

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

GERBER SCIENTIFIC INTERNATIONAL, INC.,)	CIVIL ACTION NO.
)	
Plaintiff,)	
v.)	
)	
SATISLOH AG and SATISLOH NORTH AMERICA,)	
INC.)	
)	
Defendants.)	SEPTEMBER 14, 2007

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, GERBER SCIENTIFIC INTERNATIONAL, INC. (“GERBER”), for its
Complaint against Defendants, SATISLOH AG and SATISLOH NORTH AMERICA, INC.,
alleges as follows:

JURISDICTION AND VENUE

1. This action arises under the United States Patent Laws, 35 U.S.C. § 1 *et seq.* This Court has jurisdiction over the subject matter of this Complaint pursuant to 28 U.S.C. §§ 1331, 1332, 1338 and 1367. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391 and 1400.

PARTIES

2. GERBER is a corporation organized and existing under the laws of the State of Connecticut, with offices at 83 Gerber Road West, South Windsor Connecticut 06074.

3. GERBER, through its Ophthalmic Lens Processing operating segment GERBER COBURN, is a worldwide leader in providing equipment, software and related services in the ophthalmic lens processing industries. GERBER designs, manufactures and

services a broad variety of products including equipment, software and consumables used in the production of prescription spectacle eyewear as well as complete lens processing systems that includes equipment and consumables. GERBER serves customers in a variety of market segments ranging from wholesale lens production laboratories to retail eyewear chains and independent eye care professionals such as ophthalmologists, optometrists and opticians, who perform certain in-office lens processing. GERBER'S offering includes software which translates patient prescription into information used by the equipment to produce the desired lens. It also includes equipment and consumables for all lens production steps such as blocking, fining, polishing and coatings.

4. Upon information and belief, Defendant SATISLOH AG is a corporation of Switzerland having a principal place of business at Neuhofstrasse 12 CH - 6340 Baar, Switzerland. Upon information and belief, Defendant SATISLOH AG manufactures and imports into the United States ophthalmic lens generator products.

5. Upon information and belief, Defendant SATISLOH NORTH AMERICA, INC. is a wholly-owned subsidiary of Defendant SATISLOH AG organized and existing under the laws of the State of Ohio and having a principal place of business at N116 W18111 Morse Dr., Germantown, WI 53022. Upon information and belief, Defendant SATISLOH NORTH AMERICA, INC. is the U.S. sales, marketing and distribution arm of Defendant SATISLOH AG.

6. Upon information and belief, Defendants SATISLOH AG and SATISLOH NORTH AMERICA, INC., acting in concert, having engaged in (a) the importation into the U.S. of ophthalmic lens generator products and (b) the offer for sale and sale of said ophthalmic lens generator products in the U.S., including this judicial district.

7. Upon information and belief, Defendants SATISLOH AG and SATISLOH NORTH AMERICA, INC., acting in concert, have regularly transacted and continue to regularly transact business within the State of Connecticut and throughout the United States.

INFRINGEMENT OF U.S. PATENT NO. 5,485,771

8. GERBER incorporates herein paragraphs 1 through 7 inclusive of this Complaint as if each paragraph were fully set forth herein.

9. On January 23, 1996, United States Letters Patent No. 5,485,771, a true and correct copy of which is annexed hereto as EXHIBIT A, was duly and legally issued for an invention entitled "Apparatus for Generating Ophthalmic Products from Blanks and a Method of Operating Same."

10. GERBER is the lawful owner by assignment of all right, title and interest in the 5,485,771 patent, including the right to bring actions for infringements thereof and collect damages suffered as a result of such infringements.

11. Upon information and belief, SATISLOH AG and SATISLOH NORTH AMERICA, INC and have directly infringed either literally or under the doctrine of equivalents and will continue to directly infringe one or more claims of the 5,485,771 patent in violation of 35 U.S.C. § 271(a) by making, using, importing into the United States, selling and/or offering for sale within this Judicial District and elsewhere in the United States, infringing ophthalmic lens generator products, including but not limited to the products marketed under the names VFT-COMPACT, VFT-ULTRA, and VFT-ULTRA-S, without authority or license from GERBER.

12. Upon information and belief, SATISLOH AG and SATISLOH NORTH AMERICA, INC. have infringed either literally or under the doctrine of equivalents the 5,485,771 patent in violation of 35 U.S.C. § 271(b) by actively inducing others to infringe one or

more claims of the 5,485,771 patent. Upon information and belief, SATISLOH AG and SATISLOH NORTH AMERICA, INC. have sold and/or has offered for sale and is selling and/or offering for sale in the United States, without authority or license from GERBER, the accused products to be used in a manner that directly infringes one or more claims of the 5,485,771 patent. Upon information and belief, SATISLOH AG and SATISLOH NORTH AMERICA, INC. have knowingly aided and abetted and will continue to knowingly aid and abet the direct infringement of the 5,485,771 patent by instructing its customers to use the infringing ophthalmic lens generator products, including but not limited to the products marketed under the names VFT-COMPACT, VFT-ULTRA, and VFT-ULTRA-S, in a manner that directly infringes one or more claims of the 5,485,771 patent.

13. Upon information and belief, SATISLOH AG and SATISLOH NORTH AMERICA, INC. have infringed either literally or under the doctrine of equivalents the 5,485,771 patent in violation of 35 U.S.C. § 271(c) by contributing to the infringement of one or more claims of the 5,485,771 patent. Upon information and belief, SATISLOH AG and SATISLOH NORTH AMERICA, INC. have sold and/or has offered for sale and is selling and/or offering for sale in the United States, without authority or license from GERBER, the infringing ophthalmic lens generator products, including but not limited to the products marketed under the names VFT-COMPACT, VFT-ULTRA, and VFT-ULTRA-S, for use in practicing the 5,485,771 patent invention, constituting a material part of the claimed invention, knowing the accused products are to be especially made for use in an infringement of the 5,485,771 patent, and not a staple article of commerce suitable for substantial noninfringing use.

14. GERBER has been and continues to be damaged by the continued infringement of SATISLOH AG and SATISLOH NORTH AMERICA, INC. under 35 U.S.C.

§ 284. GERBER will suffer additional and irreparable damages unless this Court enjoins SATISLOH AG and SATISLOH NORTH AMERICA, INC. under 35 U.S.C. §§ 281 and 283 from continuing its infringement.

15. GERBER has no adequate remedy at law.

16. Upon information and belief, SATISLOH AG and SATISLOH NORTH AMERICA, INC. had actual and constructive knowledge of the 5,485,771 patent.

17. Upon information and belief, the aforesaid infringement of the 5,485,771 patent by SATISLOH AG and SATISLOH NORTH AMERICA, INC. have been and is deliberate and in willful disregard of GERBER'S patent rights, entitling GERBER to an assessment of increased damages against SATISLOH AG and SATISLOH NORTH AMERICA, INC. pursuant to 35 U.S.C. § 284.

18. This is an exceptional case, also entitling GERBER to an award of its reasonable attorneys' fees and costs pursuant to 35 U.S.C. § 285.

RELIEF

WHEREFORE, GERBER demands judgment against SATISLOH AG and SATISLOH NORTH AMERICA, INC. and respectfully prays that this Court enter orders which:

(a) Adjudge that SATISLOH AG and SATISLOH NORTH AMERICA, INC. have directly infringed, has actively induced others to infringe and has contributorily infringed United States Patent No. 5,485,771 and that such infringement has been willful and deliberate;

(b) Preliminarily and permanently enjoin SATISLOH AG and SATISLOH NORTH AMERICA, INC. and its officers, agents, employees and all others acting in concert or participation with SATISLOH AG and SATISLOH NORTH AMERICA, INC. from further acts

of direct infringement, active inducement of infringement or contributory infringement of United States Patent No. 5,485,771 pursuant to 35 U.S.C. §§ 281 and 283;

(c) Award to GERBER damages adequate to compensate it for the acts of infringement committed by SATISLOH AG and SATISLOH NORTH AMERICA, INC., together with pre- and post-judgment interest, pursuant to 35 U.S.C. § 284;

(d) Award to GERBER exemplary damages based upon the willful, deliberate and intentional acts of infringement committed by SATISLOH AG and SATISLOH NORTH AMERICA, INC., pursuant to 35 U.S.C. § 284;

(e) Declare this case to be “exceptional” pursuant to 35 U.S.C. § 285, entitling GERBER to recover its reasonable attorneys’ fees and costs;

(f) Award to GERBER its costs and expenses of this action as allowed by law; and

(g) Grant to GERBER such other and further relief as this Court deems just and proper.

JURY DEMAND

GERBER hereby requests a jury trial on all the issues in its claims pursuant to Federal Rules of Civil Procedure 38 (b).

PLAINTIFF,
GERBER SCIENTIFIC INTERNATIONAL, INC.,

Elizabeth A. Alquist (CT15643)
DAY PITNEY LLP
242 Trumbull Street
Hartford, CT 06103
Tel: (860) 275-0100
Fax: (860) 275-0343
ealquist@daypitney.com

James W. Gould (*pro hac vice pending*)
Robert K. Goethals (*pro hac vice pending*)
Keith McWha (*pro hac vice pending*)
MORGAN & FINNEGAN LLP
3 World Financial Center
New York, New York 10281-2101
Tel.: (212) 415-8700
Fax.: (212) 415-8701