

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

GEORGE RIACH )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 MANHATTAN DESIGN STUDIO; IRA )  
 LERNER; ASPEX EYEWEAR, INC; and )  
 REVOLUTION EYEWEAR, INC. )  
 )  
 Defendants. )

Case No.: **00C 5883**  
Honorable: **JUDGE JOHN W DARRAH**  
**MAGISTRATE JUDGE LEVIN**  
**DOCKETED**  
**SEP 28 2000**  
FILED-EDA  
00 SEP 25 PM 2:55  
DISTRICT COURT

**COMPLAINT FOR PATENT INFRINGEMENT**

NOW COMES the Plaintiff, GEORGE RIACH, through his attorneys, ORUM & ROTH and for his Complaint for Patent Infringement states as follows:

1. This is an action for patent infringement arising under the patent laws of the United States. 35 U.S.C. §1 *et seq.*

**THE PARTIES**

2. Plaintiff, GEORGE RIACH, is the owner of U.S. Patent No. 5389981 titled "Eyeglasses having magnets attached thereto for improving the blood circulation of the eyes".

3. Upon information and belief, Defendant, IRA LERNER operates a business known as MANHATTAN DESIGN STUDIO ("MDS"), located in the State of New York. MDS distributes eyewear containing magnets attached to eyewear frames in the State of Illinois and specifically within this judicial District.

4. Upon information and belief, Defendant, ASPEX EYEWEAR, INC. ("Aspex"), is a corporation organized and existing under the laws of the State of Delaware, having a

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principal place of business in Miramar, Florida. Aspex distributes eyewear containing magnets attached to eyewear frames in the State of Illinois and specifically within this judicial District.

5. Upon information and belief, Defendant, Revolution Eyewear, Inc., is a corporation organized and existing under the laws of the State of California, having a principal place of business in VanNuys, California. Revolution distributes eyewear containing magnets attached to eyewear frames in the State of Illinois and specifically within this judicial District.

#### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §1331 and §1338.

7. Venue properly lies in this District under 28 U.S.C. §1391 and §1400.

#### **ACTS OF PATENT INFRINGEMENT**

8. Riach owns and has standing to sue for infringement of U.S. Patent No. 5389981, issued February 14, 1995 to George Riach (hereinafter referred to as "the Patent").

9. Defendants have and continue to infringe literally and under the doctrine of equivalents, the Patent in this District and elsewhere by manufacturing and selling eyewear that incorporates the claims of the Patent.

10. Defendant, Aspex's, infringement has been deliberate, willful, intentional and with full knowledge of the existence of the Patent in that it has persisted in its infringement of the Patent after Defendant was specifically notified of the Patent and Aspex's infringement of the Patent.

11. On information and belief, Lerner, MDS and Revolution's infringement has been deliberate and willful and with knowledge of the existence of the Patent.

S 44  
Rev. 07/89

CIVIL COVER SHEET

00C 5883

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

(a) PLAINTIFFS

GEORGE RIACH

DEFENDANTS

JUDGE JOHN W DARRAH

MANHATTAN DESIGN STUDIO; IRA LERNER;  
ASPEX EYEWEAR, INC.; REVOLUTION EYEWEAR

MAGISTRATE JUDGE LEVIN

CO) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Cook  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

DOCKETED  
SEP 28 2000

CO) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Mark D. Roth  
ORUM & ROTH  
53 W. Jackson Boulevard-Suite 1616  
Chicago, IL 60604 (312)922/6262

ATTORNEYS (IF KNOWN)

FILED  
00 SEP 25  
U.S. DISTRICT COURT

BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only) (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY

Claim for patent infringement under 35 U.S.C., Section 1

NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DRWC/DHWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS
210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

I. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

Check YES only if demanded in complaint:  
JURY DEMAND:  YES  NO

III. REMARKS

In response to  is not a refiling of a previously dismissed action under General Rule 2.21D(2) this case  is a refiling of case number \_\_\_\_\_ of Judge \_\_\_\_\_

DATE: 9/22/00 SIGNATURE OF ATTORNEY OF RECORD: *Mark Roth*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

**00C 5883**

**In the Matter of**  
**GEORGE RIACH,**  
Plaintiff,

v.  
MANHATTAN DESIGN STUDIO; IRA LERNER; ASPEX EYEWEAR,  
INC.; and REVOLUTION EYEWEAR, INC.  
Defendants.

Case Number:

**JUDGE JOHN W DARRAH**

**APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:**

**MAGISTRATE JUDGE LEVIN**

GEORGE RIACH, Plaintiff

**DOCKETED**  
**SEP 28 2000**

(A)		(B)	
SIGNATURE <i>Mark D. Roth</i>		SIGNATURE <i>Keith H. Orum</i>	
NAME Mark D. Roth		NAME Keith H. Orum	
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IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 06196815		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 06200017	
MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	
(C)		(D)	
SIGNATURE <i>Sandra G. Iorio-Power</i>		SIGNATURE	
NAME Sandra G. Iorio-Power		NAME	
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MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
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