

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

CASTLEN OPTOMETRICS, LLC, a Texas
limited liability company,

Plaintiff,

v.

ESSILOR INTERNATIONAL, S.A.,
ESSILOR OF AMERICA, INC., and
ESSILOR LABORATORIES OF AMERICA,
INC.,

Defendants.

**COMPLAINT
AND JURY DEMAND
(Patent Infringement)**

Case No. _____

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Castlen Optometrics, LLC (“Castlen”) hereby complains against defendants Essilor International, S.A., Essilor of America, Inc., and Essilor Laboratories of America, Inc. (collectively “Defendants”), and for its causes of action alleges as follows:

PARTIES

1. Castlen is a limited liability company organized and operating under the laws of the state of Texas with its principal place of business at 6136 Frisco Square Blvd., Suite 400, Frisco, Texas 75034.

2. Upon information and belief, Defendant Essilor International, S.A. (“Essilor Intl.”) is a French corporation with its headquarters at 147, rue de Paris, 94227 Charenton-le-Pont, France.

3. Upon information and belief, Essilor Intl. is a worldwide manufacturer and distributor of eyeglass lenses, including finished and semi-finished corrective prescription optical and ophthalmic lenses.

4. Upon information and belief, Defendant Essilor of America, Inc. (“Essilor USA”), is a wholly owned subsidiary of Essilor Intl., with headquarters at 13555 North Stemmons Freeway, Dallas, Texas 75234-5765.

5. Upon information and belief, Essilor USA manufactures and distributes eyeglass lenses in the United States. In addition to wholesale optical laboratory operations, Essilor USA engages in eyeglass lens production, manufacturing and distribution, including products that give rise to this action, and that are sold in this Judicial District.

6. Upon information and belief, Defendant Essilor Laboratories of America, Inc. (“ELOA”) is a wholly owned subsidiary of Essilor USA, with headquarters at 13555 North Stemmons Freeway, Dallas, Texas 75234-5765.

7. Upon information and belief, ELOA operates numerous branches in cities across the United States and operates optical laboratories specializing in the production of eyeglass lenses.

8. Upon information and belief, ELOA manufactures plastic eyeglass lenses, including products that give rise to this action, and that are sold in this Judicial District.

9. Upon information and belief, ELOA operates a business called Optogenics Of Syracuse, having a mailing address at P.O. Box 4894, Syracuse, New York 13221.

10. Upon information and belief, EOLA, doing business as Optogenics Of Syracuse, manufactures plastic eyeglass lenses, including products that give rise to this action, and that are sold in this Judicial District.

JURISDICTION, AND VENUE

11. This is an action for infringement under the patent laws of the United States, 35 U.S.C. § 271, *et. seq.* This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

12. Venue is proper in this Court under 28 U.S.C. § 1400(b) and 28 U.S.C. § 1391(c) because, upon information and belief, Defendants have has committed certain acts alleged herein within this Judicial District and/or have intentionally placed infringing products within a stream of commerce directed at this Judicial District with the knowledge that such infringing products would be sold and/or used in this Judicial District. In view of the foregoing, each of Essilor Intl., Essilor USA, and ELOA is subject to personal jurisdiction in this state and within this Judicial District and, therefore, resides within this Judicial District for purposes of venue.

GENERAL ALLEGATIONS

13. U.S. Patent No. 6,451,226 for PLASTIC LENS COMPOSITIONS (the “’226 Patent”) was issued by the United States Patent and Trademark Office on September 17, 2002. The ’226 Patent claims methods of making polymer plastic eyeglass lenses by placing a liquid lens forming composition into a mold and exposing the composition to activating light to cure a lens in the mold by causing polymerization of the composition. A copy of the ’226 Patent is attached hereto as Exhibit A.

14. U.S. Patent No. 6,786,598 for PLASTIC EYEGLOSS LENSES (the “’598 Patent”) was issued by the United States Patent and Trademark Office on September 7, 2004.

The patent application from which the '598 Patent issued was filed as a division of the patent application from which the '226 Patent was issued. The '598 Patent claims eyeglass lenses made by a method of light-activated molding or casting of a lens forming composition. A copy of the '598 Patent is attached hereto as Exhibit B.

15. Castlen is the exclusive licensee of the '226 Patent and the '598 Patent with the right to pursue legal action against infringers.

16. The '226 Patent and the '598 Patent were both duly and legally issued and are both valid and enforceable.

FIRST CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 6,451,226)

17. Castlen hereby incorporates the allegations in paragraphs 1 through 16 above as though fully set forth herein.

18. Defendants have infringed and continue to infringe, either directly, or in a contributory or induced manner (35 U.S.C. § 271(a), (b), or (c)), one or more claims of the '226 Patent, including by way of example and not limitation, claim 1 of the '226 Patent, in this Judicial District and elsewhere by making, using, offering to sell, selling, and/or importing eyeglass lenses made according to the methods claimed in the '226 Patent.

19. A progressive lens is a multifocal corrective lens with gradually changing lens power across the lens. A progressive lens is a lineless alternative to a traditional bifocal or multifocal lens with visible lines between different lens sections. Progressive lenses can be made according to various methods, including a casting method that is sometimes called "cast-to-prescription."

20. Upon information and belief, Defendants sell progressive lenses under at least the brand names Varilux®. Upon information and belief, Defendants put an “X” etch mark on all their cast-to-prescription progressive lenses. The “X” etch mark may be found near an etch mark of the Essilor logo, which is an “e” within an eye-shaped outline.

21. Upon information and belief, Optogenics Of Syracuse sells Varilux® brand cast-to-prescription progressive lenses bearing the “X” etch mark, and such lenses are made by light-activated casting of a lens composition within the scope of what is recited in claim 1 of the ’226 Patent and therefore by practicing claim 1 of the ’226 Patent.

22. Upon information and belief, Defendants infringe at least claim 1 of the ’226 Patent by making cast-to-prescription progressive eyeglass lenses according to the method recited in claim 1 of the ’226 Patent.

23. Upon information and belief, Defendants had notice of Castlen’s rights under the ’226 Patent yet willfully and intentionally commenced and have continued infringement of the ’226 Patent.

24. Castlen has been and will continue to be damaged by Defendants’ continuing infringement of the ’226 Patent.

SECOND CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 6,786,598)

25. Castlen hereby incorporates the allegations in paragraphs 1 through 24 above as though fully set forth herein.

26. Defendants have infringed and continue to infringe, either directly, or in a contributory or induced manner (35 U.S.C. § 271(a), (b), or (c)), one or more claims of the ’598 Patent, including by way of example and not limitation, claim 1 of the ’598 Patent, in this

Judicial District and elsewhere by making, using, offering to sell, selling, and/or importing eyeglass lenses embodying the claims in the '598 Patent.

27. Upon information and belief, Optogenics Of Syracuse sells Varilux® brand cast-to-prescription progressive lenses bearing an "X" etch mark, and such lenses are cast using the materials recited in claim 1 of the '598 Patent and in the manner recited in claim 1 of the '598 Patent and therefore infringe at least claim 1 of the '598 Patent.

28. Upon information and belief, Defendants' cast-to-prescription progressive eyeglass lenses infringe at least claim 1 of the '598 Patent.

29. Upon information and belief, Defendants had notice of Castlen's rights under the '598 Patent yet willfully and intentionally commenced and have continued infringement of the '598 Patent.

30. Castlen has been and will continue to be damaged by Defendants' continuing infringement of the '598 Patent.

PRAYER FOR RELIEF

WHEREFORE, Castlen demands trial by jury and prays that this Court:

- A. Enter an order that Defendants have infringed the '226 Patent;
- B. Enter an order that Defendants have infringed the '598 Patent;
- C. Enter judgment in favor of Castlen and against Defendants for damages for patent infringement pursuant to 35 U.S.C. § 284 in an amount to be determined at trial but in no event less than a reasonable royalty for infringement of the '226 Patent;

- D. Enter judgment in favor of Castlen and against Defendants for damages for patent infringement pursuant to 35 U.S.C. § 284 in an amount to be determined at trial but in no event less than a reasonable royalty for infringement of the '598 Patent;
- E. Enter judgment declaring this case exceptional pursuant to 35 U.S.C. § 285.
- F. Enter judgment in favor of Castlen and against Defendants for treble damages pursuant to 35 U.S.C. § 284 by reason of Defendants' deliberate and willful infringement of the '226 Patent;
- G. Enter judgment in favor of Castlen and against Defendants for treble damages pursuant to 35 U.S.C. § 284 by reason of Defendants' deliberate and willful infringement of the '598 Patent;
- H. Enter an Order awarding Castlen interest and reasonable attorneys' fees pursuant to 35 U.S.C. § 285, as well as costs and expenses; and
- I. Enter an Order granting Castlen such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to the Federal Rules of Civil Procedure § 38(b), Castlen demands a trial by jury for this action on all issues so triable.

Dated: September 2, 2011

Respectfully submitted,

/s/ Stafford Davis

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