

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
NO. 3:02-CV-260-MU

Hudson Optical Corporation,)	
Plaintiff)	
)	
vs.)	PLAINTIFF, HUDSON OPTICAL'S
)	FIRST AMENDED COMPLAINT
)	
The Hilsinger Company, L.P. and)	
The Hilsinger Corporation d/b/a)	
Hilco Eyewear) Repair Svc d/b/a)	
Hilco and d/b/a AdenRx)	
Defendants.)	

Plaintiff Hudson Optical Corporation hereby files its First Amended Complaint pursuant to Fed.R.Civ.P. 15(a), which relates back to the original filing date of the Original Complaint in this suit pursuant to Fed.R.Civ.P. 15(c), against Defendants The Hilsinger Company, L.P. and The Hilsinger Corporation, d/b/a Hilco and d/b/a Hilco Eyewear Repair Svc and d/b/a AdenRx and alleges as follows:

THE PARTIES

1. Plaintiff Hudson Optical Corporation is a business organized under the laws of the State of Nevada, with a principal place of business at 18 TV-5 Drive, Henderson, Nevada 89014. Until recently, Plaintiff Hudson Optical Corporation was a business organized under the laws of the State of New York. Plaintiff Hudson Optical Corporation's principal place of business remains 18 TV-5 Drive, Henderson, Nevada 89014.

2. Defendants The Hilsinger Company, L.P. and The Hilsinger Corporation (collectively, "Hilsinger") have a principal place of business at 33 West Bacon Street, Plainville, Massachusetts 02762-0538. Upon information and belief, Hilsinger does business under the name Hilco and Hilco Eyewear Repair Svc and also under AdenRx. The Hilsinger Company, L.P. is, upon information and belief, a Delaware limited partnership and The Hilsinger Corporation is a Massachusetts corporation.

3. Upon information and belief, Hilsinger does business as Hilco, Hilco Eyewear Repair Svc and AdenRx at 33 West Bacon Street, Plainville, Massachusetts 02762-0538.

JURISDICTION AND VENUE

4. This is an action for patent infringement under the patent laws of the United States, 35 U.S.C. Sections 1 et seq., and particularly 35 U.S.C. Section 271.

5. This court has subject matter jurisdiction under 28 U.S.C. Sections 1331 and 1338(a).

6. This court has personal jurisdiction over Defendant Hilsinger under the North Carolina Long Arm Statute N.C.G.S. 1-75 et seq. because it transacts business within North Carolina, it has committed acts within North Carolina that caused injury to Plaintiff, and it has committed acts outside North Carolina that have caused injury within North Carolina. In addition, Hilsinger has offered goods, both infringing and non-infringing, for sale within North Carolina.

7. This court has personal jurisdiction over Defendant Hilsinger under the North Carolina Long Arm Statute N.C.G.S. 1-75 et seq. because it transacts business within North Carolina, it has committed acts within North Carolina that caused injury to Plaintiff, and it has committed acts outside North Carolina that have caused injury within North Carolina. In addition, Hilsinger has offered goods, both infringing and non-infringing, for sale within North Carolina.

8. Venue is proper in the United States District Court for the Western District of North Carolina pursuant to 28 U.S.C. Sections 1391 and 1400 because Defendant Hilsinger is, upon information and belief, non-North Carolina corporation and specifically a Delaware corporation, and because Defendant's products infringe one or more of Plaintiff's patents in the North Carolina and particularly the Western District of North Carolina. Specifically, one or more of Defendants' infringing goods are on sale at Opti-Reps, located at 10520 Park Road, Suite 100, Charlotte, North Carolina and having a mailing address of P.O. Box 23577, Mint Hill, North Carolina 28227. In addition, one or more of Defendants infringing goods are on sale at Horizon Eyecare, located at 135 South Sharon Amity, Charlotte, North Carolina.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 5,548,351

9. On August 20, 1996, U.S. Patent No. 5,548,351 ("351 patent") entitled Method and Kit for Attaching Side Shields to Eyeglass Temples was duly and legally issued in the name of inventor Richard Hirschman and Chul W. Shin. A true and correct copy of the patent is attached to the Complaint. Plaintiff Hudson Optical, is the assignee of the entire right, title and interest in and to the '351 patent.

10. Plaintiff Hudson Optical Corporation is the owner of the right to enforce the '351 patent by bringing an action for infringement of the '351 patent. As such, Plaintiff Hudson Optical Corporation has standing to bring the instant action.

11. Upon information and belief, Defendants have been infringing the '351 patent under 35 U.S.C. 271 by making, using, selling, offering to sell without license or authority from Plaintiff, in this district and elsewhere in the United States, products which embody the invention claimed by the '351 patent. Specifically, Defendants have sold and offered for sale Eyewear with part numbers Aden 962, Aden 2250, Aden 307, Aden 823, Aden 932 and Aden 851. Defendants also sell and offer for sale Sideshields which also infringe Plaintiff's '351 patent, namely, Sideshields with part numbers Aden 962 SS, Aden 2250 SS, Aden 307 SS, Aden 823 SS, Aden 932 SS and Aden 851 SS. Upon information and belief, Defendants will, or have already, introduced Eyewear that infringes Plaintiff's '351 patent, namely, Eyewear with part numbers 961, 952, 933, 301 and 951. Upon information and belief, Defendants will, or have already, introduced Sideshields that infringes Plaintiff's '351 patent, namely Sideshields with part numbers 961 SS, 952 SS, 933 SS, 301 SS and 951 SS.

12. Upon information and belief, Defendants will continue to infringe the '351 patent unless enjoined, both preliminarily and permanently, by the court.

13. Plaintiff Hudson Optical Corporation has been damaged and will continue to be damaged by Defendants' infringement of the '351 patent, and will continue to be damaged by said infringement, unless Defendants are enjoined by this court.

14. Upon information and belief, Defendants have actual and constructive knowledge of the '351 patent. As such, any infringement of the '351 patent is willful and deliberate.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 5,940,161

15. On August 17, 1999, U.S. Patent No. 5,940,161 ("161 patent") entitled Method and Kit for Attaching Side Shields to Eyeglass Temples was duly and legally issued in the names of inventors Richard Hirschman and Wayne Jerman. A true and correct copy of the '161 patent is attached to the Complaint. Plaintiff Hudson Optical Corporation is the assignee of the entire right, title and interest in and to the '161 patent.

16. Plaintiff Hudson Optical Corporation is the owner of the right to enforce the '161 patent by bringing an action for infringement of the '161 patent. As such, Plaintiff Hudson Optical Corporation has standing to bring the instant action.

17. Upon information and belief, Defendants have been infringing the '161 patent under 35 U.S.C. 271 by making, using, selling, offering to sell without license or authority from Plaintiff, in this district and elsewhere in the United States, products which embody the invention claimed by the '161 patent. Specifically, Defendants have sold and offered for sale Eyewear with part numbers Aden 962, Aden 2250, Aden 307, Aden 823, Aden 932 and Aden 851. Defendants also sell and offer for sale Sideshields which also infringe Plaintiff's '161 patent namely, Sideshields with part numbers Aden 962 SS, Aden 2250 SS, Aden 307 SS, Aden 823 SS, Aden 932 SS and Aden 851 SS. Upon information and belief, Defendants will, or have already, introduced Eyewear that infringes Plaintiff's '161 patent, namely, Eyewear with part numbers 961, 952, 933, 301 and 951. Upon information and belief, Defendants will, or have already, introduced Sideshields that infringes Plaintiff's '161 patent, namely, Sideshields with part numbers 961 SS, 952 SS, 933 SS, 301 SS and 951 SS.

18. Upon information and belief, Defendants will continue to infringe the '161 patent unless enjoined, both preliminarily and permanently, by the court.

19. Plaintiff Hudson Optical Corporation has been damaged and will continue to be damaged by Defendants' infringement of the '161 patent, and will continue to be damaged by said infringement, unless Defendants are enjoined by this court.

20. Upon information and belief, Defendants have actual and constructive knowledge of the '161 patent. As such, any infringement of the '161 patent is willful and deliberate.

COUNT III
INFRINGEMENT OF U.S. PATENT NO. RE37,530

21. On January 29, 2002, U.S. Patent No. RE37,530, ("RE530 patent") entitled Method and Kit for Attaching Side Shields to Eyeglass Temples was duly and legally issued in the names of inventors Richard Hirschman and Wayne Jerman. A true and correct copy of the RE530 patent is attached to the Complaint. Plaintiff is the assignee of the entire right, title and interest in and to the RE530 patent.

22. Plaintiff Hudson Optical Corporation is the owner of the right to enforce the RE530 patent by bringing an action for infringement of the RE530 patent. As such, Plaintiff Hudson Optical Corporation has standing to bring the instant action.

23. Upon information and belief, Defendants have been infringing the RE530 patent under 35 U.S.C. 271 by making, using, selling, offering to sell without license or authority from Plaintiff, in this district and elsewhere in the United States, products which embody the invention claimed by the RE530 patent. Specifically, Defendants have sold and offered for sale Eyewear with part numbers Aden 962, Aden 2250, Aden 307, Aden 823, Aden 932 and Aden 851. Defendants also sell and offer for sale Sideshields which also infringe Plaintiff's RE530 patent, namely, Sideshields with part numbers Aden 962 SS, Aden 2250 SS, Aden 307 SS, Aden 823 SS, Aden 932 SS and Aden 851 SS. Upon information and belief, Defendants will, or have already, introduced Eyewear that infringes Plaintiff's RE530 patent, namely, Eyewear with part numbers 961, 952, 933, 301 and 951. Upon information and belief, Defendants will, or have already, introduced Sideshields that infringes Plaintiff's RE530 patent, namely, Sideshields with part numbers 961 SS, 952 SS, 933 SS, 301 SS and 951 SS.

24. Upon information and belief, Defendants will continue to infringe the RE530 patent unless enjoined, both preliminarily and permanently, by the court.

25. Plaintiff Hudson Optical Corporation has been damaged and will continue to be damaged by Defendants' infringement of the RE530 patent, and will continue to be damaged by said infringement, unless Defendants are enjoined by this court.

26. Upon information and belief, Defendants have actual and constructive knowledge of the RE530 patent. As such, any infringement of the RE530 patent is willful and deliberate.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Hudson Optical Corporation, prays for the following relief:

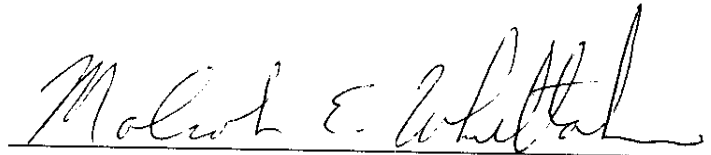
- a. That Defendants, their officers, agents, directors, servants, employees and attorneys, and all persons in active concert or participation with them be enjoined, preliminarily and permanently, from making, using, selling, offering for sale or importing into the United States any product and/or component which infringes U.S. Patent No. 5,548,351;
- b. That Defendants, their officers, agents, directors, servants, employees and attorneys, and all persons in active concert or participation with them be enjoined, preliminarily and permanently, from making, using, selling, offering for sale or importing into the United States any product and/or component which infringes U.S. Patent No. 5,940,161;
- c. That Defendants, their officers, agents, directors, servants, employees and attorneys, and all persons in active concert or participation with them be enjoined, preliminarily and permanently, from making, using, selling, offering for sale or importing into the United States any product and/or component which infringes U.S. Patent No. RE37,530;
- d. That Plaintiff Hudson Optical be compensated for the damages caused by Defendants' infringement under 35 U.S.C. Section 284, in an amount to be determined by an accounting, but not less than a reasonable royalty, (plus pre-judgment and post-judgment interest);
- e. That the award of damages be trebled as provided by 35 U.S.C. Section 284 for willful infringement;

- f. That Defendants be awarded attorneys' fees as provided under 35 U.S.C. 285; and,
- g. That Plaintiff Hudson Optical Corporation be awarded such relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff Hudson Optical Corporation demands a jury trial on all issues so triable.

Respectfully submitted,

A handwritten signature in black ink, reading "Malcolm E. Whittaker", written over a horizontal line.

Malcolm E. Whittaker
N.C. Bar No. 18055

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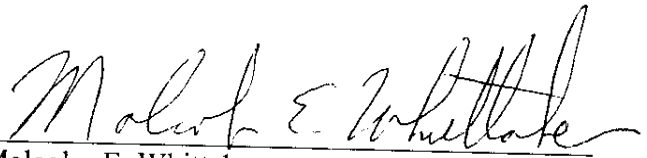
CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing First Amended Complaint has been served on the parties to this suit by sending a copy by first class mail to the Defendant's counsel of record addressed as follows:

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on this 3rd day of September, 2002.



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