

**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.,

Defendant.

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

Case No. _____

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Castlen Optometrics, LLC (“Castlen”) hereby complains against Defendant Essilor International, S.A., 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 Int’l”) is a French corporation with its headquarters at 147, rue de Paris, 94227 Charenton-le-Pont, France.

3. Upon information and belief, Defendant Essilor Int'l 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 Int'l owns directly or indirectly or controls companies operating in the United States, including Essilor of America, Inc., having a place of business at 13555 North Stemmons Freeway, Dallas, Texas 75234-5765, and Essilor Laboratories of America, Inc., also having a place of business at 13555 North Stemmons Freeway, Dallas, Texas 75234-5765.

5. Upon information and belief, Defendant Essilor Int'l manufactures or has manufactured eyeglass lenses, including products that give rise to this action, and that are used, sold or imported in the United States, including this Judicial District.

6. Upon information and belief, Defendant Essilor Int'l imports into the United States, including this Judicial District, eyeglass lenses, including products that give rise to this action.

7. Upon information and belief, Defendant Essilor Int'l distributes in the United States eyeglass lenses, including products that give rise to this action and that are sold in this Judicial District.

JURISDICTION, AND VENUE

8. 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).

9. 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, Defendant Essilor Int'l has committed certain acts alleged

herein within this Judicial District and/or has 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, Defendant Essilor Int'l 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

10. 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.

11. U.S. Patent No. 6,786,598 for PLASTIC EYEGLASS 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.

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

13. Castlen is the exclusive licensee of the '226 Patent and the '598 Patent with all substantial rights in and to those Patents including the right, in its sole and absolute discretion, to pursue legal action against infringers.

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

14. Castlen hereby incorporates the allegations in paragraphs 1 through 12 above as though fully set forth herein.

15. Upon information and belief, Defendant Essilor Int'l has infringed and continues 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.

16. A progressive lens is a multifocal corrective lens with gradually changing lens power across the lens. A progressive lens is an alternative to a traditional bifocal or multifocal lens. A traditional bifocal or multifocal lens has a visible discontinuity between different lens sections, whereas a progressive lens has no such visible discontinuity. Progressive lenses can be made according to various methods, including a molding or casting method that is sometimes called "cast-to-prescription."

17. Upon information and belief, Defendant Essilor Int'l sells or has sold progressive lenses under at least the brand name Varilux®.

18. Upon information and belief, Defendant Essilor Int'l puts or has put an "X" mark on its cast-to-prescription progressive lenses. The "X" mark may be found near a mark of the Essilor logo, which is an "e" within an eye-shaped outline.

19. Upon information and belief, Defendant Essilor Int'l infringes at least claim 1 of the '226 Patent by making or having made cast-to-prescription progressive eyeglass lenses according to the method recited in at least claim 1 of the '226 Patent.

20. Upon information and belief, Essilor Int'l had notice of Castlen's rights under the '226 Patent yet willfully and intentionally commenced and has continued infringement of the '226 Patent.

21. Castlen has been and will continue to be damaged by Essilor Int'l's continued infringement of the '226 Patent.

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

22. Castlen hereby incorporates the allegations in paragraphs 1 through 21 above as though fully set forth herein.

23. Upon information and belief, Defendant Essilor Int'l has infringed and continues 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.

24. Upon information and belief, Defendant Essilor Int'l's cast-to-prescription progressive eyeglass lenses infringe at least claim 1 of the '598 Patent.

25. Upon information and belief, Defendant Essilor Int'l had notice of Castlen's rights under the '598 Patent yet willfully and intentionally commenced and has continued infringement of the '598 Patent.

26. Castlen has been and will continue to be damaged by Defendant Essilor Int'l's continued infringement of the '598 Patent.

PRAYER FOR RELIEF

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

- A. Enter an order that Defendant Essilor Int'l has infringed the '226 Patent;
- B. Enter an order that Defendant Essilor Int'l has infringed the '598 Patent;
- C. Enter judgment in favor of Castlen and against Defendant Essilor Int'l 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 Defendant Essilor Int'l 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 Defendant Essilor Int'l for treble damages pursuant to 35 U.S.C. § 284 by reason of Defendant Essilor Int'l's deliberate and willful infringement of the '226 Patent;
- G. Enter judgment in favor of Castlen and against Defendant Essilor Int'l for treble damages pursuant to 35 U.S.C. § 284 by reason of Defendant Essilor Int'l's 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: December 19, 2011

Respectfully submitted,

/s/ Stafford Davis
Stafford Davis
Texas State Bar No. 24054605
The Stafford Davis Firm, PC
305 South Broadway, Suite 406
Tyler, Texas 75702
Telephone: (903) 593-7000
Fax: (903) 705-7369
Email: sdavis@stafforddavisfirm.com

Marc T. Rasich (Pro hac vice pending)
Stoel Rives LLP
201 South Main Street, Suite 1100
Salt Lake City, Utah 84111
Telephone (801) 328-3131
Fax (801) 578-6999
Email: mtrasich@stoel.com

Matthew C. Phillips (Pro hac vice pending)
Stoel Rives LLP
900 SW Fifth Avenue, Suite 2600
Portland, Oregon 97204
Telephone (503) 224-3380
Fax (503) 220-2480
Email: mcpillips@stoel.com

ATTORNEYS FOR PLAINTIFF
CASTLEN OPTOMETRICS, LLC