Doc. 1 Att. 9

Exhibit H



FISHMAN

& GRAUER

VIA ELECTRONIC MAIL & FEDERAL EXPRESS

10653 S. River Front Pkwy., Suite 150 South Jordan, UT 84095 Tel: (801) 572-0185 Fax; (801) 572-7666

> Brvan G. Pratt (801) 572-0185 bap@raderfishman.com

September 20, 2005

Cary Samourkachian CEO Lens.com. Inc. P.O. Box 27740 Las Vegas, NV 89126

> Unauthorized Use of the 1800CONTACTS and 1800 CONTACTS Re:

Trademarks; Use of 1800 CONTACTS, INC.'s Trademarks in Sponsored

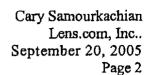
Advertisements at Google and Related Search Engines

Our Ref: 40302-00012

Dear Mr. Samourkachian:

We act as outside intellectual property counsel for 1800 CONTACTS, INC. We have been asked by our client to advise you of 1800 CONTACTS, INC.'s rights to the trademarks 1800CONTACTS and 1800 CONTACTS. It has come to our attention that you are engaged in a targeted scheme to infringe upon the 1800 CONTACTS and 1800CONTACTS trademarks. More specifically, you have purchased sponsored advertisements at Google, and possibly other search engines, for at least one of the 1800 CONTACTS or 1800 CONTACTS trademarks, or a confusingly similar variation thereof, to trigger a link to your directly competitive www.Lens.com website, or an affiliate thereof, such as the www.123lens.com website. At least four of these advertisements have been purchased through Google's AdWords Program, as were provided you in a letter from 1800 CONTACTS, INC. dated September 1, 2005.

As you are undoubtedly aware, our client is extensively engaged in the business of marketing and distributing contact lenses and contact lens care products. 1800 CONTACTS, INC. has been engaged in these activities for over a decade, and our client has distributed contact lenses throughout the United States under its federally registered 1800 CONTACTS and 1800CONTACTS marks. Additionally, our client has applied for and been granted numerous trademark registrations for its 1800 CONTACTS mark and variations thereof. Our client has received the following U.S. registrations related to its 1800 CONTACTS mark:



Filed 08/13/2007



THE STATE OF THE S		
1800 CONTACTS	2,731,114	10/02/2000
1800CONTACTS	2,675,866	07/08/1999

Our client's contact lens distribution services, as well as the products provided by our client in connection therewith, are well-known and highly regarded by consumers and competitors alike. In addition, our client has expended considerable resources in promoting its contact lens distribution services and eye care products under these marks through various media, including newspapers, magazines, other print advertisements, radio and television advertisements, and the World Wide Web. As a result, the public has come to recognize this mark as a symbol of our client, its quality services, and its goodwill.

In the face of our client's valuable prior rights, we are concerned that you have continually purchased sponsored advertisements at Google, and possibly other search engines, that are triggered upon a search for "1800 CONTACTS," or a confusingly similar variation thereof. Your use of the 1800 CONTACTS trademark as a triggering keyword to advertise for your directly competitive goods and services is an obvious attempt to trade off the goodwill established by 1800 CONTACTS, INC. in its famous 1800 CONTACTS trademark. Additionally, a number of your sponsored ads include titles and/or text, such as "1-800-Discount Contacts", that may be confusingly similar to the above-mentioned federally registered trademarks. The use of the mark 1800 CONTACTS and/or any confusingly similar variation of the mark as a keyword in the United States may constitute trademark infringement under state and federal law in that it is likely to cause initial interest confusion, or likely to cause the public to mistakenly assume that your business activities originate from, are sponsored by, or are in some way associated with 1800 CONTACTS, INC. For the same reasons, such use may constitute unfair competition and false advertising under state law and similarly may violate Section 43(a) of the Trademark Act, 15 U.S.C. §1125(a), as a "false designation of origin." Your activities and planned activities may also violate the Federal Dilution Act of 1995, 15 U.S.C. §1125(c).

Under the circumstances, we request that you cease and desist from further use of the mark 1800 CONTACTS, and confusingly similar variations thereof in the United States. Further, we request that you immediately remove ALL sponsored advertisements that you have purchased through Google, Yahoo Search, and any other search engines which are triggered by the 1800 CONTACTS trademark or a confusingly similar variation thereof. Moreover, we request that you confirm in writing that you will comply with our requests. Failing to hear from you within the next

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Cary Samourkachian Lens.com, Inc.. September 20, 2005



ten (10) days, we will assume that you intend to ignore our requests, and we will take appropriate action as authorized by our client.

Very truly yours,

RADER, FISHMAN & GRAUER PLLC

Bryan G. Pratt

BGP/jkr

Joe Zeidner cc:

David Zeidner Brandon Dansie Clinton Schmidt Samantha Blair