

14 CV 3708

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

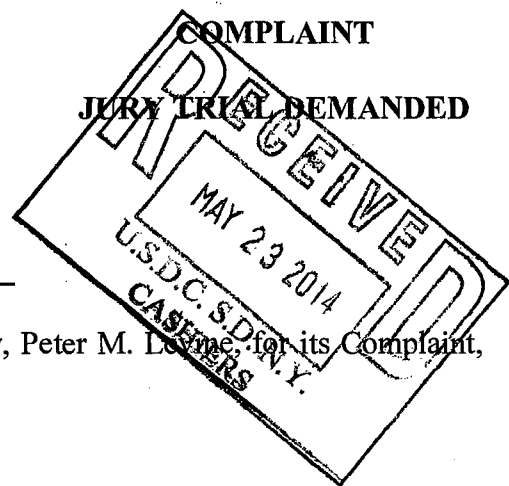
CLIC GOGGLES, INC.,

Plaintiff,

-against-

ELEGANCE EYEWEAR INC.,

Defendant.



Plaintiff, CliC Goggles, Inc., by its attorney, Peter M. Lesme, for its Complaint,

states:

**THE PARTIES**

1. Plaintiff CliC Goggles, Inc. is a corporation organized and existing under the laws of the State of California with its principal place of business at 408 Tamal Plaza, Corte Madera, California 94925.

2. Upon information and belief, defendant Elegance Eyewear Inc. is a corporation organized and existing under the laws of the State of New York with its principal place of business at 1201 Broadway # 810, New York, New York 10001.

**JURISDICTION AND VENUE**

3. This Court has jurisdiction over the subject matter of the claim brought under the Patents Law of the United States, 35 U.S.C. § 101, *et seq.*, by virtue of 35 U.S.C. § 281, 28 U.S.C. § 1331, and 28 U.S.C. § 1338(a).

4. This Court has supplemental jurisdiction over the claim for unfair competition by virtue of 28 U.S.C. § 1338(b), inasmuch as this claim is related to or forms part of the claim brought under the Patents Law of the United States.

5. This Court has jurisdiction over the person of the defendant by virtue of section 301 of the New York Civil Practice Law & Rules, because, upon information and belief, defendant is doing, or has done for relevant periods of time, business in the State of New York.

6. Venue is proper in this District by virtue of 28 U.S.C. §§ 1391 and 1400.

### **OPERATIVE FACTS**

7. Plaintiff owns United States Patent No. 6,253,388 (the “388 Patent”) issued July 3, 2001 for eye wear with a snap-together bridge.

8. Plaintiff sells products covered by the Patent.

9. Defendant has engaged in the following activities without plaintiff’s authorization:

(a) upon information and belief, manufacturing in the United States eye wear embodying the claims covered by the 388 Patent;

(b) importing, using, selling, and offering to sell within the United States eye wear embodying the claims covered by the 388 Patent; and/or

(c) actively inducing others to use and sell eye wear embodying the claims covered by the 388 Patent.

### **FIRST CLAIM (Infringement of the 388 Patent)**

10. All prior averments are repeated.

11. Defendant has been and now is infringing the 388 Patent.

12. Defendant’s infringement has been wilful.

13. Defendant’s infringing conduct has greatly and irreparably damaged plaintiff and will continue to do so unless enjoined.

14. Plaintiff has no adequate remedy at law.

**SECOND CLAIM  
(Unfair Competition)**

15. All prior averments are repeated.

16. Defendant's acts constitute unfair competition in violation of the common law of the State of New York.

17. unless enjoined by this court, defendant's acts will continue to unjustly enrich defendant and to substantially damage plaintiff's reputation, goodwill, and valuable property rights in the 388 Patent.

18. Plaintiff has no adequate remedy at law.

WHEREFORE, plaintiff demands judgment against defendant as follows:

A. *on the First Claim,*

(i) enjoining defendant from importing, manufacturing, assembling, displaying, offering for sale, or selling any products embodying the claims covered by the 388 Patent,

(ii) directing defendant to deliver up all infringing products in its possession or under its control,

(iii) directing defendant to deliver up all catalogues, advertisements, and other materials displaying any product embodying the claims covered by the 388 Patent,

(iv) directing defendant to deliver up for impoundment during the pendency of this action, and for destruction thereafter, all molds and master models, used for making the infringing products;

(v) directing defendant to account to plaintiff for any and all profits derived by defendant and all damages sustained by plaintiff by reason of defendant's acts of infringement,

(vi) awarding to plaintiff compensatory damages in the sum of (i) a

reasonable royalty for the use made by defendant of the 388 Patent, plus (ii) defendant's total profit from the sale of any product embodying any claim covered by the 388 Patent, with interest thereon, plus (iii) all damages sustained by plaintiff as a consequence of defendant's infringement of the 388 Patent, all with interest thereon,

(vii) awarding to plaintiff treble damages pursuant to 35 U.S.C. §284 because of the knowing and willful conduct of defendant;

D. *on the Second Claim,*

(i) enjoining defendant from importing, manufacturing, assembling, displaying, offering for sale, or selling any products embodying the claims covered by the 388 Patent,

(ii) directing defendant to deliver up all infringing products in its possession or under its control,

(iii) directing defendant to deliver up all catalogues, advertisements, and other materials displaying any product embodying the claims covered by the 388 Patent,

(iv) directing defendant to deliver up for impoundment during the pendency of this action, and for destruction thereafter, all molds and master models, used for making the infringing products,

(v) directing defendant to account to plaintiff for any and all profits derived by defendant and all damages sustained by plaintiff by reason of defendant's acts of infringement,

(vi) awarding to plaintiff compensatory damages in the sum of (i) a reasonable royalty for the use made by defendant of the 388 Patent, plus (ii) defendant's total profit from the sale of any product embodying any claim covered by the 388 Patent, with interest thereon, plus (iii) all damages sustained by plaintiff as a consequence of defendant's infringement of the 388

Patent, all with interest thereon;

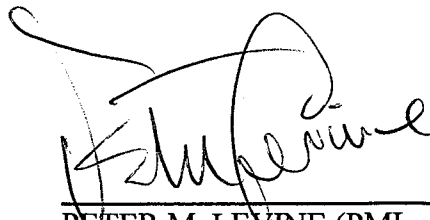
E. *on each Claim*, awarding to plaintiff its costs and disbursements of this action, including reasonable counsel fees, because of the deliberate and willful nature of the infringing activities of defendant sought to be enjoined hereby, which make this an exceptional case warranting such award: and,

F. *on each Claim*, granting to plaintiff such other, further and different relief as the Court may deem just and proper.

**JURY DEMAND**

PLEASE TAKE NOTICE that plaintiff demands a trial by jury on all issues.

Dated: New York, New York  
May 23, 2014



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