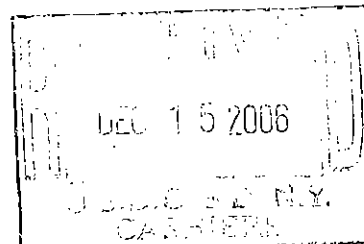


**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**



**CASE Number: 06CV11529 (BSJ)**

SOFT LINES LIMITED, EMJOI, INC. and  
MOSHE DOLEV,

Plaintiffs,

v.

HELEN OF TROY LP, EPILADY 2000, LLC,  
REVLON CONSUMER PRODUCTS  
CORPORATION and RITE AID  
CORPORATION

Defendants.

**FIRST AMENDED COMPLAINT**

**DEMAND FOR JURY TRIAL**

Plaintiffs, Soft Lines Limited and Emjoi, Inc., by their attorneys White & Case LLP, as and for their complaint against Defendants herein, Helen of Troy LP, Epilady 2000, LLC, Revlon Consumer Products Corporation and Rite Aid Corporation, allege as follows:

**THE PARTIES**

1. Soft Lines Limited ("SLL") is a Cayman Islands corporation registered in Hong Kong with offices at 2208 Metropolis Tower, Hunghom, Kowloon, Hong Kong.
2. Emjoi, Inc. ("Emjoi") is a New York corporation with offices at 150 East 52nd Street, New York, New York 10022.
3. Plaintiff Moshe Dolev ("Dolev") is an individual who resides in Israel. Dolev is named as a plaintiff in this action in accordance with the contractual obligations Dolev

owes to Soft Lines. Dolev is also named, as need be, as an involuntary plaintiff in this case pursuant to Fed. R. Civ. P. 19.

4. SLL, Emjoi and Dolev are at times referred to hereinafter collectively as “Plaintiffs.”

5. Upon information and belief, defendant Helen of Troy LP (“Helen of Troy”) is organized and existing under the laws of the State of Texas with a place of business located at 1 Helen of Troy Plaza, El Paso, Texas 79912.

6. Upon information and belief, defendant Epilady 2000, LLC (“Epilady”) is a limited liability company organized under the laws of the State of Delaware with a place of business located at One Rewe Street, Brooklyn New York 11211.

6. Upon information and belief, Revlon Consumer Products Corporation (“Revlon”) is a corporation organized and existing under the laws of the State of Delaware with a place of business located at 237 Park Avenue, New York, New York 10017.

7. Upon information and belief, defendant Rite Aid Corporation (“Rite Aid”) is a corporation organized and existing under the laws of the State of Delaware with a place of business located at 30 Hunter Lane, Camp Hill, Pennsylvania 17011.

8. Helen of Troy, Epilady, Rite Aid and Revlon are at times referred to hereinafter collectively as “Defendants.”

#### **JURISDICTION AND VENUE**

9. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, including 35 U.S.C. §§ 271 and 281-285.

10. Subject-matter jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1338(a).

11. Upon information and belief, Revlon, directly and/or through its licensee, is in the business of making, selling and supplying within, and importing into the United States, inter alia, cosmetics, skin care, fragrance and personal care products including the Revlon® Smooth & Glamorous™ Gentle 2-in-1 Hair Removal System (Model RV565) (“Revlon Hair Removal System”). Upon information and belief, Revlon, supplies, offers to sell and sells products, including the Revlon Hair Removal System in the State of New York and throughout the United States.

12. Upon information and belief, Epilady is in the business of making, selling and supplying within, and importing into the United States personal care products including the Revlon Hair Removal System and Epilady Duet (“Duet”). Upon information and belief, Epilady, supplies, sells and offers to sell personal care products, including the Revlon Hair Removal System and the Duet, in the State of New York and throughout the United States.

13. Upon information and belief, Helen of Troy is in the business of selling and supplying within, and importing into the United States personal care products, including the Revlon Hair Removal System. Upon information and belief, Helen of Troy, supplies, sells and offers to sell personal care products, including the Revlon Hair Removal System, in the State of New York and throughout the United States.

14. Upon information and belief, Rite Aid operates drugstores and pharmacies throughout the United States, including in New York. Upon information and belief, Rite Aid sells and offers to sell the Revlon Hair Removal System and the Epilady Duet in the United States, including in the State of New York.

15. Upon information and belief, this Court also has jurisdiction under New York C.P.L.R. § 302 over the persons of Defendants by virtue of their transacting business

and/or contracting to supply goods or services in the State of New York; their commission of tortious conduct as described herein within the State of New York; their commission of tortious conduct as described herein outside the State of New York, causing injury to Plaintiffs within the State of New York, with the actual or reasonable expectation that said conduct will have consequences in New York, and Defendants' deriving substantial revenue from interstate commerce.

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

### **FACTS**

17. On January 25, 1994, U.S. Patent No. 5,281,233 ("the '233 patent"), entitled "Disc Assembly Hair remover," was duly and legally issued by the United States Patent and Trademark Office (attached hereto as Exhibit A).

18. The legal right and title in and to the '233 patent is owned by Dolev. Prior to filing this action Soft Lines requested that Dolev voluntarily join this action. Dolev has thus far declined this request. Accordingly, pursuant to Fed. R. Civ. P. 19, Dolev is named as an involuntary plaintiff in this action.

19. The '233 patent is licensed exclusively by Dolev to SLL and through SLL to Emjoi, which sells products in the United States embodying the '233 patent and has the exclusive right and authority to make, use, offer to sell or sell any products embodying the '223 patent. No other party, including Dolev, has the right to grant to any third parties any rights inconsistent with SLL's exclusive rights.

### **COUNT I**

**(PATENT INFRINGEMENT AGAINST EPILADY,  
HELEN OF TROY, REVLON AND RITE AID)**

19. Upon information and belief, Defendants Epilady, Helen of Troy, Revlon and Rite Aid are each directly infringing literally and/or by equivalents pursuant to 35 U.S.C. §§ 271(a) and (b), one or more claims of the '233 patent by making, using, selling, offering to sell or importing into the United States the Revlon Hair Removal System, and is contributing to and actively inducing infringement of one or more claims of the '233 patent by others.

20. Upon information and belief, Defendants will continue infringing the '233 patent unless enjoined by this Court.

21. Defendants' infringement of the '233 patent will cause Plaintiffs irreparable harm for which there is no adequate remedy at law.

22. Upon information and belief, Defendants' infringement of the '233 patent has been and will continue to be willful and deliberate.

23. This case is an exceptional case, and Plaintiffs are entitled to an award of reasonable attorney fees under 35 U.S.C. § 285.

**COUNT II**  
**(PATENT INFRINGEMENT AGAINST  
EPILADY AND RITE AID)**

24. Upon information and belief, Defendants Epilady and Rite Aid are each directly infringing literally and/or by equivalents pursuant to 35 U.S.C. §§ 271(a) and (b), one or more claims of the '233 patent by making, using, selling, offering to sell or importing into the United States the Duet, and is contributing to and actively inducing infringement of one or more claims of the '233 patent by others.

25. Upon information and belief, Defendants will continue infringing the '233 patent unless enjoined by this Court.

26. Defendants' infringement of the '233 patent will cause Plaintiffs irreparable harm for which there is no adequate remedy at law.

27. Upon information and belief, Defendants' infringement of the '233 patent has been and will continue to be willful and deliberate.

28. This case is an exceptional case, and Plaintiffs are entitled to an award of reasonable attorney fees under 35 U.S.C. § 285.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray that this Court enter judgment:

- a. That Defendants have infringed the '233 patent;
- b. That Defendants' infringement of the '233 patent has been willful and deliberate;
- c. Preliminarily and permanently enjoining Defendants and their respective directors, officers, employees agents and all persons in active concert or participation with them from further acts of infringement, contributory infringement and inducement of infringement of the '233 patent;
- d. Awarding to Plaintiffs damages adequate to compensate plaintiffs SLL and Emjoi for Defendants' infringement of the '233 patent with interest as fixed by the Court, such damages to be trebled in accordance with 35 U.S.C. § 284 as a consequence of Defendants' willful infringement;
- e. Declare this case exceptional under 35 U.S.C. § 285 and award Plaintiffs their costs and attorney's fees;

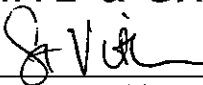
f. Awarding Plaintiffs such other and further relief as this Court deems just and proper.

Plaintiffs request a trial by jury of the issues raised herein.

Dated: December 6, 2006

Respectfully submitted,

**WHITE & CASE LLP**

By:   
Jonathan Moskin (JM 9814)  
Stephen Vitola (SV 0481)  
1155 Avenue of the Americas  
New York, NY 10036-2787  
Telephone: (212) 819-8200  
Facsimile: (212) 354-8113

*Attorneys for Plaintiffs*

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	X	
SOFT LINES LIMITED, EMJOI, INC. and MOSHE DOLEV,	:	Case No. 06 CV 11529 (BSJ)
Plaintiffs,	:	
- against -	:	
HELEN OF TROY LP, EPILADY 2000, LLC, REVLON CONSUMER PRODUCTS CORPORATION and RITE AID CORPORATION,	:	<b><u>AFFIDAVIT OF SERVICE</u></b>
Defendants.	:	
-----	X	

STATE OF NEW YORK     )  
                                  ) ss.:  
COUNTY OF NEW YORK    )

**CARROL MARSHALL**, being duly sworn, deposes and says: that she resides in Elmsford, New York; that she is over the age of twenty-one years and that she is not a party to this proceeding.

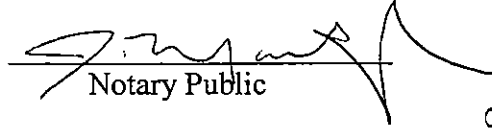
That on the 14<sup>th</sup> day of December, 2006, deponent served by hand the annexed **FIRST AMENDED COMPLAINT – DEMAND FOR JURY TRIAL** by leaving a true copy thereof to the following party:

Neil M. Zipkin  
AMSTER, ROTHSTEIN & EBENSTEIN LLP  
90 Park Avenue  
New York, NY 10016

an address designated by said attorneys for that purpose.

  
Carrol Marshall

Sworn to before me this  
15<sup>th</sup> day of December, 2006

  
Notary Public

**J. MARTIN NOBLE**  
Notary Public, State of New York  
No. 01NO6069429  
Qualified in New York County  
Commission Expires February 14, 2010