

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 13/04/2018 3:41:27 PM ACST and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged:	Statement of Claim - Form 17 - Rule 8.06(1)(a)
File Number:	SAD89/2018
File Title:	CARL ZEISS VISION GMBH v C.R. SURFACING LABORATORIES PTY LTD (ACN 079 160 946)
Registry:	SOUTH AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 17/04/2018 2:33:40 PM ACST

A handwritten signature in blue ink, which appears to read "Warwick Soden".

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



Form 17
Rule 8.05(1)(a)

Statement of claim

No. SAD

Federal Court of Australia

District Registry: South Australia

Division: General

Carl Zeiss Vision GmbH
Applicant

C.R. Surfacing Laboratories Pty Ltd (ACN 079 160 946)
Respondent

The Applicant

1. The Applicant (**Carl Zeiss**) is and was at all material times:
 - a. a company registered in the Federal Republic of Germany; and
 - b. able to sue in its corporate name.

The Respondent

2. The Respondent (**CR Surfacing**) is and was at all material times:
 - c. a corporation duly incorporated pursuant to the *Corporations Act 2001* (Cth); and
 - d. able to be sued in its corporate name.

The Patent

3. Carl Zeiss was at all material times before 14 January 2018 the registered owner of Australian Standard Patent No. 739849 entitled "Spectacle lens with spherical front side and multifocal back side, and process for its production" (the **Patent**).

PARTICULARS OF PATENT

The Patent:

- (i) was filed on 14 January 1998,
- (ii) was published on 23 July 1998,

Filed on behalf of Carl Zeiss Vision GmbH, the Applicant

Prepared by Greg Tye

Norman Waterhouse

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- (iii) was accepted on 18 October 2001,
 - (iv) expired on 14 January 2018, and
 - (v) was at all material times prior to 14 January 2018 valid, subsisting and of full force and effect.
4. Carl Zeiss is entitled to pecuniary relief in respect of infringements of the Patent in the period which commences 13 April 2012 and which ends on 14 January 2018 (the **Claim period**).
5. At no time has Carl Zeiss granted any licence or authority to CR Surfacing to exploit the Patent.

Infringement of the Patent

6. From a date unknown to Carl Zeiss but at least during the Claim period, CR Surfacing infringed the Patent by exploiting spectacle lens with spherical front side and multifocal back side, and process for the production thereof which fall within the claims of the Patent, including claims 1 and 6 of the Patent in the manner alleged in the accompanying Particulars of Infringement.

Damage and Relief

7. Carl Zeiss suffered loss and damage by reason of CR Surfacing's infringement of the Patent.

PARTICULARS

- (i) Loss of sales/license revenue.
 - (ii) Further particulars may be provided after discovery and prior to trial.
8. CR Surfacing made profits by reason of its infringement of the Patent.

PARTICULARS

- (i) spectacle lens with spherical front side and multifocal back side, and process which fall within the claims of the Patent (including claims 1 and 6 of the Patent in the manner alleged in the accompanying Particulars of Infringement) were produced and sold by CR Surfacing for profit in the course of its trading activities.
 - (ii) Further particulars may be provided after discovery and prior to trial.
9. The conduct of CR Surfacing in exploiting an invention as claimed in the claims of the Patent, including claims 1 and 6 of the Patent as set out in paragraph 6 above was flagrant, reckless, and undertaken without regard for the rights of Carl Zeiss, and Carl

Zeiss is entitled to additional damages under section 122(1A) of the *Patents Act 1990* (Cth).

PARTICULARS

- (i) The Patent was at all times after 23 July 1998 published on the Australian Register of Patents;
- (ii) On 30 January 2013, at a meeting at CR Surfacing's premises at Blackburn Victoria, attended by representatives of CR Surfacing (including Mr Adam Fletcher and Mr Ray Geake) and Carl Zeiss (including Mr Mark Thyssen and Ms Karen Roberts), the existence of the Patent was advised to CR Surfacing and that Carl Zeiss would not permit any third party to exploit lenses falling within the scope of the claims of the Patent without the authorisation or consent of Carl Zeiss;
- (iii) On 26 November 2014, Carl Zeiss' solicitors Norman Waterhouse sent a letter to CR Surfacing putting CR Surfacing on notice of the Patent, and alleging that CR Surfacing was infringing the Patent;
- (iv) From a date unknown to Carl Zeiss, but at the latest from 26 November 2014, CR Surfacing was aware of the existence of the Patent;
- (v) Further particulars may be provided after discovery.

10. Carl Zeiss claims the relief set out in the Originating Application.

Date: 13 April 2018

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Signed by Greg Tye
Norman Waterhouse
Lawyer for the Applicant

This pleading was prepared by Greg Tye of Norman Waterhouse and settled by Clare Cunliffe of counsel.

Certificate of lawyer

I, Greg Tye, certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 13 April 2018

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Signed by Greg Tye
Norman Waterhouse
Lawyer for the Applicant