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OAKLEY, INC.

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IN THE UNITED STATES DISTRICT COURT
 FOR THE CENTRAL DISTRICT OF CALIFORNIA

OAKLEY, INC., a Washington corporation, Plaintiff, v. WHOLESALE IN MOTION GROUP INC. d/b/a ALL TIME TRADING CO. d/b/a BLUE STAR EMPIRE, a New York corporation, Defendant.	}	Civil Action No. 8:18-cv-1387 COMPLAINT FOR PATENT INFRINGEMENT, COUNTERFEITING, TRADEMARK INFRINGEMENT, UNFAIR COMPETITION, AND FALSE DESIGNATION OF ORIGIN DEMAND FOR JURY TRIAL
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1 Plaintiff Oakley, Inc. (“Oakley”) hereby complains of Wholesale In
2 Motion Group Inc. d/b/a All Time Trading Co. d/b/a Blue Star Empire
3 (“Defendant”) and alleges as follows:

4 **JURISDICTION AND VENUE**

5 1. This Court has original subject matter jurisdiction over the claims
6 in this action that relate to patent infringement, counterfeiting, trademark
7 infringement, false designation of origin, and federal unfair competition
8 pursuant to 35 U.S.C. §§ 271 and 281, 28 U.S.C. §§ 1331 and 1338, and 15
9 U.S.C. §§ 1114, 1116(a), 1121, and 1125, as these claims arise under the laws
10 of the United States. The Court has supplemental jurisdiction over the claims in
11 this Complaint which arise under state statutory and common law pursuant to 28
12 U.S.C. § 1367(a) because the state law claims are so related to the federal claims
13 that they form part of the same case or controversy and derive from a common
14 nucleus of operative facts.

15 2. This Court has personal jurisdiction over Defendant because
16 Defendant has a continuous, systematic, and substantial presence within this
17 judicial district. For example, by selling and offering for sale infringing
18 products in this judicial district, including but not limited to selling infringing
19 products directly to consumers and/or retailers in this district and selling into the
20 stream of commerce knowing such products would be sold in California and this
21 district, Defendant’s acts form a substantial part of the events or omissions
22 giving rise to Oakley’s claims. Oakley is informed and believes, and based
23 thereon alleges, that Defendant owns and operates several warehouses in
24 California. Specifically, Defendant states on its website
25 (https://www.alltimetrading.com/About_Us.htm) that “the bulk of our products
26 are in our NJ or CA warehouses.” Defendant’s website goes on to identify
27 several of its warehouses that are “located in” California, including, for
28 example, Warehouse Nos. 27, 69, 80, 201, 244, 248, 270, 275, 286, 293, 300,

1 304, 306, 308, and 342.

2 3. Oakley is informed and believes, and based thereon alleges, that
3 venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (d), and
4 1400(b) because Defendant has committed acts of infringement by selling and
5 offering to sell infringing products in this district and Defendant has a regular
6 and established place of business in this district.

7 **THE PARTIES**

8 4. Plaintiff Oakley is a corporation organized and existing under the
9 laws of the State of Washington, having its principal place of business at One
10 Icon, Foothill Ranch, California 92610.

11 5. Oakley is informed and believes, and thereon alleges, that
12 Defendant Wholesale In Motion Group Inc. d/b/a All Time Trading Co. d/b/a
13 Blue Star Empire is a corporation organized and existing under the laws of the
14 State of New York, having its principal place of business at 718 Avenue U,
15 Brooklyn New York, 11223.

16 **GENERAL ALLEGATIONS**

17 6. Oakley is one of the world's most iconic brands. The company and
18 its products, particularly in the realm of eyewear, are instantly and universally
19 recognized for their innovative technology and distinctive style. Since its
20 founding, Oakley's engineers and designers have worked continuously to bring
21 new technology and breakthrough designs to the market.

22 7. Oakley has been actively engaged in the manufacture and sale of
23 high quality eyewear since at least 1985. Oakley is the manufacturer and
24 retailer of several lines of eyewear that have enjoyed substantial success and are
25 protected by various intellectual property rights owned by Oakley.

26 8. On July 31, 2007, the United States Patent and Trademark Office
27 ("USPTO") duly and lawfully issued United States Design Patent No. D547,794
28 (the "D794 Patent"), titled "Eyeglasses." Oakley is the owner by assignment of

1 all right, title, and interest in the D794 Patent. A true and correct copy of the
2 D794 Patent is attached hereto as **Exhibit 1**.

3 9. On November 6, 2007, the USPTO duly and lawfully issued United
4 States Design Patent No. D554,689 (the “D689 Patent”), titled “Eyeglass
5 Frame.” Oakley is the owner by assignment of all right, title, and interest in the
6 D689 Patent. A true and correct copy of the D689 Patent is attached hereto as
7 **Exhibit 2**.

8 10. On December 4, 2007, the USPTO duly and lawfully issued United
9 States Design Patent No. D556,818 (the “D818 Patent”), titled “Eyeglass
10 Components.” Oakley is the owner by assignment of all right, title, and interest
11 in the D818 Patent. A true and correct copy of the D818 Patent is attached
12 hereto as **Exhibit 3**.

13 11. On July 8, 2008, the USPTO duly and lawfully issued United
14 States Design Patent No. D572,745 (the “D745 Patent”), titled “Eyeglass
15 Frame.” Oakley is the owner by assignment of all right, title, and interest in the
16 D745 Patent. A true and correct copy of the D745 Patent is attached hereto as
17 **Exhibit 4**.

18 12. On December 11, 2007, the USPTO duly and lawfully issued
19 United States Design Patent No. D557,325 (the “D325 Patent”), titled “Eyeglass
20 Front.” Oakley is the owner by assignment of all right, title, and interest in the
21 D325 Patent. A true and correct copy of the D325 Patent is attached hereto as
22 **Exhibit 5**.

23 13. On February 12, 2008, the USPTO duly and lawfully issued United
24 States Design Patent No. D561,813 (the “D813 Patent”), titled “Eyeglass and
25 Eyeglass Front.” Oakley is the owner by assignment of all right, title, and
26 interest in the D813 Patent. A true and correct copy of the D813 Patent is
27 attached hereto as **Exhibit 6**.

28 14. On March 18, 2008, the USPTO duly and lawfully issued United

1 States Design Patent No. D564,571 (the “D571 Patent”), titled “Eyeglass and
2 Eyeglass Components.” Oakley is the owner by assignment of all right, title,
3 and interest in the D571 Patent. A true and correct copy of the D571 Patent is
4 attached hereto as **Exhibit 7**.

5 15. On March 25, 2008, the USPTO duly and lawfully issued United
6 States Design Patent No. D565,089 (the “D089 Patent”), titled “Eyeglass and
7 Eyeglass Components.” Oakley is the owner by assignment of all right, title,
8 and interest in the D089 Patent. A true and correct copy of the D089 Patent is
9 attached hereto as **Exhibit 8**.

10 16. On February 23, 2010, the USPTO duly and lawfully issued United
11 States Design Patent No. D610,603 (the “D603 Patent”), titled “Eyeglass and
12 Eyeglass Components.” Oakley is the owner by assignment of all right, title,
13 and interest in the D603 Patent. A true and correct copy of the D603 Patent is
14 attached hereto as **Exhibit 9**.

15 17. On March 23, 2010, the USPTO duly and lawfully issued United
16 States Design Patent No. D612,413 (the “D413 Patent”), titled “Eyeglass
17 Front.” Oakley is the owner by assignment of all right, title, and interest in the
18 D413 Patent. A true and correct copy of the D413 Patent is attached hereto as
19 **Exhibit 10**.

20 18. On June 1, 2010, the USPTO duly and lawfully issued United
21 States Design Patent No. D616,920 (the “D920 Patent”), titled “Eyeglass
22 Component.” Oakley is the owner by assignment of all right, title, and interest
23 in the D920 Patent. A true and correct copy of the D920 Patent is attached
24 hereto as **Exhibit 11**.

25 19. On May 8, 2012, the USPTO duly and lawfully issued United
26 States Design Patent No. D659,180 (the “D180 Patent”), titled “Eyeglass.”
27 Oakley is the owner by assignment of all right, title, and interest in the D180
28 Patent. A true and correct copy of the D180 Patent is attached hereto as **Exhibit**

1 **12.**

2 20. Defendant makes, uses, sells, offers for sale, and/or imports into
3 the United States eyewear that have infringed Oakley's patent rights, including
4 the D794, the D689, the D818, the D745, the D325, the D813, the D571, the
5 D089, the D603, the D413, the D920, and the D180 Patents (collectively, the
6 "Asserted Patents").

7 21. Defendant's acts complained of herein have caused Oakley to
8 suffer irreparable injury to its business. Oakley will continue to suffer
9 substantial loss and irreparable injury unless and until Defendant is enjoined
10 from its wrongful actions complained of herein.

11 22. Oakley is informed and believes, and on that basis, alleges that
12 Defendant's acts complained of herein are willful and deliberate.

13 **FIRST CLAIM FOR RELIEF**

14 (Patent Infringement)
15 (35 U.S.C. § 271)

16 23. Oakley repeats and re-alleges the allegations of paragraphs 1-22 of
17 this Complaint as if set forth fully herein.

18 24. This is a claim for patent infringement under 35 U.S.C. § 271.

19 25. Defendant, through its agents, employees, and/or servants has, and
20 continues to, knowingly, intentionally, and willfully infringe the D794 Patent by
21 making, using, selling, offering for sale, and/or importing eyewear having a
22 design that would appear to an ordinary observer to be substantially similar to
23 the claim of the D794 Patent, for example Defendant's SKU 15721 sunglass
24 model as shown below.


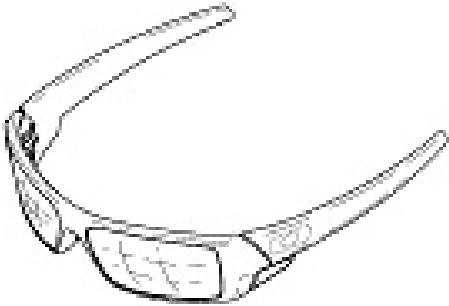
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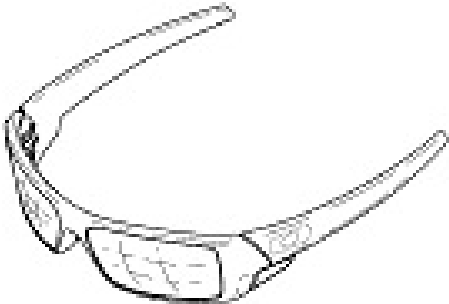
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Defendant's SKU 15721 Sunglass Model	Oakley's D794 Patent
	

26. Defendant, through its agents, employees, and/or servants has, and continues to, knowingly, intentionally, and willfully infringe the D689 Patent by making, using, selling, offering for sale, and/or importing eyewear having a design that would appear to an ordinary observer to be substantially similar to the claim of the D689 Patent, for example Defendant's SKU 15721 sunglass model as shown below.

Defendant's SKU 15721 Sunglass Model	Oakley's D689 Patent
	

27. Defendant, through its agents, employees, and/or servants has, and continues to, knowingly, intentionally, and willfully infringe the D818 Patent by making, using, selling, offering for sale, and/or importing eyewear having a design that would appear to an ordinary observer to be substantially similar to the claim of the D818 Patent, for example Defendant's SKU 351619, 351529, 225499, 225493, and 15721 sunglass models as shown below.

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Defendant's Sunglass Models	Oakley's D818 Patent
<p>SKU 351619</p> 	
<p>SKU 351529</p> 	
<p>SKU 225499</p>	
	
<p>SKU 225493</p>	
	
<p>SKU 15721</p>	
	

28. Defendant, through its agents, employees, and/or servants has, and continues to, knowingly, intentionally, and willfully infringe the D745 Patent by making, using, selling, offering for sale, and/or importing eyewear having a design that would appear to an ordinary observer to be substantially similar to

1 the claim of the D745 Patent, for example, Defendant’s SKU 301777, 157213,
 2 and 301779 sunglass models as shown below.

3 Defendant’s 4 Sunglass Models	Oakley’s D745 Patent
5 SKU 301777 	
9 SKU 157213 	
15 SKU 301779 	

21 29. Defendant, through its agents, employees, and/or servants has, and
 22 continues to, knowingly, intentionally, and willfully infringe the D325 Patent by
 23 making, using, selling, offering for sale, and/or importing eyewear having a
 24 design that would appear to an ordinary observer to be substantially similar to
 25 the claim of the D325 Patent, for example, Defendant’s SKU 177733 and
 26 157213 sunglass models as shown below.



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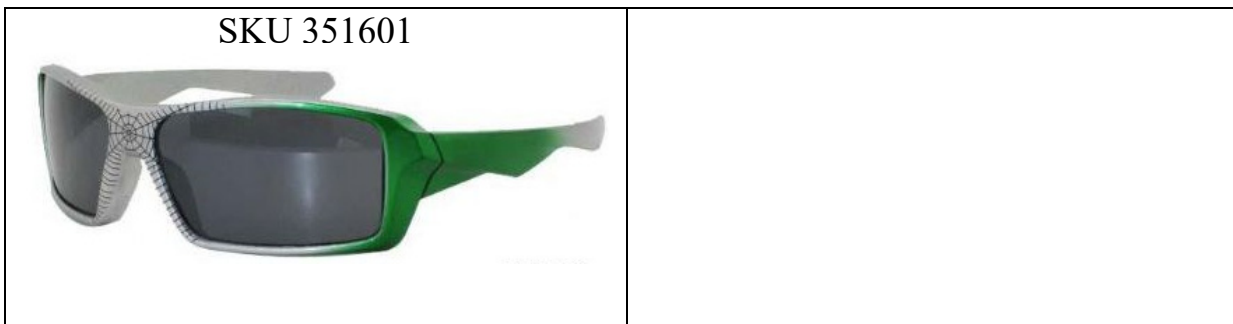
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Defendant's Sunglass Models	Oakley's D325 Patent
<p style="text-align: center;">SKU 177733</p> 	
<p style="text-align: center;">SKU 157213</p> 	


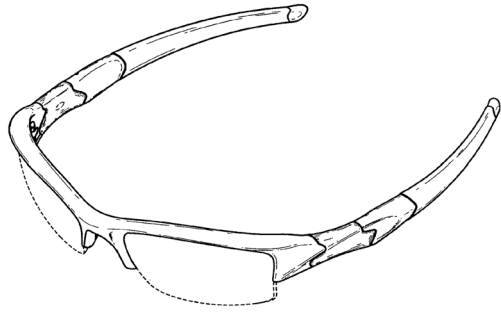

30. Defendant, through its agents, employees, and/or servants has, and continues to, knowingly, intentionally, and willfully infringe the D813 Patent by making, using, selling, offering for sale, and/or importing eyewear having a design that would appear to an ordinary observer to be substantially similar to the claim of the D813 Patent, for example Defendant's SKU 301807 and 351601 sunglass models as shown below.

Defendant's Sunglass Models	Oakley's D813 Patent
<p style="text-align: center;">SKU 301807</p> 	

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31. Defendant, through its agents, employees, and/or servants has, and continues to, knowingly, intentionally, and willfully infringe the D571 Patent by making, using, selling, offering for sale, and/or importing eyewear having a design that would appear to an ordinary observer to be substantially similar to the claim of the D571 Patent, for example Defendant’s SKU 301735, 104155, and 301737 sunglass models as shown below.

Defendant’s Sunglass Models	Oakley’s D571 Patent
SKU 301735 	
SKU 104155 	

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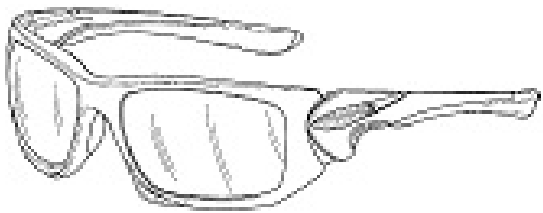
32. Defendant, through its agents, employees, and/or servants has, and continues to, knowingly, intentionally, and willfully infringe the D089 Patent by making, using, selling, offering for sale, and/or importing eyewear having a design that would appear to an ordinary observer to be substantially similar to the claim of the D089 Patent, for example Defendant’s SKU 34899 sunglass model as shown below.

Defendant’s SKU 348499 Sunglass Model	Oakley’s D089 Patent
	



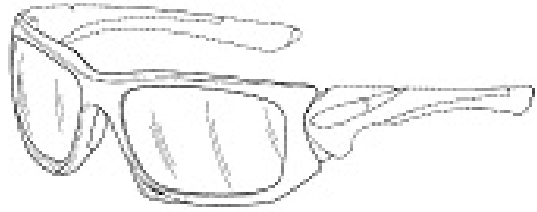
33. Defendant, through its agents, employees, and/or servants has, and continues to, knowingly, intentionally, and willfully infringe the D603 Patent by making, using, selling, offering for sale, and/or importing eyewear having a design that would appear to an ordinary observer to be substantially similar to the claim of the D603 Patent, for example Defendant’s SKU 206419 sunglass model as shown below.

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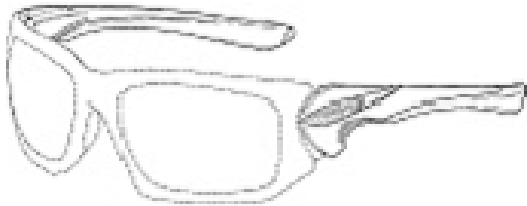
Defendant's Sunglass Models	Oakley's D603 Patent
<p style="text-align: center;">SKU 206419</p> 	

34. Defendant, through its agents, employees, and/or servants has, and continues to, knowingly, intentionally, and willfully infringe the D413 Patent by making, using, selling, offering for sale, and/or importing eyewear having a design that would appear to an ordinary observer to be substantially similar to the claim of the D413 Patent, for example Defendant's SKU 348877 and 206419 sunglass models as shown below.



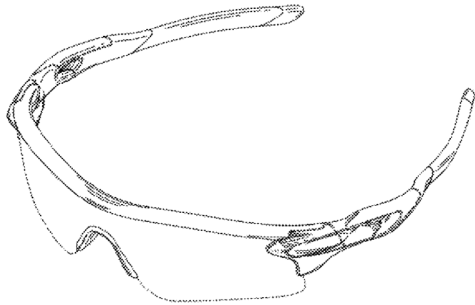
Defendant's Sunglass Models	Oakley's D413 Patent
<p style="text-align: center;">SKU 348877</p>  <p style="text-align: center;">SKU 206419</p> 	

35. Defendant, through its agents, employees, and/or servants has, and continues to, knowingly, intentionally, and willfully infringe the D920 Patent by

1 making, using, selling, offering for sale, and/or importing eyewear having a
 2 design that would appear to an ordinary observer to be substantially similar to
 3 the claim of the D920 Patent, for example Defendant’s SKU 206419 sunglass
 4 model as shown below.

Defendant’s Sunglass Models	Oakley’s D920 Patent
<p style="text-align: center;">SKU 206419</p> 	

12 36. Defendant, through its agents, employees, and/or servants has, and
 13 continues to, knowingly, intentionally, and willfully infringe the D180 Patent by
 14 making, using, selling, offering for sale, and/or importing eyewear having a
 15 design that would appear to an ordinary observer to be substantially similar to
 16 the claim of the D180 Patent, for example Defendant’s SKU 344287, 1096033,
 17 357619, 370531, 370537, 403621, 344289 sunglass models as shown below.

Defendant’s Sunglass Models	Oakley’s D180 Patent
<p style="text-align: center;">SKU 344287</p>  <p style="text-align: center;">SKU 1096033</p> 	

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SKU 357619



SKU 370531



SKU 370537



SKU 403621



SKU 344289



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1 37. Defendant's acts of infringement of each of the Asserted Patents
2 was undertaken without permission or license from Oakley. Oakley is informed
3 and believes, and thereon alleges, that Defendant had actual knowledge of
4 Oakley's rights in each of the Asserted Patents. Oakley and its iconic designs
5 are well-known throughout the eyewear industry, and Defendant's infringing
6 products are not only substantially similar to the patent(s) each is alleged to
7 infringe, each of the infringing products is an identical, or nearly identical, copy
8 of Oakley's patented design. Accordingly, Defendant's actions constitute
9 willful and intentional infringement of each of the Asserted Patents. Defendant
10 infringed Oakley's patent rights with reckless disregard of Oakley's patent
11 rights. Defendant knew, or it was so obvious that Defendant should have
12 known, that its actions constitute infringement of each of the Asserted Patents.
13 Defendant's acts of infringement of were not consistent with the standards of
14 commerce for its industry.

15 38. As a direct and proximate result of Defendant's acts of
16 infringement, Defendant has derived and received gains, profits, and advantages
17 in an amount that is not presently known to Oakley.

18 39. Pursuant to 35 U.S.C. § 285, Oakley is entitled to recover its
19 reasonable attorneys' fees for the necessity of bringing this claim.

20 40. Pursuant to 35 U.S.C. § 289, Oakley is entitled to Defendant's total
21 profits from Defendant's infringement of the Asserted Patents.

22 41. Due to Defendant's actions, constituting patent infringement,
23 Oakley has suffered great and irreparable injury, for which Oakley has no
24 adequate remedy at law.

25 42. Defendant will continue to infringe Oakley's patent rights to the
26 great and irreparable injury of Oakley, unless and until Defendant is enjoined by
27 this Court.

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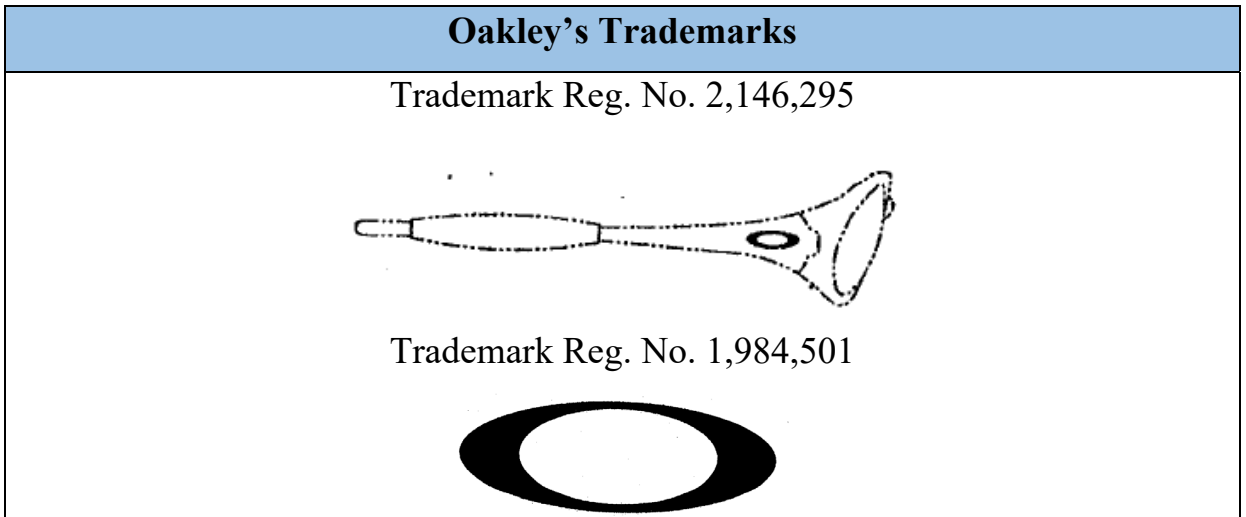
SECOND CLAIM FOR RELIEF

(Counterfeiting and Trademark Infringement)
(15 U.S.C. § 1114)

43. Oakley repeats and re-alleges the allegations of paragraphs 1-42 of this Complaint as if set forth fully herein.

44. This is a claim for trademark infringement and counterfeiting arising under 15 U.S.C. § 1114.

45. Oakley owns valid and enforceable registered trademarks for an ellipsoid O in connection with the sale of sunglasses, which are registered as U.S. Trademark Registration Nos. 2,146,295 and 1,984,501 (the “Oakley Marks”) and depicted below.



46. Each of U.S. Trademark Registration Nos. 2,146,295 and 1,984,501 has become incontestable through the filing of a declaration of incontestability with the USPTO.

47. As shown below, without Oakley’s permission, Defendant is reproducing, counterfeiting, copying, or colorably imitating the Oakley Marks and applying such reproductions, counterfeits, copies, or colorable imitations to merchandise, labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used in commerce upon or in connection with the

1 sale, offering for sale, distribution, advertising, and/or promotion of Defendant's
2 products, which is likely to cause confusion, or to cause mistake, or to deceive.

3 SKU 206419



10
11 SKU 206431



18 48. Defendant's wrongful acts as alleged in this Complaint constitute
19 willful and intentional counterfeiting and infringement of the Oakley Marks.
20 Defendant engaged in such activities with the intent to unfairly compete against
21 Oakley, to trade upon Oakley's reputation and goodwill by causing confusion
22 and mistake among customers and the public, and to deceive the public into
23 believing that Defendant's products are associated with, sponsored by,
24 originated from, or are approved by Oakley, when in truth and fact they are not.

25 49. Oakley is informed and believes, and thereon alleges, that
26 Defendant had actual knowledge of Oakley's ownership and prior use of the
27 Oakley Marks and willfully and maliciously violated Oakley's trademark rights
28 under 15 U.S.C. § 1114 without Oakley's consent.

1 promotion, misrepresents the nature, characteristics, qualities, or geographic
2 origin of his or her or another person's goods or commercial activities in
3 violation of 15 U.S.C. § 1125(a).

4 57. Such conduct by Defendant is likely to confuse, mislead, and
5 deceive Defendant's customers, purchasers, and members of the public as to the
6 origin of Defendant's goods or cause said persons to believe that Defendant
7 and/or its products have been sponsored, approved, authorized, or licensed by
8 Oakley or are in some way affiliated or connected with Oakley, when they are
9 not, and constitutes unfair competition with Oakley.

10 58. Oakley is informed and believes, and thereon alleges, that
11 Defendant's actions were undertaken willfully with full knowledge of the falsity
12 of such designation of origin and false descriptions or representations.

13 59. Oakley is informed and believes, and thereon alleges, that
14 Defendant has derived and received, and will continue to derive and receive,
15 gains, profits, and advantages from Defendant's actions in an amount that is not
16 presently known to Oakley. By reason of Defendant's actions, Oakley has been
17 damaged and is entitled to monetary relief in an amount to be determined at
18 trial.

19 60. Pursuant to 15 U.S.C. § 1117, Oakley is entitled to recover (1)
20 Defendant's profits, (2) any damages sustained by Oakley, and (3) the costs of
21 the action. In assessing damages, the Court may enter judgment up to three
22 times actual damages, and in awarding profits, the Court may in its discretion
23 enter judgment for such sum as the court shall find to be just, according to the
24 circumstances of the case. The Court may also award Oakley its reasonable
25 attorneys' fees for the necessity of bringing this claim.

26 61. Due to Defendant's actions, Oakley has suffered and continues to
27 suffer great and irreparable injury, for which Oakley has no adequate remedy at
28 law.

1 Business & Professions Code § 17200, *et seq.* and California common law.

2 71. Defendant's acts of trademark infringement, false designation of
3 origin, and trademark dilution complained of herein constitute unfair
4 competition with Oakley under the common law and statutory laws of the State
5 of California, particularly California Business & Professions Code § 17200 *et*
6 *seq.*

7 72. Oakley is informed and believes, and thereon alleges, that
8 Defendant has derived and received, and will continue to derive and receive,
9 gains, profits and advantages from Defendant's unfair competition in an amount
10 that is not presently known to Oakley.

11 73. By reason of Defendant's wrongful acts as alleged in this
12 Complaint, Oakley has been damaged and is entitled to monetary relief in an
13 amount to be determined at trial.

14 74. By its actions, Defendant has injured and violated the rights of
15 Oakley and has irreparably injured Oakley, and such irreparable injury will
16 continue unless Defendant is enjoined by this Court.

17 **WHEREFORE**, Oakley prays for judgment in its favor against
18 Defendant for the following relief:

19 A. An Order adjudging Defendant to have willfully infringed the
20 Asserted Patents under 35 U.S.C. § 271;

21 B. A preliminary and permanent injunction enjoining Defendant, its
22 officers, directors, agents, servants, employees, attorneys, representatives,
23 successors, and assigns, and those persons in active concert or participation with
24 Defendant, from infringing the Asserted Patents in violation of 35 U.S.C. § 271,
25 including, for example, through the manufacture, use, sale, offer for sale, and/or
26 importation into the United States of Defendant's SKU 15721, 351619, 351529,
27 225499, 225493, 301777, 157213, 301779, 177733, 301807, 351601, 301735,
28 104155, 301737, 348499, 206419, 348877, 344287, 1096033, 357619, 370531,

1 370537, 403621, and 344289 sunglass models, and any products that are not
2 colorably different form these products;

3 C. That Defendant account for all gains, profits, and advantages
4 derived by Defendant's infringement of the Asserted Patents in violation of
5 35 U.S.C. § 271, and that Defendant pay to Oakley all damages suffered by
6 Oakley and/or Defendant's total profit from such infringement pursuant to 35
7 U.S.C. §§ 284 and 289;

8 D. That the Court find for Oakley and against Defendant on Oakley's
9 claims of counterfeiting and trademark infringement under 15 U.S.C. § 1114.

10 E. That the Court find for Oakley and against Defendant on Oakley's
11 claims of trademark infringement, unfair competition, false designation of origin
12 and trademark dilution under 15 U.S.C. § 1125;

13 F. That the Court find for Oakley and against Defendant on Oakley's
14 claims of trademark infringement under California common law and unfair
15 competition under California Business & Professions Code § 17200, et seq. and
16 California common law;

17 G. That the Court issue a preliminary and permanent injunction
18 against Defendant, its agents, officers, directors, servants, employees, attorneys,
19 representatives, successors, and assigns, and all persons, firms, or corporations
20 in active concert or participation with Defendant, enjoining them from engaging
21 in the following activities and from assisting or inducing, directly or indirectly,
22 others to engage in the following activities:

- 23 1. manufacturing, importing, marketing, displaying,
24 distributing, offering to sell, and/or selling Defendant's SKU
25 206419 and 206431 sunglass models shown above or any
26 products that are not colorably different therefrom;
- 27 2. using the Oakley Marks, or any mark confusingly similar to
28 the Oakley Marks;

- 1 3. falsely designating the origin of Defendant's goods;
- 2 4. unfairly competing with Oakley in any manner whatsoever;
- 3 5. causing a likelihood of confusion or injuries to Oakley's
- 4 business reputation; or,
- 5 6. manufacturing, importing, marketing, displaying,
- 6 distributing, offering to sell, and/or selling any goods that
- 7 infringe the Oakley Marks.

8 H. That an accounting be ordered to determine Defendant's profits
9 resulting from its counterfeiting, trademark infringement, false designation of
10 origin, unfair competition, and trademark dilution that Oakley be awarded
11 monetary relief under 15 U.S.C. § 1117, including:

- 12 1. all profits received by Defendant from sales and revenues of
- 13 any kind made as a result of its infringing actions;
- 14 2. all damages sustained by Oakley as a result of Defendant's
- 15 acts of trademark infringement, false designation of origin,
- 16 and unfair competition; and,
- 17 3. the costs of this action;

18 I. That such award to Oakley of damages and profits be trebled
19 pursuant to 15 U.S.C. § 1117;

20 J. An Order adjudging that this is an exceptional case;

21 K. That, because of the exceptional nature of this case resulting from
22 Defendant's deliberate infringing actions, this Court award to Oakley all
23 reasonable attorneys' fees, costs, and disbursements incurred as a result of this
24 action, pursuant to 15 U.S.C. § 1117 and/or 35 U.S.C. § 285;

25 L. That Oakley be awarded statutory damages pursuant to 15 U.S.C. §
26 1117(c) for Defendant's counterfeiting, at Oakley's election before the entry of
27 final judgment, together with prejudgment and post-judgment interest;

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1 M. That Oakley and Luxottica recover exemplary damages pursuant to
2 California Civil Code § 3294.

3 N. An Order for a trebling of damages to Oakley because of
4 Defendant's willful patent infringement pursuant to 35 U.S.C. § 284;

5 O. An award of pre-judgment and post-judgment interest and costs of
6 this action against Defendant; and,

7 P. Such other and further relief as this Court may deem just and
8 proper.

9 KNOBBE, MARTENS, OLSON & BEAR, LLP

10 Dated: August 7, 2018

By: /s/ Lauren Keller Katzenellenbogen

Michael K. Friedland

Lauren Keller Katzenellenbogen

Ali S. Razai

James F. Smith

Attorneys for Plaintiff

OAKLEY, INC.

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DEMAND FOR JURY TRIAL

Plaintiff Oakley, Inc. hereby demands a trial by jury on all issues so triable.

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: August 7, 2018

By: /s/ Lauren Keller Katzenellenbogen
Michael K. Friedland
Lauren Keller Katzenellenbogen
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