

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

ASPEX EYEWEAR, INC. and CONTOUR	:	
OPTIK, INC.,	:	Civil Action No.
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
SVS VISION HOLDING CO.,	:	
	:	
Defendant.	x	

COMPLAINT AND DEMAND FOR TRIAL BY JURY

Plaintiffs Aspex Eyewear, Inc. ("Aspex") and Contour Optik, Inc. ("Contour"), (collectively referred to as "Plaintiffs"), as and for their complaint herein against SVS Vision Holding Co. ("SVS"), allege the following:

JURISDICTION AND VENUE

1. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271, 281, and 283.
2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1338(a), as this action arises under an Act of Congress relating to patents.
3. Venue is proper pursuant to 28 U.S.C. §§ 1391(b) and (c) and/or § 1400, as, upon information and belief, SVS is incorporated in this district, does business in this district, is subject to personal jurisdiction in this district and/or has engaged in acts of infringement within the jurisdiction of this Court, including this Judicial district, which acts are the subject of this Complaint.
4. Aspex is a corporation duly organized and existing under the laws of the State of Delaware having its principal place of business at 2755 S.W. 32nd Avenue, Pembroke Park, Florida 33023.

5. Contour is a corporation of Taiwan, whose post office address is 6 Industrial Fifth Road, Tou Chiau Industrial Park, Chiayi 621, Taiwan.

6. Upon information and belief, SVS is a corporation organized and existing under the laws of Delaware, with its principal place of business at 140 Macomb Place, Mount Clemens, Michigan 48043.

7. On February 12, 2002, the United States Patent and Trademark Office issued United States Patent No. US RE37,545E ("the '545 Patent"), entitled "Auxiliary Lenses for Eyeglasses." A copy of the '545 Patent is attached as Exhibit A.

8. The '545 Patent is a reissue of United States Patent No. 5,568,207 ("the '207 Patent"), which issued on October 22, 1996, to inventor Richard Chao.

9. Contour and Aspex are the assignees of record of the '545 Patent, each owning a one-half undivided interest, and thereby establishing joint ownership by Contour and Aspex over the '545 Patent, and have the right to sue and recover damages for infringement thereof.

10. On November 28, 2007, the United States Patent and Trademark Office ordered the reexamination of the '545 Patent. During the pendency of such reexamination, SVS's conduct continues to irreparably harm the Plaintiffs and this Court has jurisdiction to remedy such infringement.

11. The invention described and claimed in the '545 Patent has been accepted by the eyewear and fashion eyewear industries and is of great utility and value.

12. SVS, well knowing of the '545 Patent, has infringed thereon by offering for sale magnetic eyewear incorporating the magnetic technology as claimed in the '545

Patent, including without limitation those styles sold under its "Nino Balli" brand, within this district and on information and belief, elsewhere as well.

13. These infringing articles, as alleged above, have not been manufactured or authorized in any manner by Aspex or Contour, nor has SVS ever been authorized or otherwise granted the right to manufacture, offer for sale, sell, or otherwise distribute devices made according to the '545 Patent.

14. SVS has notice of its infringement, as prescribed in 35 U.S.C. § 287.

15. SVS's infringement of the '545 Patent has been willful and deliberate, and with actual knowledge of the '545 patent.

16. Upon information and belief, SVS will continue to infringe upon the '545 Patent to the irreparable damage of Plaintiffs, unless enjoined by the Court.

17. Plaintiffs have no adequate remedy at law.

WHEREFORE, Plaintiffs request that this Court grant judgment in their favor, and award them the following relief:

A. Declare that SVS's acts and conduct infringe the '545 Patent and the exclusive rights in said patent held by the Plaintiffs;

B. Declare that such infringement is willful;

C. Pursuant to 35 U.S.C. § 283, enter a permanent injunction which:

i. enjoins SVS, its officers, agents, employees, privies, subsidiaries, successors, and assigns and all holding by, through or under them, and all those acting for them or in their behalf, from infringing upon the '545 Patent; and

ii. enjoins SVS, its directors, officers, agents, employees, representatives, and all other persons in active participation with them, to recall from all distributors, wholesalers, retailers, and all others known to SVS, all products that infringe upon the '545 Patent, and requires SVS to file with this Court and to serve upon the Plaintiffs, within thirty (30) days after service of the Court's Order as herein prayed, a report in writing under oath setting forth in detail the manner and form in which SVS has complied with the Court's order;

D. Require SVS to account to Plaintiffs for its profits and expenses lost through the infringing sales realized by SVS and any subsidiary of SVS;

E. Pursuant to 35 U.S.C. § 284, award the Plaintiffs damages adequate to compensate for the infringement, but in no event less than a reasonable royalty, together with interest and costs, taking account of Plaintiffs' actual damages and SVS's profits as a result of the infringement;

F. Pursuant to 35 U.S.C. § 284, order that any award of damages be trebled;

G. Pursuant to 35 U.S.C. § 285, find that this case is exceptional and award the Plaintiffs reasonable attorney fees as the prevailing party;

H. An award of Plaintiffs' costs; and

I. Grant such other and further relief as the equity of the case may require and as this Court may deem just and proper, together with costs and disbursements of this action, including attorney fees.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), plaintiffs hereby demand a trial by a jury on all issues so triable.

Respectfully submitted,

Dated: December 10, 2007

By:

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