Court using CM/ECF. I also certify that the foregoing document is being served on this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/Jacqueline Becerra
Jacqueline Becerra

SERVICE LIST

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Case No. 09-61515-CIV-Cooke/ Bandstra
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