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3:06-CV-00704 OAKLEY INCORPORATED V. NORRIS MAHONEY INC

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1 Gregory L. Weeks, Esq.  
California State Bar No. 58584  
2 Janet Robertson Kaufman, Esq.  
California State Bar No. 116143  
3 Gregory K. Nelson, Esq.  
California State Bar No. 203029  
4 WEEKS, KAUFMAN, NELSON & JOHNSON  
462 Stevens Avenue, Suite 310  
5 Solana Beach, CA 92075  
(858) 794-2140

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U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY:  DEPUTY

6 Attorneys for Plaintiff

7  
8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 '06 CV 0704 H

NLS

11 OAKLEY, INC., a Washington  
12 corporation,

Case No.:

13 Plaintiff,

COMPLAINT FOR PATENT  
INFRINGEMENT, TRADEMARK  
INFRINGEMENT, AND TRADE  
DRESS INFRINGEMENT

14 vs.

DEMAND FOR JURY TRIAL

15 NORRIS MAHONEY, INC., an  
16 Ohio corporation, dba Solarex  
Sunglass Collection,

17 Defendant.  
18  
19  
20

21 Plaintiff Oakley, Inc. (hereinafter referred to as "Oakley") hereby complains  
22 of Defendant Norris Mahoney, Inc. (hereinafter referred to as "Solarex"), referred  
23 to as "Defendant" and alleges as follows:  
24

25 JURISDICTION AND VENUE

26 1. Jurisdiction over this action is founded upon 15 U.S.C. §§ 1121, and  
27 28 U.S.C. §§ 1331 and 1338. Venue is proper under 28 U.S.C. §§ 1391(b) and (c),  
28 this claim having arisen and Defendant doing business in this district. Defendant





1 sold infringing products in this district and directed sales and marketing efforts  
2 toward this district.

3 **THE PARTIES**

4 2. Plaintiff Oakley is a corporation organized and existing under the laws  
5 of the State of Washington, having its principal place of business at One Icon,  
6 Foothill Ranch, California 92610 and doing business within this judicial district.

7 3. Oakley is informed and believes, and thereupon alleges that  
8 Defendant, Norris Mahoney, Inc. is a corporation organized and existing under the  
9 laws of the State of Ohio, having its principal places of business at 1215 Valley  
10 Belt Rd Suite C, Cleveland, Oh 44131 and 130 North Sunway Suite 3, Gilbert,  
11 Arizona 85233 and doing business within this judicial district. Oakley is informed  
12 and believes, and thereupon alleges, that Defendant does business under the brand  
13 name of Solarex.

14 **FACTUAL BACKGROUND**

15 4. For decades now, Oakley has been and continues to be actively engaged  
16 in the manufacture and sale of high quality eyewear products. Oakley is currently  
17 manufacturing and selling several lines of sunglasses, apparel, footwear, bags,  
18 watches and accessories under the Oakley name and in association with a stand  
19 alone ellipsoid "o" logo which has come to be known as a source indicator of  
20 Oakley products. Oakley is the manufacturer and retailer of several lines of  
21 sunglasses, including its "Minute", "Romeo", "Square Wire 2.0", and "M Frame".  
22 The Oakley ellipsoid "o" logo has been used continuously on its products since  
23 1993.

24 5. Plaintiff Oakley is the owner by assignment of U.S. Patent No. 5,137,342  
25 duly and lawfully issued on August 11, 1992 describing and claiming the  
26 invention entitled "EYEWEAR TRACTION DEVICE", protecting the technology  
27  
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1 for an improved elastomeric traction device. A correct copy of U.S. Patent No.  
2 5,137,342 is attached hereto as Exhibit 1.

3 6. Oakley is informed and believes, and thereupon alleges that the Defendant  
4 is selling sunglasses that copy U.S. Patent No. 5,137,342 of Oakley. Oakley  
5 alleges that Defendant's style numbers 8663 and 9386 embody the subject matter  
6 claimed in Oakley's U.S. Patent No. 5,137,342 without any license thereunder and  
7 is thereby infringing said patent. Oakley is informed and believes and based  
8 thereon alleges that Defendant sold or supplied said sunglasses to various  
9 distributors, retailers, and retail customers.

10 7. Oakley is the owner by assignment of U.S. Patent No. D415,188 duly and  
11 lawfully issued on October 12, 1999, describing and claiming the invention  
12 entitled "EYEGASSES" protecting the sunglass design marketed by Oakley  
13 under the name "Minute". A true copy of U.S. Patent No. D415,188 is attached  
14 hereto as Exhibit 2.

15 8. Oakley is informed and believes, and thereupon alleges that the Defendant  
16 is selling sunglasses that copy U.S. Patent No. D415,188 of Oakley. Oakley  
17 alleges that Defendant's style number 6002 embody the subject matter claimed in  
18 Oakley's U.S. Patent No. D415,188 without any license thereunder and is thereby  
19 infringing said patent. Oakley is informed and believes and based thereon alleges  
20 that Defendant sold or supplied said sunglasses to various distributors, retailers,  
21 and retail customers.

22 9. Oakley is the owner by assignment of U.S. Patent No. D398,326 duly and  
23 lawfully issued on September 15, 1998, describing and claiming the invention  
24 entitled "EYEGLOSS FRONT" protecting the sunglass design marketed by  
25 Oakley under the name "Romeo". A true copy of U.S. Patent No. D398,326 is  
26 attached hereto as Exhibit 3.

27  
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1           10. Oakley is informed and believes, and thereupon alleges that the  
2 Defendant is selling sunglasses that copy U.S. Patent No. D398,326 of Oakley.  
3 Oakley alleges that Defendant's style number 6005 embody the subject matter  
4 claimed in Oakley's U.S. Patent No. D398,326 without any license thereunder and  
5 is thereby infringing said patent. Oakley is informed and believes and based  
6 thereon alleges that Defendant sold or supplied said sunglasses to various  
7 distributors, retailers, and retail customers.

8           11. Oakley is the owner by assignment of U.S. Patent No. D410,484 duly  
9 and lawfully issued on June 1, 1999, describing and claiming the invention  
10 entitled "EYEGLASSES" protecting the sunglass design marketed by Oakley  
11 under the name "Romeo". A true copy of U.S. Patent No. D410,484 is attached  
12 hereto as Exhibit 4.

13           12. Oakley is informed and believes, and thereupon alleges that the  
14 Defendant is selling sunglasses that copy U.S. Patent No. D410,484 of Oakley.  
15 Oakley alleges that Defendant's style number 6005 embody the subject matter  
16 claimed in Oakley's U.S. Patent No. D410,484 without any license thereunder and  
17 is thereby infringing said patent. Oakley is informed and believes and based  
18 thereon alleges that Defendant sold or supplied said sunglasses to various  
19 distributors, retailers, and retail customers.

20           13. Oakley is the owner by assignment of U.S. Patent No. D410,485 duly  
21 and lawfully issued on June 1, 1999, describing and claiming the invention  
22 entitled "EYEGLASS COMPONENTS" protecting the sunglass design marketed  
23 by Oakley under the name "Romeo". A true copy of U.S. Patent No. D410,485 is  
24 attached hereto as Exhibit 5.

25           14. Oakley is informed and believes, and thereupon alleges that the  
26 Defendant is selling sunglasses that copy U.S. Patent No. D410,485 of Oakley.  
27 Oakley alleges that Defendant's style number 6005 embody the subject matter  
28

1 claimed in Oakley's U.S. Patent No. D410,485 without any license thereunder and  
2 is thereby infringing said patent. Oakley is informed and believes and based  
3 thereon alleges that Defendant sold or supplied said sunglasses to various  
4 distributors, retailers, and retail customers.

5 15. Oakley is the owner by assignment of U.S. Patent No. D469,458S  
6 duly and lawfully issued on January 28, 2003, describing and claiming the  
7 invention entitled "EYEGLOSS FRONT" protecting the sunglass design  
8 marketed by Oakley under the name "Square Wire 2.0". A true copy of U.S.  
9 Patent No. D469,458S is attached hereto as Exhibit 6.

10 16. Oakley is informed and believes, and thereupon alleges that the  
11 Defendant is selling sunglasses that copy U.S. Patent No. D469,458S of Oakley.  
12 Oakley alleges that Defendant's style number 8260 embody the subject matter  
13 claimed in Oakley's U.S. Patent No. D469,458S without any license thereunder  
14 and is thereby infringing said patent. Oakley is informed and believes and based  
15 thereon alleges that Defendant sold or supplied said sunglasses to various  
16 distributors, retailers, and retail customers.

17 17. Oakley is the owner by assignment of U.S. Patent No. D331,763 duly  
18 and lawfully issued on December 15, 1992, describing and claiming the invention  
19 entitled "UNITARY EYEGLOSS LENS" protecting the sunglass design marketed  
20 by Oakley under the name "M Frame Heater Lens". A true copy of U.S. Patent  
21 No. D331,763 is attached hereto as Exhibit 7.

22 18. Oakley is informed and believes, and thereupon alleges that the  
23 Defendant is selling sunglasses that copy U.S. Patent No. D331,763 of Oakley.  
24 Oakley alleges that Defendant's style numbers 8294 and 8780 embody the subject  
25 matter claimed in Oakley's U.S. Patent No. D331,763 without any license  
26 thereunder and is thereby infringing said patent. Oakley is informed and believes  
27

28 ... ..

1 and based thereon alleges that Defendant sold or supplied said sunglasses to  
2 various distributors, retailers, and retail customers.

3 19. Oakley is the owner by assignment of U.S. Patent No. D384,364 duly  
4 and lawfully issued on September 30, 1997, describing and claiming the invention  
5 entitled "EYEGLOSS FRAME FRONT" protecting the sunglass design marketed  
6 by Oakley under the name "M Frame". A true copy of U.S. Patent No. D384,364  
7 is attached hereto as Exhibit 8.

8 20. Oakley is informed and believes, and thereupon alleges that the  
9 Defendant is selling sunglasses that copy U.S. Patent No. D384,364 of Oakley.  
10 Oakley alleges that Defendant's style numbers 8294 and 8780 embody the subject  
11 matter claimed in Oakley's U.S. Patent No. D384,364 without any license  
12 thereunder and is thereby infringing said patent. Oakley is informed and believes  
13 and based thereon alleges that Defendant sold or supplied said sunglasses to  
14 various distributors, retailers, and retail customers.

15 21. Defendant was aware of Oakley's proprietary rights in its patents  
16 because of Oakley's status as an industry leader in the sunglass category.  
17 Defendant has received written notice of Oakley's proprietary rights in its patents  
18 by way of actual written notice from Oakley's attorneys mailed prior to filing.  
19 Further, Defendant received constructive notice of Oakley's patents as Oakley  
20 caused its patents to be placed plainly on the product and/or packaging. Despite  
21 actual and constructive knowledge, Defendants infringed Oakley's patent rights.  
22 On information and belief, such infringement by Defendant has been willful and  
23 wanton.  
24

25 22. Since 1999, Oakley has expended large sums of money in the  
26 promotion of its "Minute", line of sunglasses. As a result of Oakley's promotional  
27 efforts, these sunglass lines have become and are now widely known and  
28

... ..

1 recognized in this District and elsewhere as emanating from and authorized by  
2 Oakley.

3 23. Oakley's "Minute" product line is inherently distinctive in appearance,  
4 and has become, through widespread public acceptance, a distinctive designation  
5 of the source of origin of goods offered by Oakley and an asset of incalculable  
6 value as a symbol of Oakley and its quality goods and good will.

7 24. Oakley is informed and believes and thereupon alleges that the  
8 Defendant's "Minute" sunglass copies, sold as style numbers 6002 and 8728, are  
9 designed, manufactured, packaged, advertised, displayed and sold expressly to  
10 profit from the demand created by Oakley for the ornamental and inherently  
11 distinctive features of the Oakley sunglasses and to trade on Oakley's goodwill  
12 and reputation.

13 25. Oakley is informed and believes, and thereupon alleges, that  
14 Defendant's copy "Minute" sunglasses are inferior products to authentic Oakley  
15 sunglasses. Oakley is further informed and believes and thereupon alleges that as  
16 a result of the inferior quality Defendants copies of Oakley's "Minute" sunglasses,  
17 they are sold in the marketplace at a lower price than are authentic Oakley  
18 sunglasses. As a result, Oakley has been damaged significantly in the sunglass  
19 market. Oakley contends and believes that its image and the reputation of its  
20 products has been tarnished and diminished by Defendant's sale of Oakley copy  
21 sunglasses of inferior quality.  
22

23 26. Oakley is further informed and believes and thereupon alleges that the  
24 presence of Defendant's "Minute" sunglass copies in the marketplace damages the  
25 value of Oakley's exclusive rights. The presence of the copies in the marketplace  
26 is likely to diminish the apparent exclusivity of genuine Oakley products thereby  
27 dissuading potential customers who otherwise would have sought inherently  
28 distinctive Oakley sunglass designs. Upon information and belief, Oakley alleges



1 that such deception has misled, and continues to mislead, and confuse many  
2 purchasers to buy the products sold by Defendant and/or has misled non-  
3 purchasers to believe the sunglass copies emanate from or are authorized by  
4 Oakley.

5 27. Oakley is informed and believes and thereupon alleges that the  
6 Defendant's sale of the allegedly infringing sunglasses has resulted in lost sales,  
7 has reduced the business and profit of Oakley, and has greatly injured the general  
8 reputation of Oakley due to the inferior quality of the copies, all to Oakley's  
9 damage in an amount not yet fully determined.

10 28. The exact amount of profits realized by Defendant as a result of its  
11 infringing activities, are presently unknown to Oakley, and neither are the exact  
12 amount of damages suffered by Oakley as a result of said activities. These profits  
13 and damages cannot be accurately ascertained without an accounting. Further,  
14 Defendant's actions are irreparably injuring Oakley and will continue unless and  
15 until enjoined by this court.

16 29. Oakley is the owner of U.S. Registered Trademark No. 1,984,501,  
17 duly registered on July 2, 1996, claiming the stylized ellipsoid "o" logo for use on  
18 goods in Class 9. A true and correct copy of this trademark registration is  
19 attached hereto and incorporated by reference as Exhibit 9.

20 30. Oakley is the owner of U.S. Registered Trademark No. 2,146,295,  
21 duly registered on March 24, 1998, claiming the stylized ellipsoid "o" logo on the  
22 side of a sunglass ear-stem for use on goods in Class 9. A true and correct copy of  
23 this trademark registration is attached hereto and incorporated by reference as  
24 Exhibit 10.

25 31. The trademark registrations referred to above are in full force and  
26 effect. The trademarks and the good will of the business of Plaintiff Oakley in  
27 connection with which the trademarks have been used have never been  
28

1 abandoned. Oakley continues to preserve and maintain its rights with respect to  
2 said trademark registrations.

3 32. The trademarks above are inherently distinctive in appearance and  
4 have become, through widespread public acceptance, a distinctive designation of  
5 the source of origin of goods offered by Oakley and have acquired secondary  
6 meaning in the marketplace and constitutes an asset of incalculable value as a  
7 symbol of Oakley and its quality goods and good will.

8 33. Plaintiff is informed and believes and based thereon alleges that  
9 Defendant Solarex and its agents, employees, and servants have advertised and  
10 sold products bearing the trademarks referred to above, which advertisements and  
11 products sold are confusingly similar to that of the Oakley's trademarks, and are,  
12 therefore, an infringement of Oakley's above described trademarks. On  
13 information said products, designated by style numbers 9338 and 9386, are  
14 available online and may be purchased in other retail locations near Oakley  
15 products.

16 34. Defendant was aware of Oakley's proprietary rights in its trademarks  
17 because of Oakley's status as an industry leader in the sunglass category.  
18 Defendant has received written notice of Oakley's proprietary rights in its  
19 trademarks by way of actual written notice from Oakley's attorneys mailed prior  
20 to filing. Further, Defendant has received constructive notice of Oakley's  
21 trademarks as Oakley caused said trademarks to be placed plainly on the product  
22 and/or packaging. Despite said actual and constructive knowledge, Defendant has  
23 infringed Oakley's trademark rights. On information and belief, such  
24 infringement by Defendant has been willful and wanton.

25 35. Since 1993, Oakley has expended large sums of money in the  
26 promotion of all of its product lines utilizing the ellipsoid "o" logo. As a result of  
27 said promotional efforts, Oakley products have become and are now widely  
28

1 known by the ellipsoid "o" mark and are recognized in this District and elsewhere  
2 as emanating from and authorized by Oakley.

3 36. Oakley's products and their connection with the ellipsoid "o" have  
4 become, through widespread public acceptance, a distinctive designation of the  
5 source of origin of goods offered by Oakley and an asset of incalculable value as a  
6 symbol of Oakley and its quality goods and good will.

7 37. Oakley is informed and believes and thereupon alleges that the  
8 Defendant's line of sunglasses the trade name "Solarex" are designed,  
9 manufactured, packaged, advertised, displayed and sold expressly to deceive  
10 customers desirous of purchasing products authorized by Oakley or to profit from  
11 the demand created by Oakley for the ornamental and inherently distinctive  
12 features of the Oakley products.

13 38. Oakley is further informed and believes and thereupon alleges that the  
14 presence of Defendants' products in the marketplace damages the value of  
15 Oakley's exclusive rights. The presence of the Defendant's products in the  
16 marketplace is likely to diminish the apparent exclusivity of the genuine Oakley  
17 products thereby dissuading potential customers who otherwise would have  
18 sought Oakley products. Upon information and belief, Oakley alleges that such  
19 deception has misled and continues to mislead and confuse many of said  
20 purchasers to buy the products sold by Defendants and/or has misled non-  
21 purchasers to believe the products emanate from or are authorized by Oakley.  
22

23 39. Oakley is informed and believes and thereupon alleges that the sale of  
24 Defendants' products has resulted in lost sales, has reduced the business and profit  
25 of Oakley, and has greatly injured the general reputation of Oakley, all to Oakley's  
26 damage in an amount not yet fully determined.

27 40. The exact amount of profits realized by Defendants as a result of its  
28 infringing activities, are presently unknown to Oakley, as are the exact amount of

1 damages suffered by Oakley as a result of said activities. These profits and  
2 damages cannot be accurately ascertained without an accounting. Further,  
3 Defendants' actions are irreparably injuring Oakley and will continue unless and  
4 until enjoined by this court

5 **FIRST CLAIM FOR RELIEF**

6 41. The allegations of paragraphs 1 through 40 are repled and realleged as  
7 though fully set forth herein.

8 42. This is a claim for patent infringement, and arises under 35 U.S.C. §§  
9 271 and 281.

10 43. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1338.

11 44. Oakley is the owner of U.S. Patent No. 5,137,342 which protects  
12 technology for an improved elastomeric traction device. A true and correct copy  
13 of U.S. Patent No. 5,137,342 is attached hereto as Exhibit 1. By statute, the patent  
14 is presumed to be valid and enforceable under 35 U.S.C. § 282.

15 45. Defendant, through its agents, employees and servants, manufactured,  
16 imported, and sold, without any rights or license, sunglasses which fall within the  
17 scope and claim contained in U.S. Patent No. 5,137,342.

18 46. Oakley is informed and believes and thereupon alleges that Defendant  
19 has willfully infringed upon Oakley's exclusive rights under said patent, with full  
20 notice and knowledge thereof. Defendant sold or is selling such infringing  
21 sunglasses and will continue to do so unless restrained therefrom by this court, all  
22 to the great loss and injury of Oakley.

23 47. Oakley is informed and believes and thereupon alleges that  
24 Defendant, has derived, received, and will continue to derive and receive from its  
25 acts of infringement, gains, profits and advantages in an amount not presently  
26 known to Oakley. By reason of these acts of infringement, Oakley has been, and  
27 will continue to be, greatly damaged.  
28

1 48. Defendant will continue to infringe U.S. Patent No. 5,137,342 to the  
2 great and irreparable injury of Oakley, for which Oakley has no adequate remedy  
3 at law unless said Defendants are enjoined by this court.

4 **SECOND CLAIM FOR RELIEF**

5 49. The allegations of paragraphs 1 through 40 are repled and realleged as  
6 though fully set forth herein.

7 50. This is a claim for patent infringement, and arises under 35 U.S.C. §§  
8 271 and 281.

9 51. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1338.

10 52. Oakley is the owner of U.S. Patent No. D415,188 which protects the  
11 sunglasses marketed by Oakley under the name "Minute". A true and correct  
12 copy of U.S. Patent No. D415,188 is attached hereto as Exhibit 2. By statute, the  
13 patent is presumed to be valid and enforceable under 35 U.S.C. § 282.

14 53. Defendants through its agents, employees and servants, manufactured,  
15 imported, and sold, without any rights or license, sunglasses which fall within the  
16 scope and claim contained in U.S. Patent No. D415,188.

17 54. Oakley is informed and believes and thereupon alleges that Defendant  
18 has willfully infringed upon Oakley's exclusive rights under said patent, with full  
19 notice and knowledge thereof. Defendant sold or is selling such infringing  
20 sunglasses and will continue to do so unless restrained therefrom by this court, all  
21 to the great loss and injury of Oakley.

22 55. Oakley is informed and believes and thereupon alleges that Defendant  
23 has derived, received and will continue to derive and receive from its acts of  
24 infringement, gains, profits and advantages in an amount not presently known to  
25 Oakley. By reason of these acts of infringement, Oakley has been, and will  
26 continue to be, greatly damaged.

27  
28 ... ..









1 80. Defendant will continue to infringe U.S. Patent No. D410,485 to the  
2 great and irreparable injury of Oakley, for which Oakley has no adequate remedy  
3 at law unless said Defendant are enjoined by this court.

4 **SIXTH CLAIM FOR RELIEF**

5 81. The allegations of paragraphs 1 through 40 are repled and realleged as  
6 though fully set forth herein.

7 82. This is a claim for patent infringement, and arises under 35 U.S.C. §§  
8 271 and 281.

9 83. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1338.

10 84. Oakley is the owner of U.S. Patent No. D469,458 which protects the  
11 sunglasses marketed by Oakley under the name "Square Wire 2.0". A true and  
12 correct copy of U.S. Patent No. D469,458 is attached hereto as Exhibit 6. By  
13 statute, the patent is presumed to be valid and enforceable under 35 U.S.C. § 282.

14 85. Defendant, through its agents, employees and servants, manufactured,  
15 imported, and sold, without any rights or license, sunglasses which fall within the  
16 scope and claim contained in U.S. Patent No. D469,458.

17 86. Oakley is informed and believes and thereupon alleges that Defendant  
18 has willfully infringed upon Oakley's exclusive rights under said patent, with full  
19 notice and knowledge thereof. Defendant sold or is selling such infringing  
20 sunglasses and will continue to do so unless restrained therefrom by this court, all  
21 to the great loss and injury of Oakley.

22 87. Oakley is informed and believes and thereupon alleges that Defendant  
23 has derived, received and will continue to derive and receive from its acts of  
24 infringement, gains, profits and advantages in an amount not presently known to  
25 Oakley. By reason of these acts of infringement, Oakley has been, and will  
26 continue to be, greatly damaged.

27 ... ..  
28

1 88. Defendant will continue to infringe U.S. Patent No. D469,458 to the  
2 great and irreparable injury of Oakley, for which Oakley has no adequate remedy  
3 at law unless said Defendant are enjoined by this court.

4 **SEVENTH CLAIM FOR RELIEF**

5 89. The allegations of paragraphs 1 through 40 are repled and realleged as  
6 though fully set forth herein.

7 90. This is a claim for patent infringement, and arises under 35 U.S.C. §§  
8 271 and 281.

9 91. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1338.

10 92. Oakley is the owner of U.S. Patent No. D331,763 which protects the  
11 sunglasses marketed by Oakley under the name "M Frame Heater Lens". A true  
12 and correct copy of U.S. Patent No. D331,763 is attached hereto as Exhibit 7. By  
13 statute, the patent is presumed to be valid and enforceable under 35 U.S.C. § 282.

14 93. Defendant, through its agents, employees and servants, manufactured,  
15 imported, and sold, without any rights or license, sunglasses which fall within the  
16 scope and claim contained in U.S. Patent No. D331,763.

17 94. Oakley is informed and believes and thereupon alleges that Defendant  
18 has willfully infringed upon Oakley's exclusive rights under said patent, with full  
19 notice and knowledge thereof. Defendant sold or is selling such infringing  
20 sunglasses and will continue to do so unless restrained therefrom by this court, all  
21 to the great loss and injury of Oakley.

22 95. Oakley is informed and believes and thereupon alleges that Defendant  
23 has derived, received and will continue to derive and receive from its acts of  
24 infringement, gains, profits and advantages in an amount not presently known to  
25 Oakley. By reason of these acts of infringement, Oakley has been, and will  
26 continue to be, greatly damaged.

27 ... ..  
28



1 104. Defendant will continue to infringe U.S. Patent No. D384,364 to the  
2 great and irreparable injury of Oakley, for which Oakley has no adequate remedy  
3 at law unless said Defendant are enjoined by this court.

4 **NINETH CLAIM FOR RELIEF**  
5 **(TRADE DRESS INFRINGEMENT)**

6 105. Oakley realleges paragraphs 1 through 40 as though set forth fully at  
7 this point.

8 106. This is an action for trade dress infringement and false designation of  
9 origin pursuant to 15 U.S.C. § 1125(a) against Defendant.

10 107. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1338.

11 108. Since 1999, Oakley has marketed and sold its "Minute" line of  
12 sunglasses. The configuration of Oakley's "Minute" sunglass is distinctive and  
13 well-recognized by the industry and consumers as emanating from Oakley. The  
14 "Minute" sunglass has enjoyed enormous commercial success, which is expected  
15 to continue, and have become, through wide-spread recognition, an indicator of  
16 Oakley as the source of the products.

17 109. Oakley is informed and believes and thereupon alleges that the  
18 Defendant's sale of copies of Oakley's "Minute" sunglass configuration  
19 constitutes trade dress infringement and unfair competition, as a false designation  
20 of origin, a false description or representation of goods, and false representation to  
21 the consuming public that the Defendant's sunglasses originated from or somehow  
22 are authorized by or affiliated with Oakley.

23 110. Oakley is informed and believes and thereupon alleges that the actions  
24 of Defendant were done willfully, knowingly and maliciously with the intent to  
25 trade upon the good will of Oakley and to injure Oakley.

26 111. The Defendant's acts are in violation of 15 U.S.C. § 1125 (a) and will  
27 continue to the great and irreparable injury of Oakley until enjoined by this Court.

28 ... ..



1 120. Oakley is informed and believes, and thereupon alleges, that  
2 Defendant willfully infringed upon Oakley's exclusive rights under its trademark  
3 with the intent to trade upon the good will of Oakley and to injure Oakley.

4 121. Oakley is informed and believes, and thereupon alleges, that  
5 Defendant has derived, received, and will continue to derive and receive from the  
6 aforesaid acts of infringement, gains, profits, and advantages in an amount not yet  
7 ascertainable, but will be determined at the time of trial.

8 122. Oakley is informed and believes, and thereupon alleges, that  
9 Defendant will continue to infringe Oakley's registered trademark to the great and  
10 irreparable injury of Oakley, for which Oakley has no adequate remedy at law  
11 unless Defendants are enjoined by this court.

12 123. Oakley has been damaged in this judicial district as a result of the  
13 Defendant's infringement of its trademarks.

14 **ELLEVENTH CLAIM FOR RELIEF**  
15 **(TRADEMARK INFRINGEMENT)**

16 124. Oakley realleges paragraphs 1 through 40 as repled and realleged as  
17 though fully set forth herein.

18 125. This is a claim for trademark infringement, and arises under 15 U.S.C.  
19 § 1114 against Defendant.

20 126. Jurisdiction is founded upon 15 U.S.C. § 1121.

21 127. Oakley is the owner of U.S. Registered Trademark No. 2,146,295,  
22 which confer on Oakley the exclusive right to use this trademark in commerce. A  
23 true and correct copy of U.S. registered Trademark No. 2,146,295 is attached  
24 hereto as Exhibit 10.

25 128. The mark has been in use in commerce in connection with the sale of  
26 Oakley products continuously since at least as early as its date of issue. The mark  
27 appears clearly on packaging, advertisements, product brochures, and on Oakley  
28 products.

1 129. Defendant, through its agents, employees and servants, has  
2 manufactured, advertised, and sold products bearing Oakley's registered mark  
3 without authority from Oakley for doing so.

4 130. Oakley is informed and believes, and thereupon alleges, that  
5 Defendant's use of Oakley's registered trademark in commerce constitutes  
6 trademark infringement, false designation or origin, a false description or  
7 representation of goods and wrongfully and falsely represents to the consuming  
8 public that the Defendant's advertising and products bearing the Oakley trademark  
9 originated from or somehow are authorized by Oakley.

10 131. Oakley is informed and believes, and thereupon alleges, that  
11 Defendant's unauthorized use of Oakley's registered trademark is likely to cause  
12 confusion in the marketplace as to the source of origin of Defendants' products  
13 and has caused damage to Oakley within this jurisdictional district.

14 132. Oakley is informed and believes, and thereupon alleges, that  
15 Defendant willfully infringed upon Oakley's exclusive rights under its trademark  
16 with the intent to trade upon the good will of Oakley and to injure Oakley.

17 133. Oakley is informed and believes, and thereupon alleges, that  
18 Defendant has derived, received, and will continue to derive and receive from the  
19 aforesaid acts of infringement, gains, profits, and advantages in an amount not yet  
20 ascertainable, but will be determined at the time of trial.

21 134. Oakley is informed and believes, and thereupon alleges, that  
22 Defendant will continue to infringe Oakley's registered trademark to the great and  
23 irreparable injury of Oakley, for which Oakley has no adequate remedy at law  
24 unless Defendant is enjoined by this court.

25 135. Oakley has been damaged in this judicial district as a result of the  
26 Defendant's infringement of its trademarks.

27 WHEREFORE, Plaintiff Oakley, Inc. prays as follows:

28 . . . . .

1           1. That Defendant be adjudicated to have infringed Oakley's U.S. Patent  
2 Nos. 5,137,342, D415,188, D398,326, D410,484, D410,485, D469,458, D331,763  
3 and D384,364 and that said patents are valid and enforceable and owned by  
4 Oakley;

5           2. That the Defendant be adjudicated to have infringed Oakley's  
6 "Minute" trade dress, and that said trade dress rights are enforceable and owned  
7 by Oakley;

8           3. That Defendant be adjudicated to have infringed Oakley's Registered  
9 Trademark Nos. 1,984,501 and 2,146,295, and that said trademark is valid and  
10 enforceable and is owned by Oakley;

11           4. That Defendant, as well as its agents, servants, employees, and  
12 attorneys, and all these persons in active concert or participation with Defendant,  
13 be forthwith preliminary and thereafter permanently enjoined from infringing U.S.  
14 Patent Nos. 5,137,342, D415,188, D398,326, D410,484, D410,485, D469,458,  
15 D331,763, and D384,364;

16           5. That Defendant, as well as its agents, servants, employees, and  
17 attorneys, and all these persons in active concert or participation with Defendant,  
18 be forthwith preliminary and thereafter permanently enjoined from infringing  
19 Oakley's "Minute" trade dress;

20           6. That Defendant, as well as its agents, servants, employees, and  
21 attorneys and all persons in active concert and participation with them, be  
22 enjoined and restrained, during the pendency of this action and permanently  
23 thereafter from:  
24

25           A. Using Oakley's Registered Trademark Nos. 1,984,501 and  
26 2,146,295, or any mark similar thereto in connection with the sale  
27 of any goods;

28           B. Committing any acts which may cause purchasers to believe  
that the Defendant or the products Defendant is selling are



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sponsored or authorized by, or are in any way associated with Plaintiff;

C. Selling, passing off, or inducing or enabling others to sell or pass off any products as products produced by Plaintiff, which products are not Plaintiff's or are not produced under the control and supervision and approved by Plaintiff; and

D. Infringing Plaintiff's trademark rights;

7. That Defendant, its agents, servants, employees and attorneys and all persons in active concert or participation with them, be enjoined and restrained, during the pendency of this action, and permanently thereafter from advertising or selling products in any manner that does or tends to dilute the distinctive value of Oakley's famous ellipsoid "o" trademark;

8. That Defendant be directed to file with this Court and serve upon Oakley within 30 days after the service of the injunction, a report in writing under oath, setting forth in detail the manner and form in which Defendant has complied with the injunction;

9. That Oakley be awarded an assessment of damages for Defendant's infringement of U.S. Patent Nos. 5,137,342, D415,188, D398,326, D410,484, D410,485, D469,458, D331,763, and D384,364, together with an award of such damages, all in accordance with 35 U.S.C. § 284;

10. That Oakley be awarded an assessment of interest against Defendant, together with an award of such interest, in accordance with 35 U.S.C. § 284;

11. That Oakley be awarded treble damages against the Defendant for their willful infringement of Oakley's patents, pursuant to 35 U.S.C. § 284;

12. For all of Defendant's profits derived from his infringement of Plaintiff's patent, trademark, and trade dress rights in accordance with 15 U.S.C. § 1117 and 35 U.S.C. § 289;

.....


1 13. That Defendant be required to account to Oakley for any and all  
2 profits derived by it, and all damages sustained by Oakley by reason of  
3 Defendants' trademark infringement, unfair competition and false designation of  
4 origin, together with interest and costs;

5 14. For all of Defendants' profits derived from their infringement of  
6 Plaintiff's patent and trademark rights;

7 15. For an order requiring Defendant to deliver up and destroy all  
8 infringing products;


9 16. That an award of reasonable costs, expenses, and attorney's fees be  
10 awarded against Defendant pursuant to 15 U.S.C. § 1116(a); and

11 17. That Oakley have such other and further relief as the circumstances of  
12 this case may require and as this Court may deem just and proper.

13 DATED: 3/30/06 WEEKS, KAUFMAN, NELSON & JOHNSON  
14   
15 \_\_\_\_\_  
16 GREGORY K. NELSON  
17 Attorney for Plaintiff, Oakley, Inc.

18 JURY DEMAND

19 Plaintiff Oakley, Inc. hereby requests a trial by jury in this matter.

20 DATED: 3/30/06 WEEKS, KAUFMAN, NELSON & JOHNSON  
21   
22 \_\_\_\_\_  
23 GREGORY K. NELSON  
24 Attorney for Plaintiff, Oakley, Inc.



US005137342A

**United States Patent** [19]

[11] Patent Number: **5,137,342**

Jannard et al.

[45] Date of Patent: \* **Aug. 11, 1992**

[54] **EYEWEAR TRACTION DEVICE**  
 [75] Inventors: **James H. Jannard**, San Juan Capistrano; **Gregory F. Arnette**, South Laguna Beach, both of Calif.  
 [73] Assignee: **Oakley, Inc.**, Irvine, Calif.  
 [\*] Notice: The portion of the term of this patent subsequent to Oct. 8, 2008 has been disclaimed.

2,949,638 8/1960 Butler .  
 3,684,356 8/1972 Bates .  
 3,741,635 6/1973 Wortman .  
 4,074,932 2/1978 Thill ..... 351/123  
 4,563,066 1/1986 Bononi .  
 4,662,729 5/1987 Dobson .  
 4,732,465 3/1988 Field .  
 4,786,158 11/1988 Barfus-Shanks .

[21] Appl. No.: **695,683**  
 [22] Filed: **May 3, 1991**

**FOREIGN PATENT DOCUMENTS**

62-12123 1/1987 Japan .

*Primary Examiner*—Paul M. Dzierzynski  
*Attorney, Agent, or Firm*—Knobbe, Martens, Olson & Bear

**Related U.S. Application Data**

[63] Continuation of Ser. No. 436,474, Nov. 20, 1989, Pat. No. 5,054,903.  
 [51] Int. Cl.<sup>5</sup> ..... G02S 5/14  
 [52] U.S. Cl. .... 351/123; 351/122; 351/111  
 [58] Field of Search ..... 351/122, 123, 111, 119, 351/121

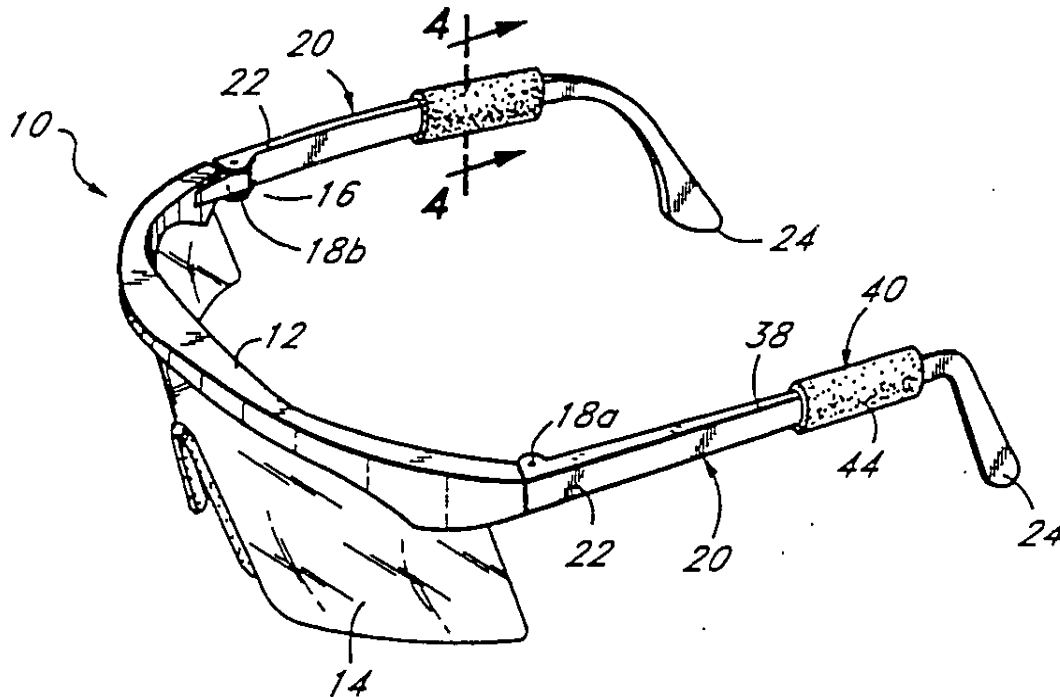
[57] **ABSTRACT**

In eyewear employing temples, a substantially cylindrical elastomeric traction member is disposed in a recessed seat which extends along a length of each temple to provide a contact area between the temple and the head. The traction member and seat may be sized so that the traction member is substantially flush with the adjacent temple or alternatively, the traction member may extend beyond the periphery of the temple. In either configuration, the traction device extends substantially parallel to the length of the temple.

[56] **References Cited**  
**U.S. PATENT DOCUMENTS**

2,031,771 2/1935 Grier ..... 351/123  
 2,561,402 7/1951 Nelson .

32 Claims, 1 Drawing Sheet



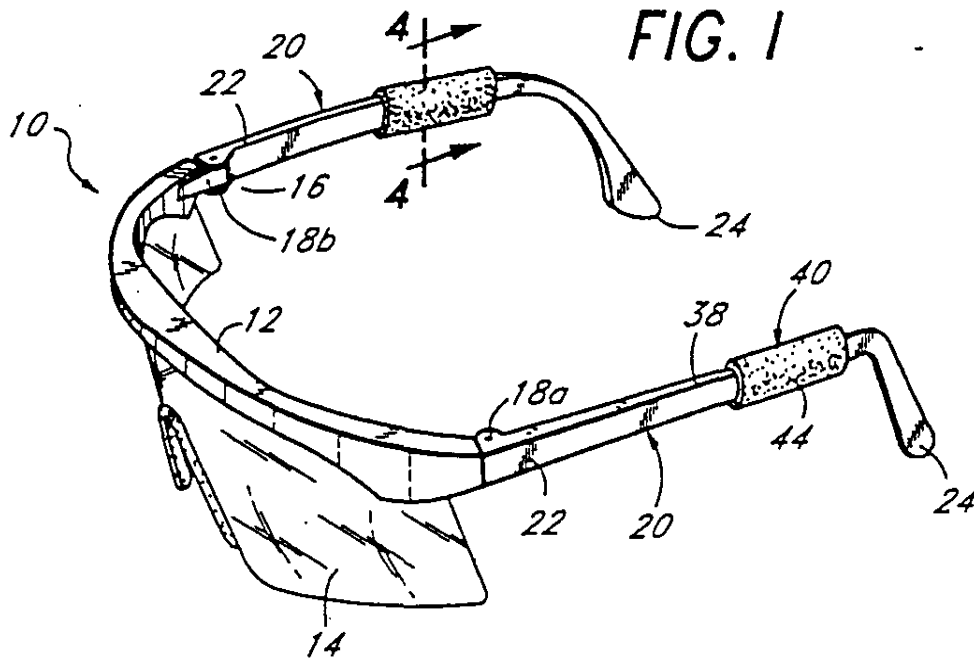


FIG. 1

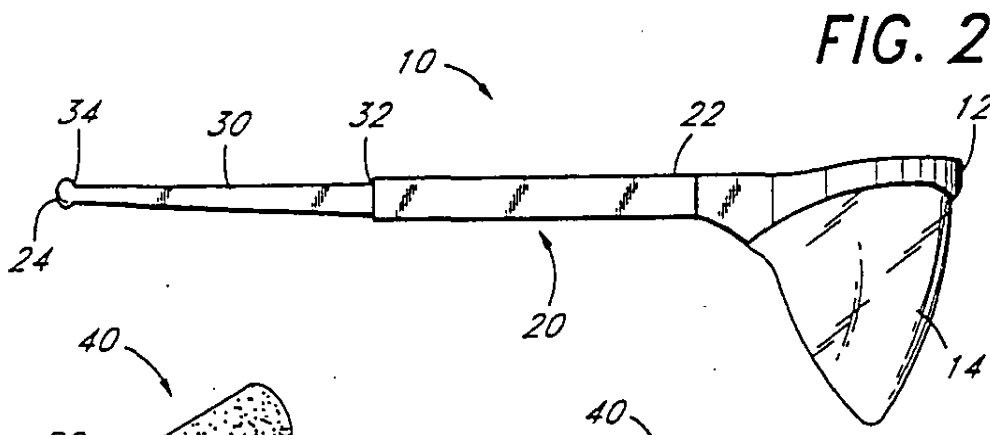


FIG. 2

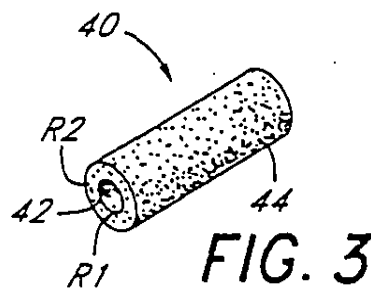


FIG. 3

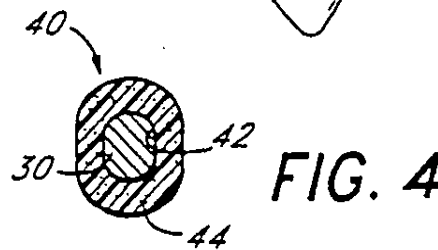


FIG. 4

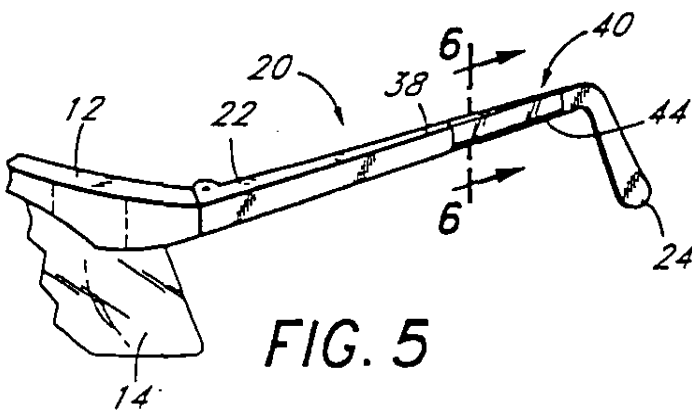


FIG. 5

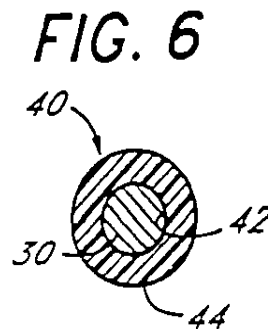


FIG. 6

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## EYEWEAR TRACTION DEVICE

This application is a continuation of application Ser. No. 436,474 filed Nov. 20, 1989, now U.S. Pat. No. 5,054,90.

### BACKGROUND OF THE INVENTION

The present invention relates to eyewear and, more particularly, to a selectively attachable traction device for improving the retention of the eyewear about the head and a method for using the same.

While corrective lenses are specifically crafted to accommodate the unique vision defects of an individual, the frames used to retain the lenses are typically a standard size and not crafted to conform to the particular contours of an individual's head. Lenses which are employed in filtering eyewear such as sunglasses are also typically retained in stock frames. However, it is virtually impossible to mass produce stock frames which fit every individual's head; therefore, stock frames are constructed to conform to an idealized "standard" adult head.

As a result, such frames often result in a fit which is either too tight or too loose about the head of an individual. A tight fitting frame may cause localized pain and headaches, while a loose fitting frame may allow the eyewear to fall from the head and damage the frame or the lens. This is particularly disadvantageous for protective eyewear such as sunglasses which are to be used in active sports, such as bicycle racing or skiing. Additionally, in the event that corrective lenses vary in weight between the lenses, the uneven weight distribution may cause frames to locally abrade the skin.

A variety of means have been employed to improve the securing of eyewear to the head. These devices have included the use of loose strings which connect the temples of the eyewear around the back of the wearer's head, thereby preventing the glasses from becoming completely displaced from the body. Alternatively, an elastic strap connecting the temples has been employed to engage the wearer's head and secure the eyewear in the desired position.

Perhaps most frequently used, temples have been provided with a hook at the posterior end for engaging the wearer behind the ears. However, due to the significant variation among individuals in the distance from the appropriate position of an eyeglass lens and the back of the ear, the traditional ear hook is frequently either too far back or too far forward of the appropriate position on the wearer's ear. This causes either a painful or irritating friction if the hook is too far forward, or a loose fit if too far back.

The prior attempts to improve the retention of eyewear about the wearer's head have also included the use of rubber or rubber-like plastic boots applied to the free ends of the temples for increasing the friction between the eyeglasses and the head, such as shown in Bates U.S. Pat. No. 3,684,356. The Bates device, however, appears somewhat clumsy and awkward and, therefore, detracts from the appearance of the eyewear. In addition, the Bates device is limited in that it may not be adjusted relative to the eyewear; that is, the closed end of the boot prevents forward adjustment to a more anterior point of contact between the temples and the head, while an unsupported length of boot extending beyond the earpiece is undesirable.

Another prior attempt to improve eyewear retention is disclosed in the Nelson patent (U.S. Pat. No. 2,561,402), which discloses use of relatively complicated fluid chambers at the interface of the free end of the temples and the head. Nelson uses the fluid chambers in an effort to evenly distribute pressure between the temple and the head. As the fluid chambers of Nelson are permanently affixed to the temple in a predetermined orientation, modification for specific individuals is unavailable. In addition, the fluid retained within the chambers adds an undesired weight to the eyewear. Further, even if the fluid chambers were removable, such removal would substantially alter the fit of the eyewear, rendering the eyewear substantially unwearable.

Notwithstanding the foregoing, there remains a need for providing a means of improving the compatibility of eyewear and the wearer so as to improve retention of the eyewear. Preferably, the eyewear retention means will enable one size to comfortably and securely fit a much larger population than can one size eyewear having the traditional ear hook.

A need also exists for a device which improves retention of eyewear without permanently altering the configuration of the eyewear. A further need exists for a retaining device which may be easily disengaged or recombined with the eyewear without drastically changing the functioning or the appearance of the eyewear. In addition to the functional requirements of the traction device, an aesthetic requirement exists so that the device may be employed as a portion of eye wear in either an unobtrusive or distinctive, but attractive, mode.

### SUMMARY OF THE INVENTION

There is provided in accordance with one aspect of the present invention an improved eyewear temple of the type for retaining a pair of eyeglasses on the head of the wearer, by extending from the eyeglass frame in a posterior, i.e., distal, direction over the top of the ears of the wearer. The improved eyeglass temple of the present invention permits the elimination of the traditional hook on the posterior end of traditional temples, and allows a single size set of eyewear temples to comfortably and securely fit on a broader cross section of anatomical variations.

The eyeglass temple comprises an elongate eyeglass temple body, having a first proximal end for attaching the temple to the frame of the eyeglasses, and a second end, distal from the first end, for engaging the head of the wearer. Optionally, the first end of the temple is adapted for securing directly to the lens, such as in a single lens eyeglass system. Preferably, the first end of the temple is provided with a means for releasably pivotably engaging the eyeglass lens or eyeglass frame.

A recessed seat is disposed on the elongate temple body, in between the first and second ends, the recessed seat having a smaller cross-sectional area than the cross-sectional area of the temple body adjacent to the seat. Preferably, the recessed seat comprises an annular recess having first and second shoulders at the first and second axial ends thereof. Preferably, the axial length of the annular recess is less than about one-half of the axial length of the temple, and most preferably, less than about one-third the axial length of the temple.

The eyeglass temple is preferably additionally provided with at least one tubular traction member disposed within the recessed seat. The traction member

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preferably comprises an elastomeric material which enables radial expansion to fit over the distal end of the temple body, and relaxation back to provide a snug fit within the recess on the temple. The traction member is preferably made from an elastomeric material which exhibits improved retention properties when the material is wet, and, most preferably, the exterior surface of the traction member is provided with friction enhancing structures, such as annular ridges or other patterned textures.

There is provided in accordance with another aspect of the present invention, an improved eyeglass having at least one lens, and a frame for supporting the lens in front of the eyes of the wearer. The eyeglass is further provided with a first and a second temple produced in accordance with the present invention. Preferably, the distal end of the temple is substantially straight, so that the temple does not wrap around behind the ear of the wearer.

Further features and advantages of the present invention will become apparent from the detailed description of preferred embodiments which follow, when taken together with the appended figures and claims.

#### BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a perspective view of eyewear in accordance with one embodiment of the present invention.

FIG. 2 is a side elevational view of a second embodiment of eyewear in accordance with the present invention, with the traction member removed.

FIG. 3 is a perspective view of a traction member in accordance with the present invention.

FIG. 4 is a cross-sectional view taken along line 4—4 of FIG. 1.

FIG. 5 is a perspective view showing an alternative embodiment of the traction member.

FIG. 6 is a cross-sectional view taken along line 6—6 of FIG. 5.

#### DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT

As used in the present application, "eyewear" is a general term intended to embrace optical devices containing corrective lenses for defects in vision or lenses for such special purposes as filters for absorbing or blocking portions of the electromagnetic spectrum, providing physical shields for the eyes or making available other physical or optical functions for protective or visual assisting purposes.

As shown in FIG. 1, eyewear 10 adapted to position a lens in a predetermined orientation relative to the eyes includes a frame 12, lens 14 and temples 20. Preferably, the lens 14 is joined to the frame 12 so as to position the lens 14 before the eyes. As shown in FIGS. 1, 2 and 6, the temples 20 may be pivotally affixed or joined to the frame 12. Although the temples 20 are shown in FIG. 1 as pivotally affixed to the frame 12, the temples 20 may be permanently attached in a predetermined orientation or selectively engageable with the frame 12 without circumventing the scope of the present invention. Alternatively, the frame 12 may be eliminated entirely by securing the temples 20 with or without temple hinges directly to the lens 14 by thermoplastic bonding, adhesives screws or other known fastening means which are suitable for the material of the lens and temples.

As is well known in the art, the frame 12 and temples 20 may be conveniently made of molded plastic or a variety of other materials. The lens 14 may take any of

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a number of configurations and may be formed of sheet plastic, molded plastic or glass as determined by the application of the lens.

Each temple 20 is defined by a proximal end 22 and a distal end 24 wherein the proximal end 22 is affixed either permanently or detachably to the frame 12. The permanent attachment of the temples to the frame 12 may be accomplished through molding or thermoplastic bonding. The detachable engagement of the temples 20 and the frame 12 is provided by the use of a snap fit or fasteners including screws or pins, as are known in the art.

Although the earstems shown in FIG. 1 are affixed to the frame 12, the earstem 20 may be attached directly to the lens 14. Preferably, the earstems 20 are hingeably attached to the frame 12 or lens 14 and most preferably, hingeably and removably attached, as well known in the art.

As shown in FIG. 1, in a typical hingeable connection, the frame 12 or lens 14 includes a hinge aperture (not illustrated) extending through a protruding flange 16. The earstem 20 includes a pair of parallel apertured flanges 18a, 18b spaced so as to receive the flange 16 of the frame 12 or lens 14 therebetween. The apertures in the earstem 20 are aligned with the apertures of the frame 12 or lens 14 and a pin is inserted so as to permit rotation of the frame 12 or lens 14 relative to the earstem 20, thereby providing a hingeable connection. In a typically readily detachable hinge, the aperture in the flange 16 of the frame 12 or lens 14 is replaced by an integral pin (not illustrated) which extends away from the flange 16 in opposite directions along the same axis as the aperture. The pinned flange 16 is inserted by deformation between the opposing flanges 18a, 18b and the integral pin snaps into the aperture on the flanges 18a, 18b, thereby providing a readily detachable hinge.

As shown in FIGS. 1 and 5, the distal end 24 may be curved so as to provide loops which are disposed behind the ears when the eyewear is worn. However, as the looped temples shown in FIGS. 1 and 5 may impinge upon the head in undesired locations when employed on heads of different sizes, the looped temples are not well suited to accommodate a wide variety of head sizes. Thus, the preferred embodiment shown in FIG. 2 includes a straight temple which, when used in conjunction with the present invention, provides more universally fitting eyewear and eliminates the traditional ear hook which can cause discomfort or distraction for many wearers.

As shown in FIG. 2, a recessed seat 30 is disposed intermediate of the proximal and distal ends 22, 24. As shown in FIG. 2, the seat 30 is preferably located adjacent the distal end 24 of the temple 20, so that the posterior shoulder 34 is substantially coincident with the distal end 24. However, as will be apparent, if it is desired to extend the temples in a posterior direction well beyond the ears, the distance between posterior shoulder 34 and distal end 24 can be proportionately increased to maintain seat 30 near the ear.

The recessed seat 30 is defined by posterior shoulder 34 and preferably an anterior shoulder 32, such that the anterior shoulder 32 is disposed between the posterior shoulder 34 and the proximal end 22. Preferably the cross-sectional dimension of the seat 30 between the anterior and posterior shoulders 32, 34 is smaller than the cross-sectional dimension of the adjacent temple 20.

Preferably, the posterior shoulder 34 is a sufficient distance from the anterior shoulder 32 so that at least

one traction member 40 may be retained therebetween. However, the seat 30 may be configured so as to extend substantially the entire length of the temple or alternatively, may extend only a portion of the overall length of the temple. Typically, the seat extends less than about one-half or one-third the length of the temple and is disposed on the posterior portion of the temple.

Although the seat is shown as defined by an anterior shoulder 32 and a posterior shoulder 34, the present invention may be practiced with a seat 30 defined only by a posterior shoulder 34 for preventing unintended axial displacement of the traction member in the posterior direction.

When the seat 30 is defined by only the posterior shoulder 34, the cross-sectional area of the seat may taper from being substantially coincident with an anterior cross-sectional area of the temple to the reduced cross-sectional area at the posterior shoulder 34. The posterior shoulder thereby prevents unintentional axial displacement of the traction member in the posterior direction. Axial displacement of the traction member in the anterior direction is inhibited by the expanding cross-sectional area of the seat in a tapered embodiment, as the seat extends in the anterior direction, or simply by a friction fit in the absence of a taper or an anterior shoulder.

Preferably, the seat 30 is located so that upon operable engagement of the traction member 40 within the seat 30, the traction member 40 provides an interface between the eyewear and the head. That is, the traction member 40 contacts the head.

Referring to FIG. 3, an elongate tubular traction member 40 is shown. In the preferred embodiment, the traction member 40 is formed substantially in the shape of a hollow cylinder having an inner surface 42 of radius  $R_1$  and outer surface 44 of radius  $R_2$ , wherein radius  $R_1$  is less than radius  $R_2$ . Preferably, radius  $R_1$  is expandable to permit passage of the distal end 24 of the temple 20 through the interior of the traction member 40 without exceeding the elastic limits of deformation of the traction member 40.

As shown in FIG. 4, the traction member 40 is preferably comprised of a material having sufficient elasticity that the inner surface 42 of the traction member 40 snugly contacts the surface of a seat 30 having an oblong or rectangular cross-section with a cross-sectional area greater than that of  $R_1$  in the unexpanded state. Referring to FIG. 6, the inner surface 42 will also preferably conform snugly to the surface of a seat 30 having a substantially circular cross-section.

Other embodiments of the traction member 40 may be employed, such as one having an open rectangular or triangular cross-sectional configuration having a bias so that the open legs of the triangle or rectangle are biased towards one another to tend to form a tubular element. Thus, traction devices can take the form of an elongate body which is split axially along one wall so that it does not form a complete tube. The bias should be sufficient so that the opposing inner surfaces 42 of the traction member 40 cooperatively engage the periphery of the recessed seat 30.

The traction member 40 may be formed by molding or extruding processes, as well known in the art. Preferably, the outer surface 44 is configured to enhance the coefficient of static friction between the eyewear and the head. The outer surface 44 may be formed to exhibit a variety of static friction coefficient enhancing configurations, such as a grid, waffle, or ribbed pattern (not

shown). Typically, the outer surface 42 produced by extrusion will exhibit axially oriented patterns, while molded outer surfaces may exhibit axially and/or radially oriented patterns.

As discussed *infra*, the traction member 40 is preferably formed of an elastomeric material exhibiting sufficient flexibility or elasticity to allow the traction member 40 to expand while being slipped over the temple distal end 24 and to contract back within seat 30 after passing over the distal end.

In a particularly preferred embodiment, the traction member 40 is formed of a relatively soft elastomeric material having a coefficient of sliding friction that increases when the material is wetted. Such a material, sometimes referred to as hydrophilic, tends to enhance retention of the traction member 40 in position on the wearer's head as the wearer perspires or encounters moisture, as during skiing. One suitable material which can be readily molded by conventional techniques is marketed under the name KROTON G™, a product of the Shell Oil Company.

The traction member 40 may comprise a resilient sponge-like elastomeric material, having a relatively high porosity, as shown in FIGS. 3 and 4. Alternatively, as shown in FIG. 6, the traction member 40 may comprise a substantially solid, i.e., fine or no porosity, yet flexible material. In addition, the traction member 40 may be made of materials having different densities, thereby providing traction members 40 having different weights, which may be employed to counterbalance lenses of differing weights, so as to distribute the weight of the eyewear 10 more evenly about the head.

The length of the traction member 40 is preferably no greater than and most preferably substantially equal to the distance between the anterior and posterior shoulders 32, 34. Although the traction member 40 is illustrated as extending roughly one-third or one-half the overall length of the temple, the traction members 40 within the present invention can extend anywhere from substantially the entire length of the temple 20 to only a relatively small portion thereof, as depending upon the configuration of the seat 30. Alternatively, a plurality of traction members 40 may be axially aligned within the seat 30. The traction members 40 may be selected so that a combined length of the members 40 substantially equals the distance between the anterior and the posterior shoulders 32, 34 or alternatively, the combined axial length of the members 40 may be such that an axial space separates adjacent traction members 40 within the seat.

In assembling the present invention, the traction member 40 is engaged with a temple 20 by passing the distal end 24 of the temple 20 through the tubular passageway within traction member 40. Alternatively, the temple 20 may be detached from the frame 12 or lens 14 and the proximal end 22 may be passed through the tubular passageway of the traction member 40. Therefore, the preferred construction of the traction member 40 which elastically passes over the distal end may be obviated. The traction member 40 is then moved along the temple 20 until the inner surface 42 engages the seat 30. In an embodiment in which the seat 30 has a length substantially equal to the length of the traction member 40, as the traction member 40 is received within the seat 30, further unintended motion along the temple 20 is prevented by engagement of the anterior and posterior shoulders 32, 34 with the traction member 40.

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Alternatively, the seat 30 may have a sufficient axial length so as to retain a plurality of traction members 40 between the anterior and posterior shoulders 32, 34. The use of multiple traction members 40 allows for accommodating fashion considerations as well as high retaining forces for active uses, such as volleyball or basketball. Upon engagement of the traction member 40 within the seat 30, the outer surface 44 of the traction member 40 may be disposed outside of the periphery of the temple 20, as shown in FIG. 1 or, alternatively, may be substantially flush with the periphery 38 of the adjacent temple 20, as shown in FIG. 5. Traction members are preferably provided having a variety of wall thicknesses, i.e., the difference between R1 and R2. Thus, the wearer can select a flush fitting traction member as illustrated in FIG. 5 or a radially enlarged traction member as illustrated in FIG. 1, depending upon that wearer's perception of the need for enhanced traction or sleek appearance.

As the majority of the length of the temple 20 in the preferred embodiment is dominated by the periphery of the temple 20 rather than the seat 30, if the traction members 40 are removed from the temples 20, the fitting of the eyewear 10 will not be substantially denigrated. However, the length of the traction member 40; when engaged in the seat 30, provides a sufficient contact area to increase the resistance to movement of the eyewear 10 relative to the head.

This present invention has been described in detail in connection with the preferred embodiments, but these are examples only and the present invention is not restricted thereto. It will be easily understood by those skilled in the art that other variations and modifications can be easily made within the scope of this invention, which is defined by the following claims.

It is claimed:

1. Improved eyewear, comprising:
  - at least one temple piece having a recessed seat along a length thereof such that the seat defines a periphery which is smaller than the periphery of the adjacent temple portion, said seat having an axial length of less than about one-half the axial length of the temple; and
  - at least one substantially tubular traction member disposed within the recessed seat having an inner surface, an outer surface, and a central passageway running axially therethrough, said inner surface removably engaging the periphery of the seat, and said outer surface adapted to provide a contact surface with the head of the wearer.
2. Improved eyewear, comprising:
  - a frame;
  - at least one temple having proximal and distal ends and being joined to the frame at the proximal end thereof, having a recessed seat interposed between said proximal and distal ends, said seat having a smaller cross-sectional area than the cross-sectional area of said temple portion adjacent said seat, and said seat having an axial length of less than about one-half of the axial length of the temple; and
  - a substantially tubular elastomeric traction member having an inner surface and an outer surface, such that the inner surface is adapted to circumferentially contact the temple, and the outer surface is adapted to engage the head of a wearer, wherein the traction member is disposed in the recessed seat region on the temple.

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3. An improved eyewear temple for retaining eyeglasses on the head of the wearer and reducing abrasion caused by movement of said eyewear, comprising:

- an elongate eyewear temple body;
- a first end on the temple for attaching the temple to the frame of the eyeglasses;
- a second end on the temple, distal said first end, for engaging the head of the wearer; and
- a recessed seat interposed between said first and second ends having a smaller cross-sectional area than that of said temple portion adjacent said seat, said seat being separated from the remainder of said temple by first and second shoulders, such that the axial length of the recessed seat between the first and second shoulders is less than about one-half of the axial length of the temple, said recessed seat being situated toward the distal end of the temple such that at least one substantially tubular traction member removably disposed within the recessed seat can engage the head of the wearer.

4. An eyewear temple as in claim 3, wherein at least one substantially tubular traction member is disposed within the recessed seat between the first and second shoulders, said member having an inner surface, an outer surface, and a central passageway running axially therethrough, said inner surface removably engaging the periphery of the seat, and said outer surface adapted to provide a contact surface with the head of the wearer.

5. An eyewear temple as in claim 4, wherein the tubular traction member comprises a resilient elastomeric material.

6. An improved eyewear temple as in claim 5, wherein said elastomeric material exhibits a coefficient of sliding friction that increases when the material is wetted.

7. An eyewear temple as in claim 5, wherein the thickness of the traction member is such that the outer surface of the traction member is substantially flush with the periphery of the adjacent portion of the temple.

8. An eyewear temple as in claim 7, wherein the outer cross-sectional shape of the traction member approximates the outer cross-sectional shape of the adjacent portion of the temple.

9. An eyewear temple as in claim 5, wherein the traction member extends radially outward beyond the surface of the adjacent portion of the temple.

10. An eyewear temple as in claim 5, wherein at least one tubular traction member disposed within the recessed seat extends substantially the entire distance between said first and second shoulders of the temple.

11. An eyewear temple as in claim 5, wherein the traction member is removable and comprises a hollow, elastomeric member adapted to allow elastic radial expansion for sliding over the distal end of said temples and into engagement with said recessed seat.

12. An eyewear temple as in claim 3, wherein the shoulders extend substantially perpendicularly from the seat.

13. An eyewear temple as in claim 3, wherein the recessed seat consists of a tapering that extends axially and radially from the distal end of the recessed seat to the proximal end, wherein the cross-sectional area of the seat tapers from the smaller periphery at the distal end to being substantially coincident with the cross-sectional area of the temple at the proximal end of the recessed seat.



14. An eyewear temple as in claim 3, wherein the axial length of the recessed seat extends no more than about one-third the length of the temple.

15. An eyewear temple as in claim 3 further comprising an attachment means on the first end thereof for pivotably removably attaching the temple to an eyeglass frame.

16. An improved eyewear temple for retaining eyeglasses on the head of the wearer and reducing abrasion caused by movement of said eyewear, comprising:  
 an elongate eyewear temple body, wherein the body is substantially linear through the axial length of the temple;  
 a first end on the temple for attaching the temple to the frame of the eyeglasses;  
 a second end on the temple, distal said first end, for engaging the head of the wearer;  
 a recessed seat interposed between said first and second ends having a smaller cross-sectional area than that of said temple portion adjacent said seat, said seat being separated from the remainder of said temple by first and second shoulders; and  
 at least one tubular traction member disposed within the recessed seat.

17. An eyewear temple as in claim 16, wherein at least one substantially tubular traction member is disposed within the recessed seat between the first and second shoulders, said member having in inner surface, an outer surface, and a central passageway running axially therethrough, said inner surface removably engaging the periphery of the seat, and said outer surface adapted to provide a contact surface with the head of the wearer.

18. An eyewear temple as in claim 17, wherein the tubular traction member comprises a resilient elastomeric material.

19. An improved eyewear temple as in claim 18, wherein said elastomeric material exhibits a coefficient of sliding friction that increases when the material is wetted.

20. An eyewear temple as in claim 18, wherein the thickness of the traction member is such that the outer surface of the traction member is substantially flush with the periphery of the adjacent portion of the temple.

21. An eyewear temple as in claim 20, wherein the outer cross-sectional shape of the traction member approximates the outer cross-sectional shape of the adjacent portion of the temple.

22. An eyewear temple as in claim 18, wherein the traction member extends radially outward beyond the surface of the adjacent portion of the temple.

23. An eyewear temple as in claim 16, wherein the shoulders extend substantially perpendicularly from the seat.

24. An eyewear temple as in claim 16, wherein the recessed seat consists of a tapering that extends axially and radially from the distal end of the recessed seat to the proximal end, wherein the cross-sectional area of the seat tapers from the smaller periphery at the distal end to being substantially coincident with the cross-sectional area of the temple at the proximal end of the recessed seat.

25. An eyewear temple as in claim 16, wherein the axial length of the recessed seat extends no more than about one-third the length of the temple.

26. An eyewear temple as in claim 16, wherein the axial length of the recessed seat extends no more than about one-half the length of the temple.

27. An eyewear temple as in claim 16, wherein at least one tubular traction member disposed within the recessed seat extends substantially the entire distance between said first and second shoulders of the temple.

28. An eyewear temple as in claim 16, wherein the traction member is removable and comprises a hollow, elastomeric member adapted to allow elastic radial expansion for sliding over the distal end of said temples and into engagement with said recessed seat.

29. An eyewear temple as in claim 16, further comprising an attachment means on the first end thereof for pivotably removably attaching the temple to an eyeglass frame.

30. Improved eyewear, comprising:  
 at least one temple piece being substantially linear throughout the axial length of the temple and having a recessed seat along a length thereof such that the seat defines a periphery which is smaller than the periphery of the adjacent temple portion; and  
 at least one substantially tubular traction member disposed within the recessed seat having an inner surface, an outer surface, and a central passageway running axially therethrough said inner surface removably engaging the periphery of the seat, and said outer surface adapted to provide a contact surface with the head of the wearer.

31. Improved eyewear, comprising:  
 a frame;  
 at least one temple having proximal and distal ends and being joined to the frame at the proximal end thereof, said temple being substantially linear throughout the axial length of the temple, said temple having a recessed seat interposed between said proximal and distal ends, said seat having a smaller cross-sectional area than that of said temple portion adjacent said seat; and  
 a substantially tubular elastomeric traction member having an inner surface and an outer surface, such that the inner surface is adapted to circumferentially contact the temple, and the outer surface is adapted to engage the head of a wearer, wherein the traction member is disposed in the recessed seat region on the temple.

32. Improved eyewear having a lens, a frame supporting said lens for positioning the lens before the eyes of a wearer, and first and second temples for securing said eyewear to the head of the wearer, said temples having a proximal end joined to said frame and a distal end spaced from said proximal end, the improvement comprising:  
 said first and second temples being substantially linear throughout the axial length of the temple member, said temples having disposed between said proximal and distal ends a radially recessed seat having a smaller cross-sectional area than that of said temple portion adjacent said seat; and  
 at least one traction member releasably secured on said first and second temples within the seat, whereby said traction member frictionally engages the wearer's head.

. . . . .



US00D415188S

United States Patent [19]  
Thixton et al.

[11] Patent Number: Des. 415,188  
[45] Date of Patent: Oct. 12, 1999

[54] EYEGLASSES

[75] Inventors: Lek H. Thixton, Eastsound, Wash.;  
Colin Baden, Irvine, Calif.; James H.  
Jannard, Eastsound, Wash.; Peter Yee,  
Irvine, Calif.

[73] Assignee: Oakley, Inc., Foothill Ranch, Calif.

[\*\*] Term: 14 Years

[21] Appl. No.: 29/087,390

[22] Filed: May 1, 1998

[51] LOC (6) Cl. 16-06

[52] U.S. Cl. D16/326; D16/321

[58] Field of Search D16/101, 300-330,  
D16/335; 351/41, 44, 51, 52, 111, 121,  
158; 2/428, 430, 432, 447-449

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Primary Examiner—Raphael Barikai  
Attorney, Agent, or Firm—Knobbe, Martens, Olson & Bear, LLP

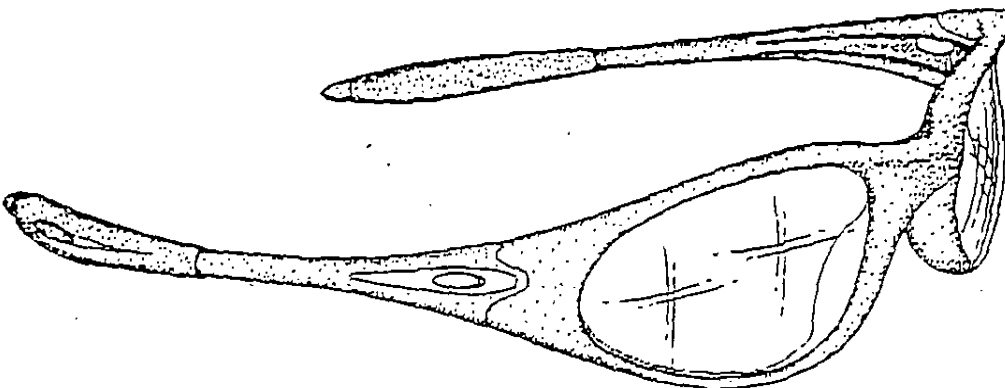
[57] CLAIM

The ornamental design for eyeglasses, as shown and described.

DESCRIPTION

FIG. 1 is a perspective view of the eyeglasses of the present invention;  
FIG. 2 is a front elevational view thereof;  
FIG. 3 is a rear elevational view thereof;  
FIG. 4 is a left side elevational view thereof, the right side elevational view being a mirror image thereof;  
FIG. 5 is a top plan view thereof; and  
FIG. 6 is a bottom plan view thereof.

1 Claim, 4 Drawing Sheets



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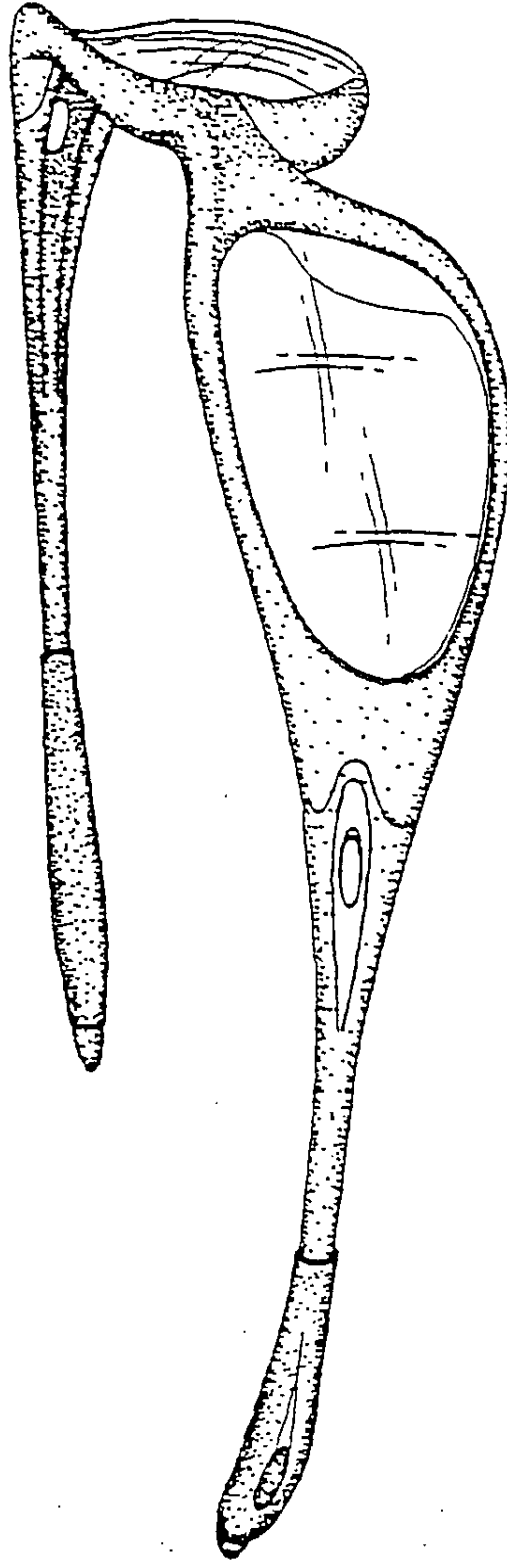
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Oct. 12, 1999

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*FIG. 1*

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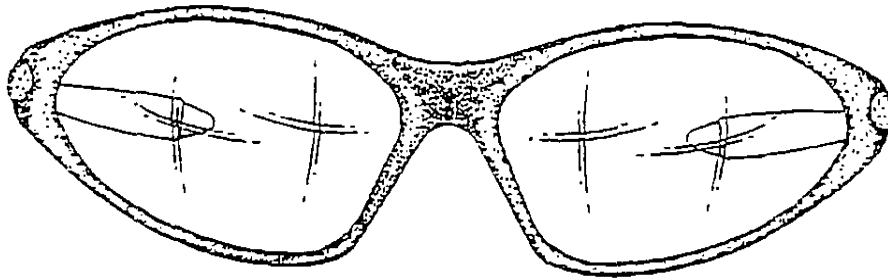


FIG. 2

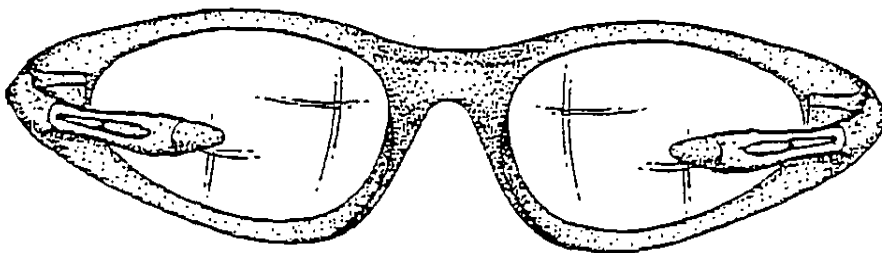


FIG. 3

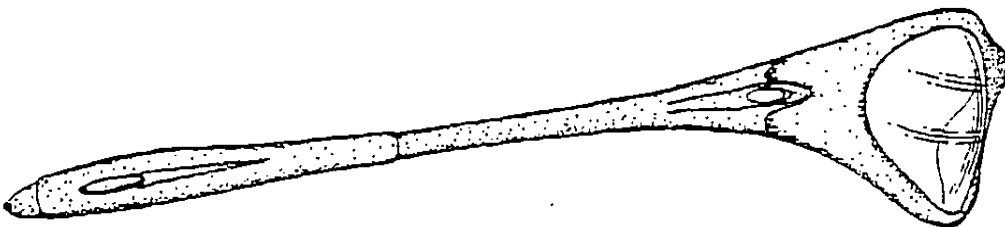


FIG. 4

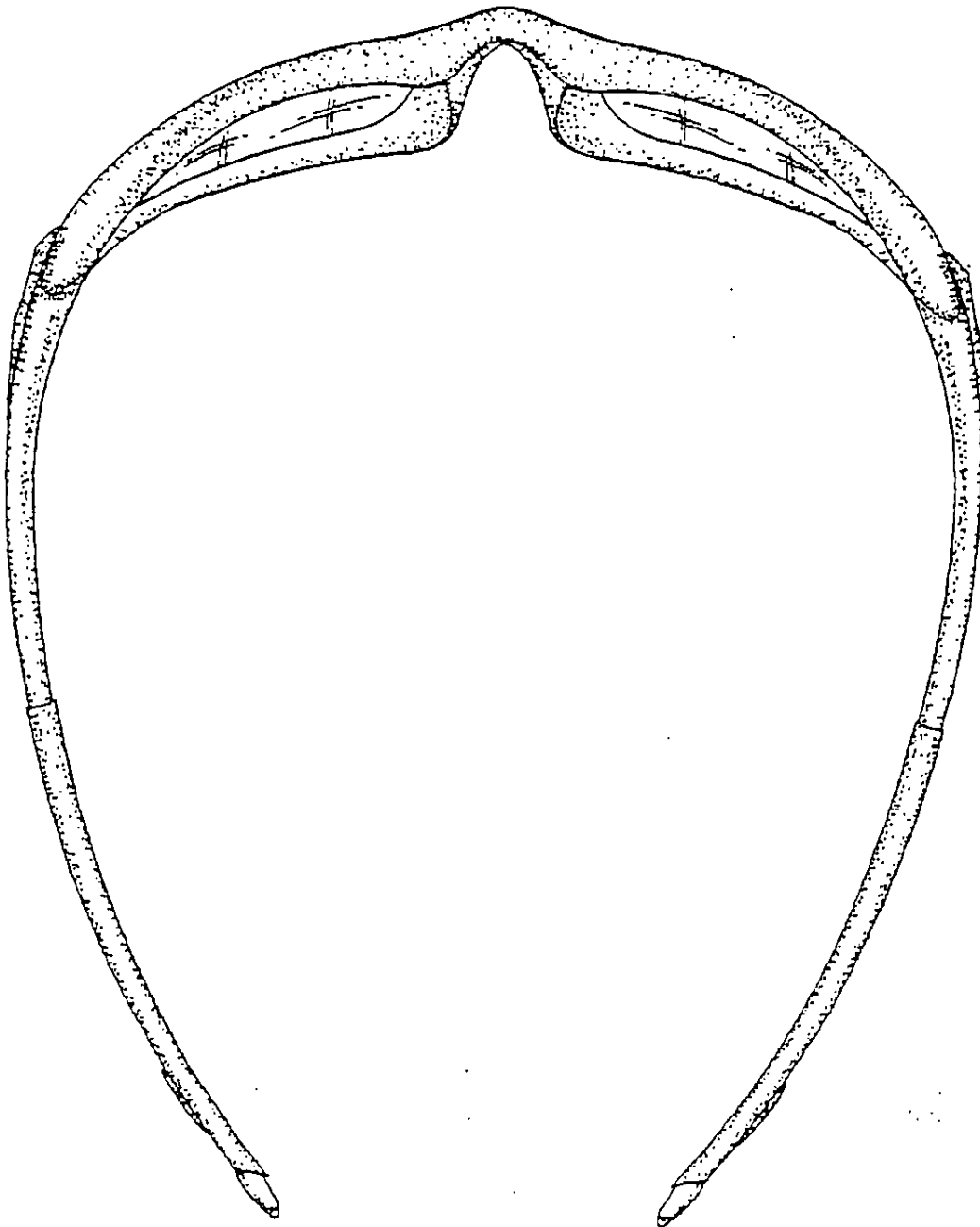
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*FIG. 5*



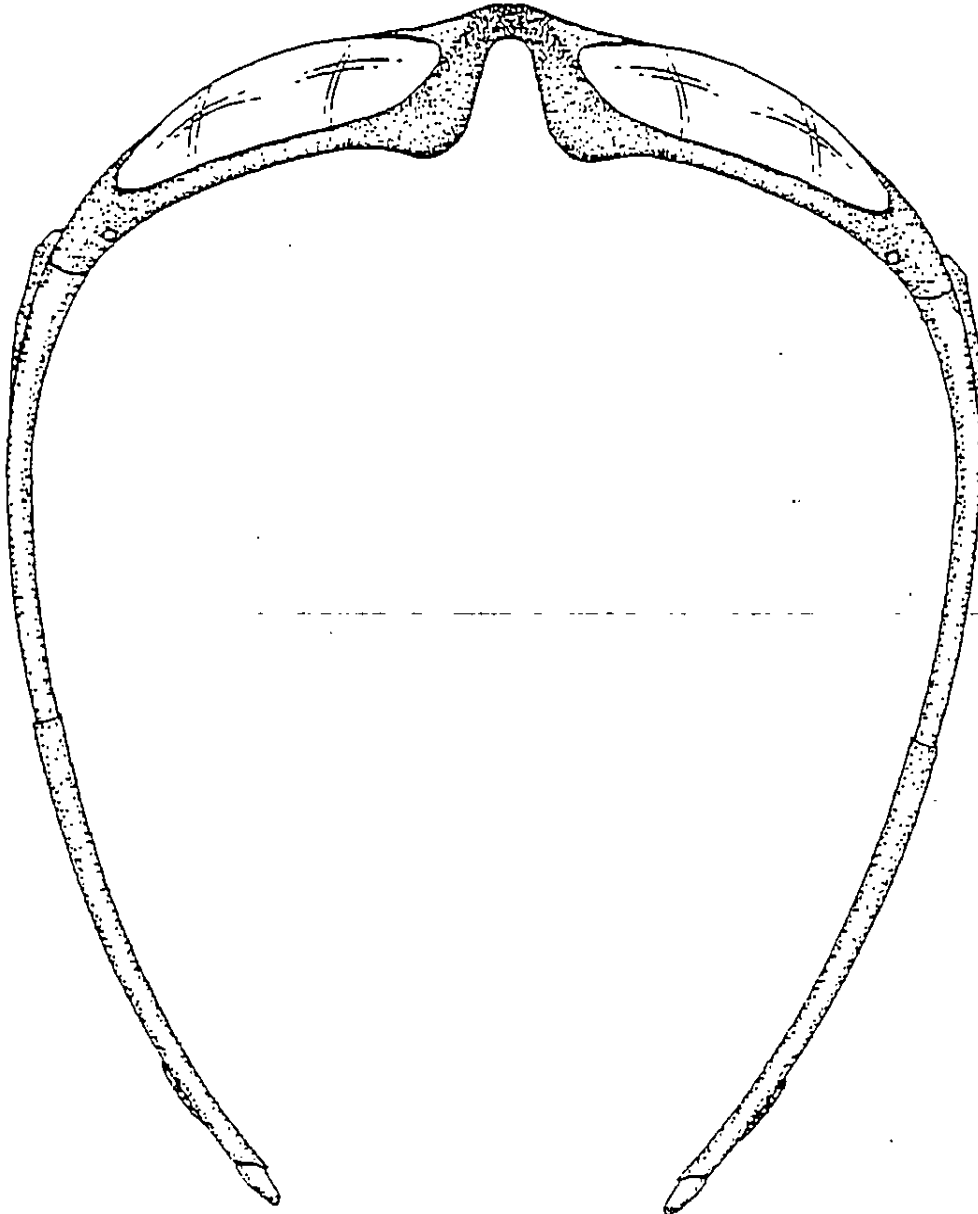
U.S. Patent

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Sheet 4 of 4

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*FIG. 6*



**United States Patent** [19]

[11] Patent Number: Des. 398,326

Jannard et al.

[45] Date of Patent: \*\*Sep. 15, 1998

[54] EYEGLASS FRONT

[75] Inventors: James H. Jannard, Eastsound, Wash.;  
Peter Yee, Irvine, Calif.; Toby  
Rohrbach, Mission Viejo, Calif.; Hanz  
Moritz, South Pasadena, Calif.

[73] Assignee: Oakley, Inc., Foothill Ranch, Calif.

[\*\*] Term: 14 Years

[21] Appl. No.: 66,770

[22] Filed: Feb. 18, 1997

**Related U.S. Application Data**

- [63] Continuation-in-part of Ser. No. 54,494, May 2, 1996.
- [51] LOC (6) CL ..... 16-06
- [52] U.S. Cl. .... D16/326
- [58] Field of Search ..... D16/101, 300,  
D16/304, 309, 311-312, 313-317, 319,  
321, 325-330; 351/41, 44, 51, 158; 2/428,  
430, 432, 447, 449

[56] **References Cited**

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*Primary Examiner*—Raphael Barkai  
*Attorney, Agent, or Firm*—Knobbe, Martens, Olson & Bear,  
LLP

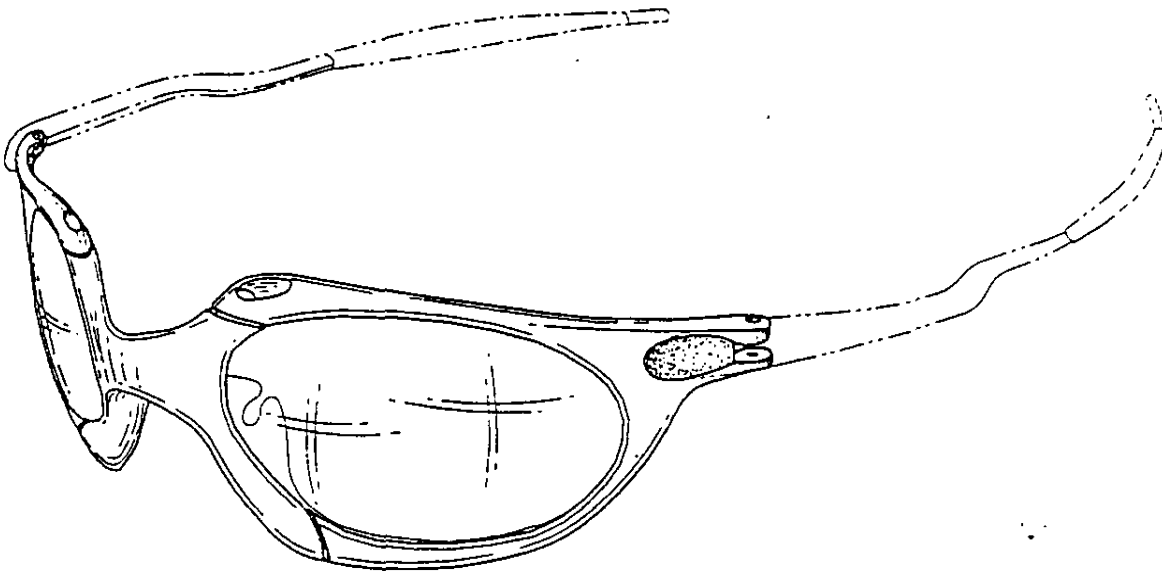
[57] **CLAIM**

The ornamental design for eyeglass front, as shown and described.

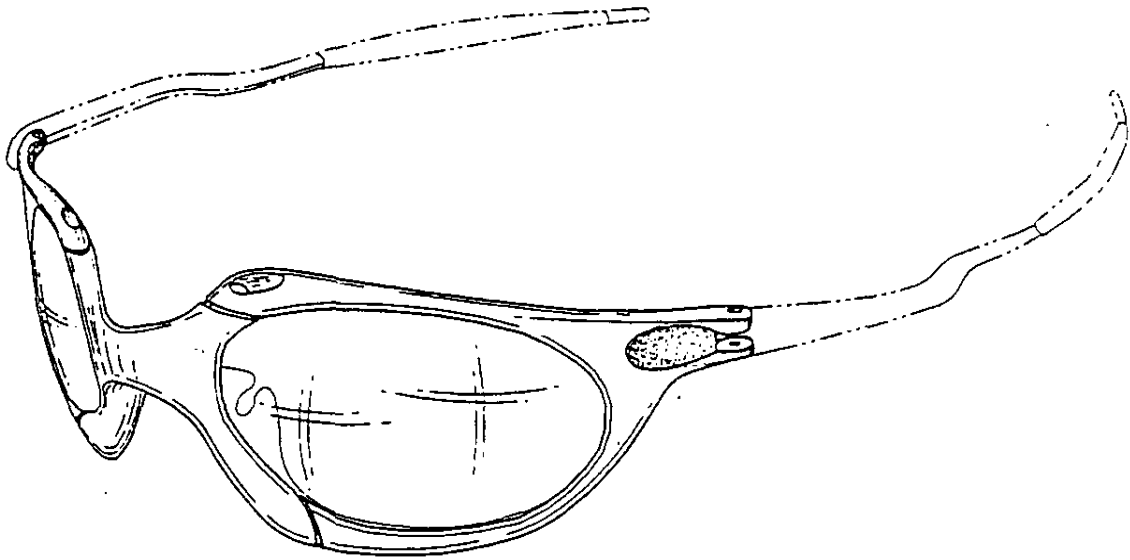
**DESCRIPTION**

FIG. 1 is a front perspective view of the eyeglass front of the present invention;  
FIG. 2 is a front elevational view thereof;  
FIG. 3 is a rear elevational view thereof;  
FIG. 4 is a left side elevational view thereof, the right side elevational view being a mirror image thereof;  
FIG. 5 is a top plan view thereof; and  
FIG. 6 is a bottom plan view thereof.

1 Claim, 3 Drawing Sheets

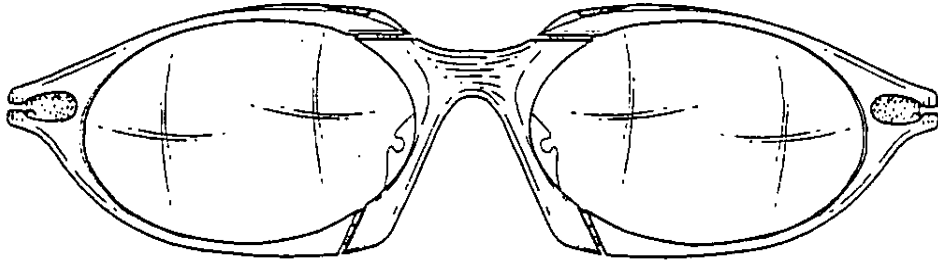




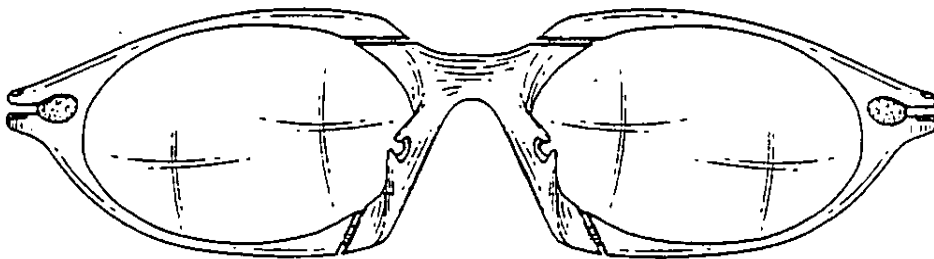


*Fig. 1*

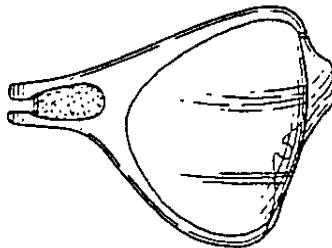
*Fig. 2*



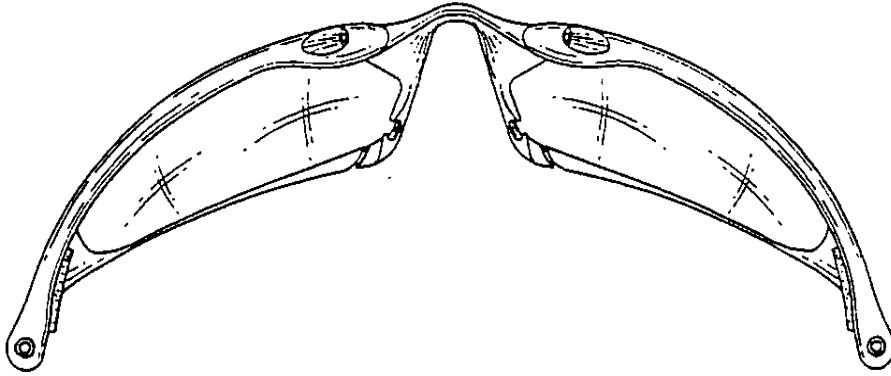
*Fig. 3*



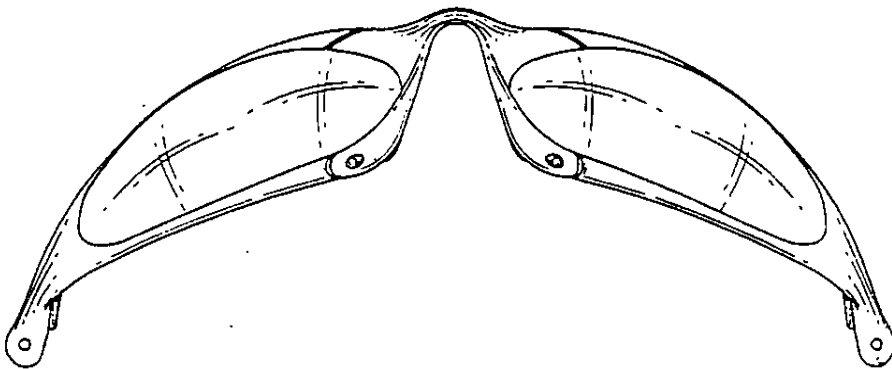
*Fig. 4*



*Fig. 5*



*Fig. 6*





US00D410484S

**United States Patent** [19]  
**Jannard et al.**

[11] **Patent Number: Des. 410,484**  
 [45] **Date of Patent: \*\* Jun. 1, 1999**

[54] **EYEGLASSES**

[75] **Inventors:** James H. Jannard, Eastsound, Wash.;  
 Peter Yee, Irvine, Calif.; Toby  
 Rohrbach, Mission Viejo, Calif.; Hanz  
 Moritz, South Pasadena, Calif.  
 [73] **Assignee:** Oakley, Inc., Foothill Ranch, Calif.  
 [\*\*] **Term:** 14 Years

[21] **Appl. No.:** 29/093,561  
 [22] **Filed:** Sep. 14, 1998

**Related U.S. Application Data**

[62] **Division of application No.** 29/066,770, Feb. 18, 1997, Pat.  
 No. Des. 398,326.  
 [51] **LOC (6) Cl.** ..... 16-06  
 [52] **U.S. Cl.** ..... D16/326; D16/319; D16/321;  
 D16/335; D16/334  
 [58] **Field of Search** ..... D16/101, 300-330,  
 D16/335; 351/41, 44, 51, 52, 111, 121,  
 158; 2/428, 430, 432, 447-449

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*Primary Examiner*—Raphael Barkai  
*Attorney, Agent, or Firm*—Knobbe, Martens, Olson & Bear,  
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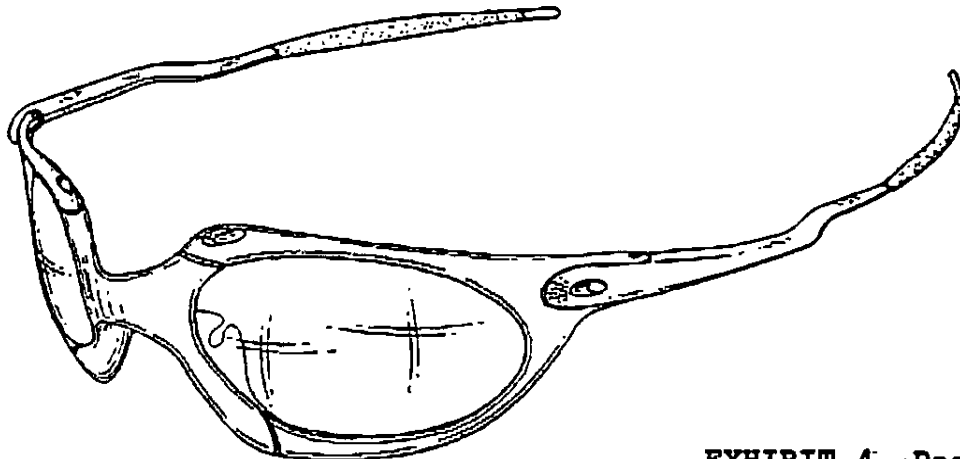
[57] **CLAIM**

The ornamental design for eyeglasses, as shown and  
 described.

**DESCRIPTION**

FIG. 1 is a front perspective view of the eyeglasses of the  
 present invention;  
 FIG. 2 is a front elevational view thereof;  
 FIG. 3 is a rear elevational view thereof;  
 FIG. 4 is a left side elevational view thereof, the right side  
 elevational view being a mirror image thereof;  
 FIG. 5 is a top plan view thereof; and  
 FIG. 6 is a bottom plan view thereof.

1 Claim, 4 Drawing Sheets



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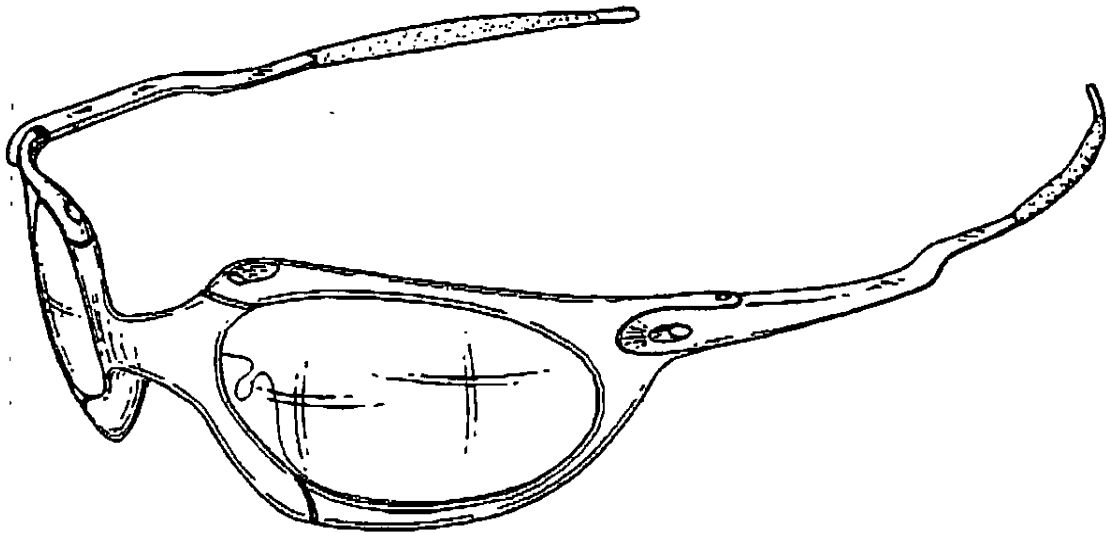
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*Fig. 1*

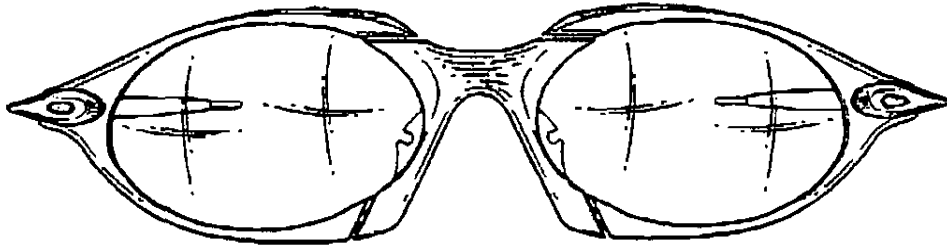
U.S. Patent

Jun. 1, 1999

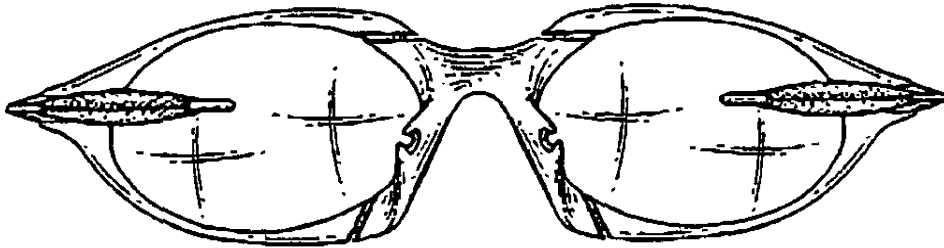
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*Fig. 2*



*Fig. 3*



*Fig. 4*



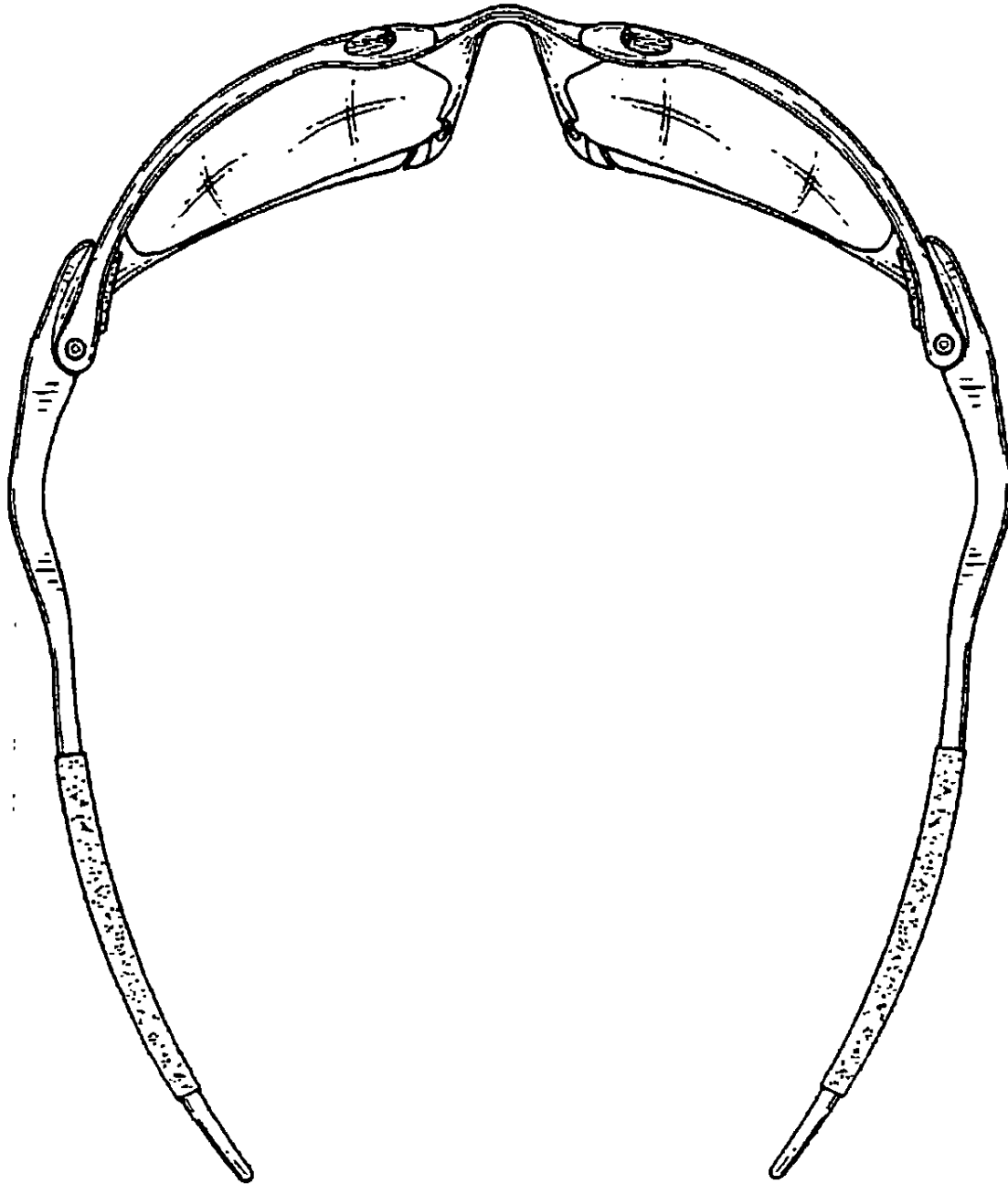
U.S. Patent

Jun. 1, 1999

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*Fig. 5*





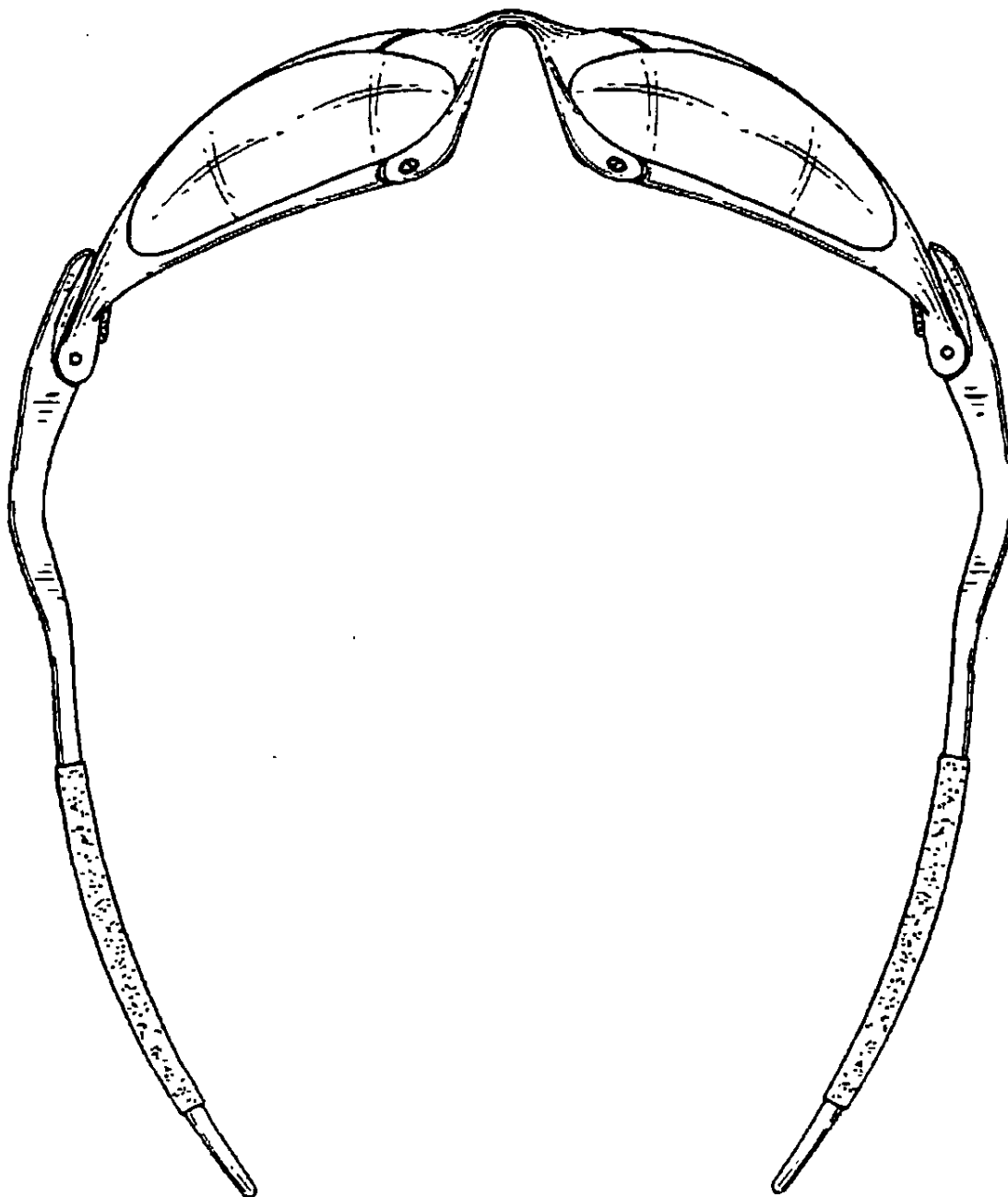
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Jun. 1, 1999

Sheet 4 of 4

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*Fig. 6*





US 410485S

**United States Patent** [19]

[11] Patent Number: **Des. 410,485**

**Jannard et al.**

[45] Date of Patent: **\*\* Jun. 1, 1999**

[54] **EYEGLOSS COMPONENTS**

**OTHER PUBLICATIONS**

[75] Inventors: **James H. Jannard**, Eastsound, Wash.;  
**Peter Yee**, Irvine, Calif.; **Toby Rohrbach**, Mission Viejo, Calif.; **Hanz Moritz**, South Pasadena, Calif.

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[73] Assignee: **Oakley, Inc.**, Foothill Ranch, Calif.

[\*\*] Term: **14 Years**

[21] Appl. No.: **29/093,562**

[22] Filed: **Sep. 14, 1998**

**Related U.S. Application Data**

[62] Division of application No. 29/066,770, Feb. 18, 1997, Pat. No. Des. 398,326.

[51] **LOC (6) CL** ..... **16-06**

[52] **U.S. Cl.** ..... **D16/326; D16/319; D16/321; D16/334**

[58] **Field of Search** ..... **D16/101, 300-330, D16/335; 351/41, 44, 51, 52, 158; 2/428, 430, 432, 447, 448, 449**

(List continued on next page.)

*Primary Examiner*—Raphael Barkai  
*Attorney, Agent, or Firm*—Knobbe, Martens, Olson & Bear, LLP

[56] **References Cited**

[57] **CLAIM**

The ornamental design for eyeglass components, as shown and described.

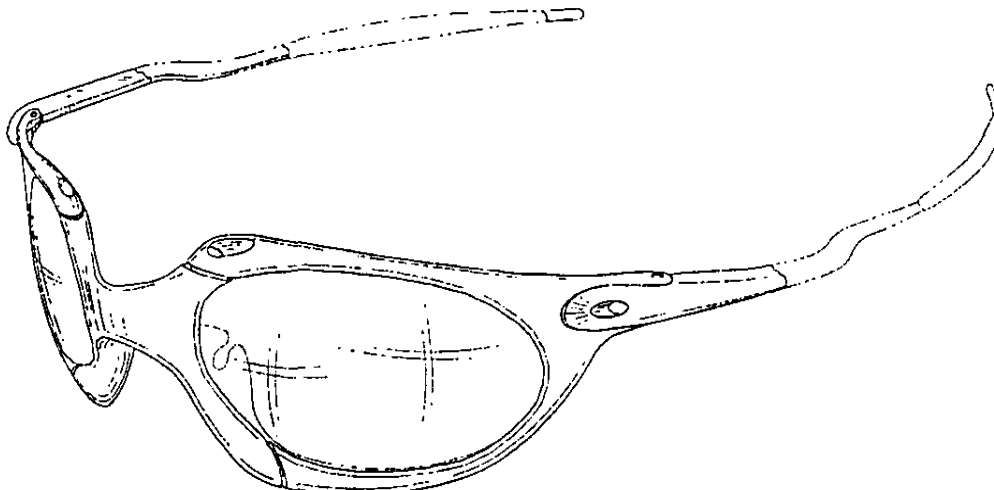
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FIG. 1 is a front perspective view of the eyeglass components of the present invention;  
FIG. 2 is a front elevational view of the eyeglass components of FIG. 1;  
FIG. 3 is a rear elevational view of the eyeglass components of FIG. 1;  
FIG. 4 is a left side elevational view of the eyeglass components of FIG. 1, the right side elevational view being a mirror image thereof;  
FIG. 5 is a top plan view of the eyeglass components of FIG. 1; and  
FIG. 6 is a bottom plan view of the eyeglass components of FIG. 1.

**1 Claim, 3 Drawing Sheets**



Des. 410,485

Page 2

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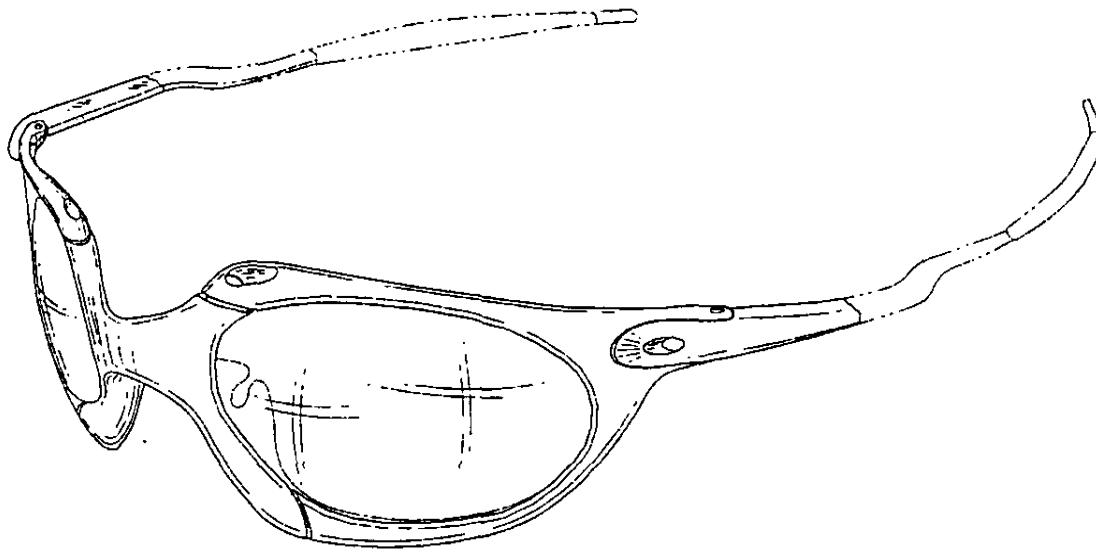
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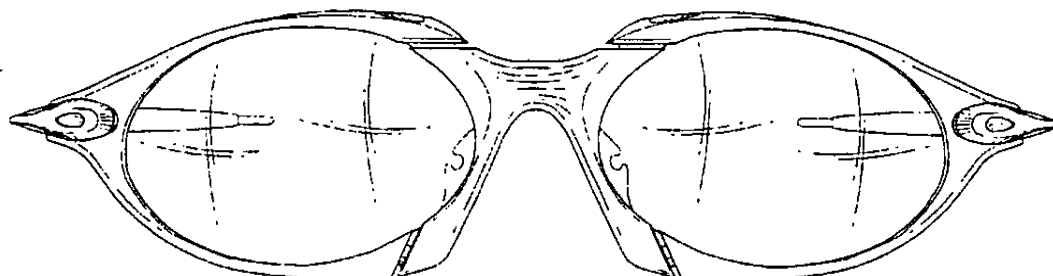
Sheet 1 of 3

Des. 410,485

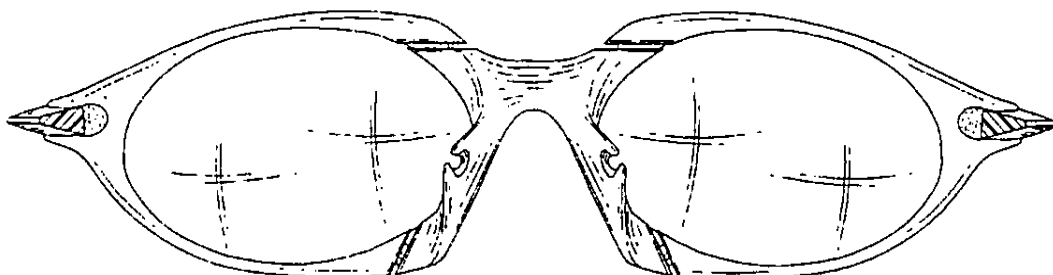


*Fig. 1*

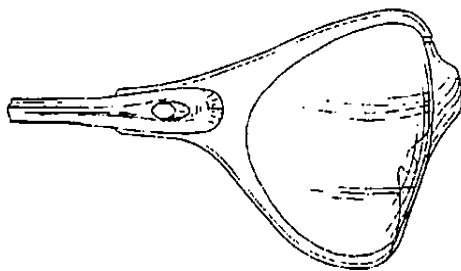
*Fig. 2*



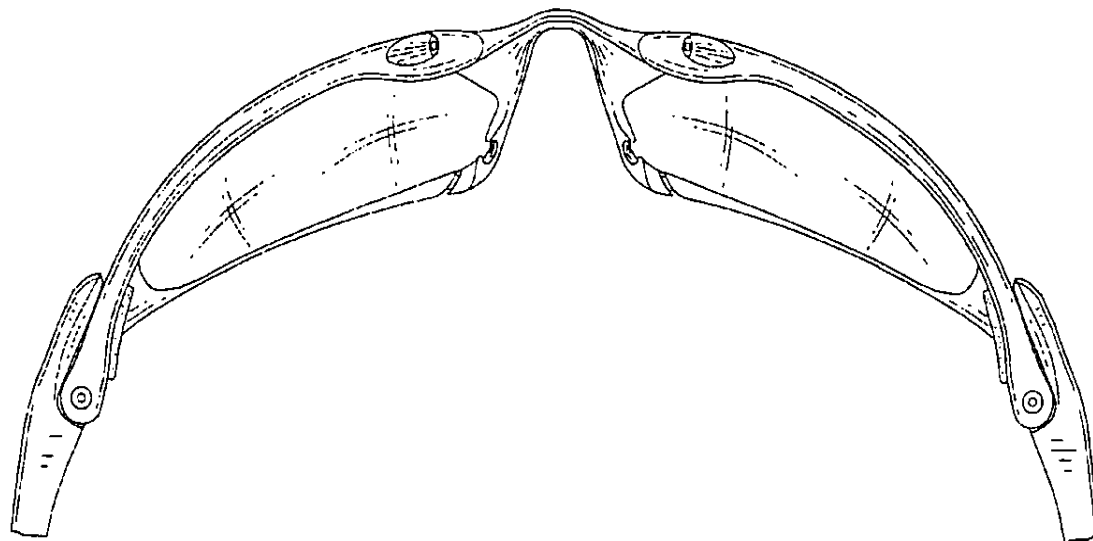
*Fig. 3*



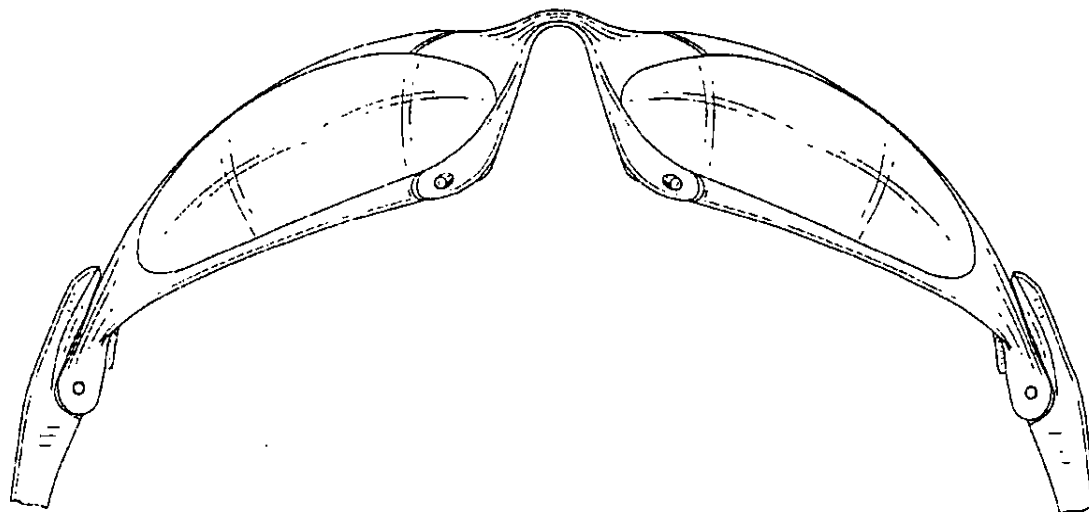
*Fig. 4*



*Fig. 5*



*Fig. 6*





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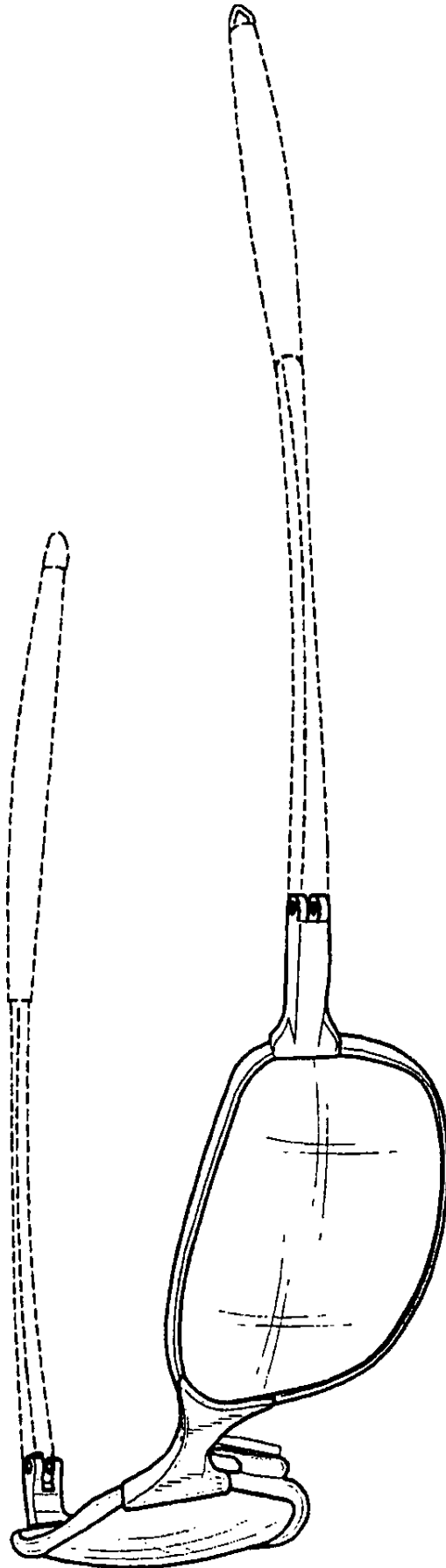
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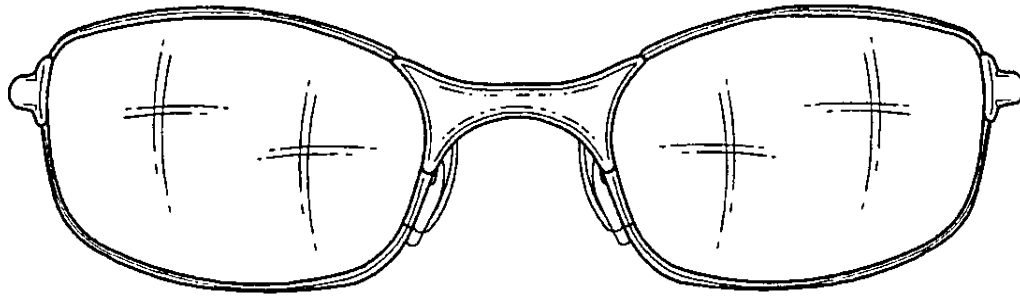
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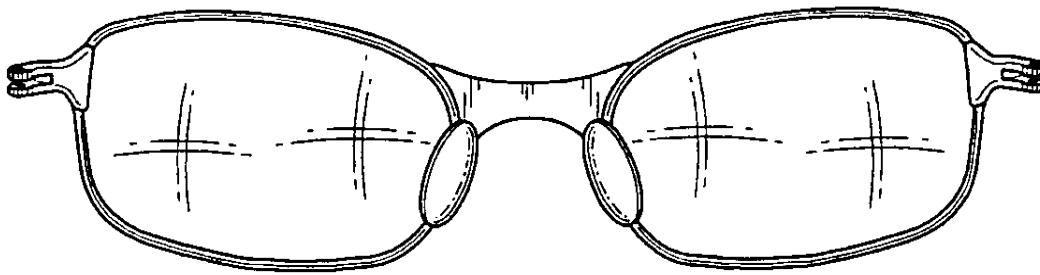




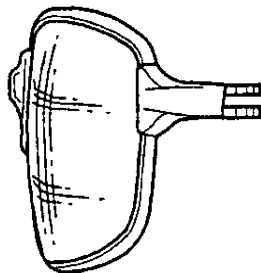
**FIG. 1**



*FIG. 2*



*FIG. 3*



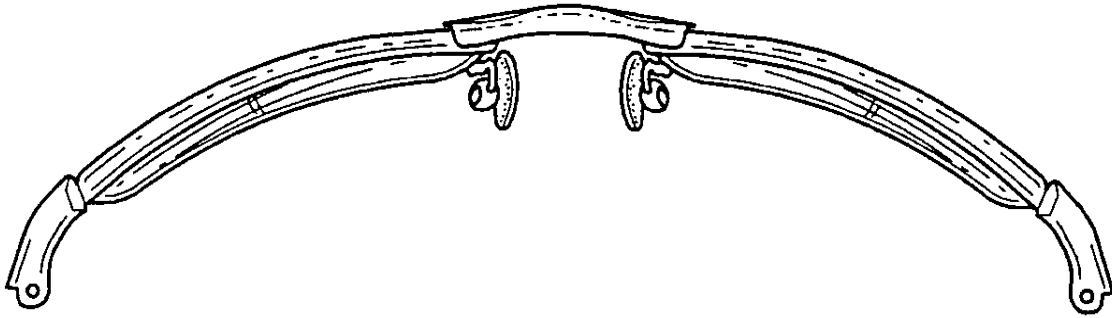
*FIG. 4*

U.S. Patent

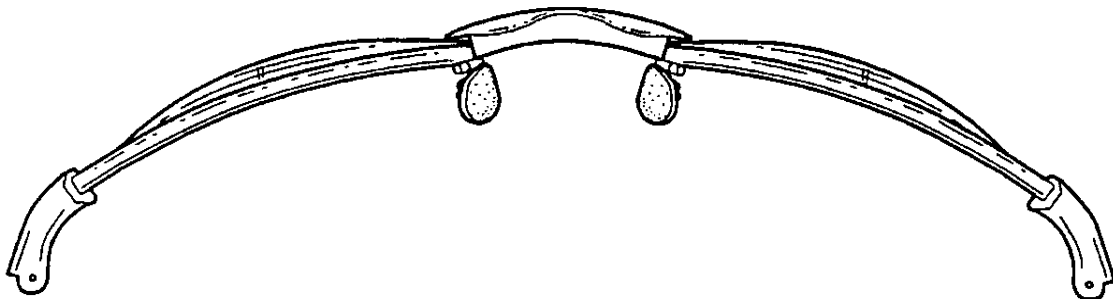
Jan. 28, 2003

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US D469,458 S



*FIG. 5*



*FIG. 6*



US00D331763S

**United States Patent** [19]  
Jannard

[11] Patent Number: Des. 331,763  
[45] Date of Patent: \*\* Dec. 15, 1992

[54] UNITARY EYEGLASS LENS  
[75] Inventor: James H. Jannard, San Juan Capistrano, Calif.  
[73] Assignee: Oakley, Inc., Irvine, Calif.  
[\*] Notice: The portion of the term of this patent subsequent to Aug. 4, 2006 has been disclaimed.  
[\*\*] Term: 14 Years  
[21] Appl. No.: 574,007  
[22] Filed: Aug. 28, 1990  
[52] U.S. Cl. .... D16/101  
[58] Field of Search ..... D16/102, 111, 112, 116, D16/117, 127, 101; 351/41, 44, 49, 111, 112, 114

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Assistant Examiner—R. Barkai



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Page 2

Attorney, Agent, or Firm—Knobbe, Martens, Olson &  
Bear

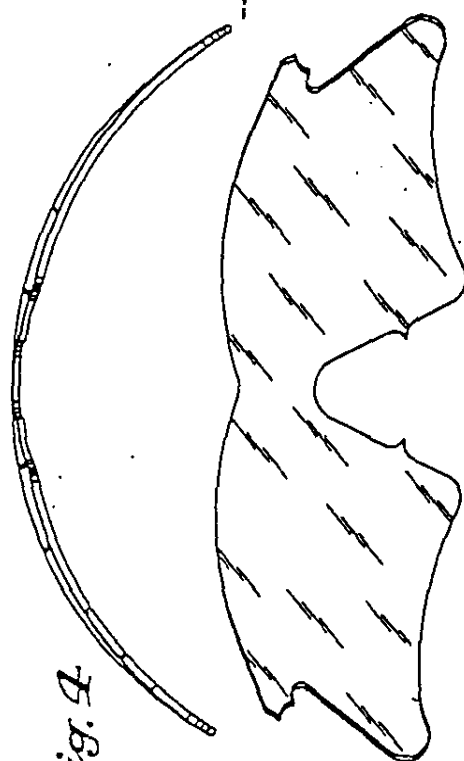
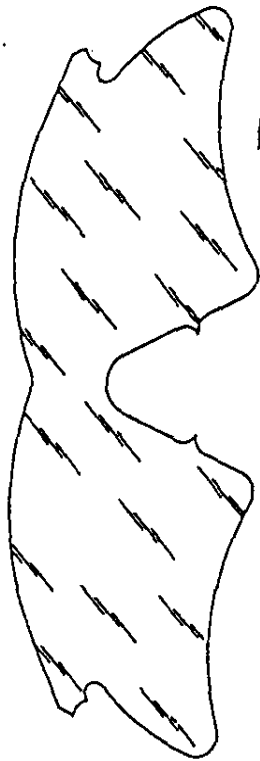
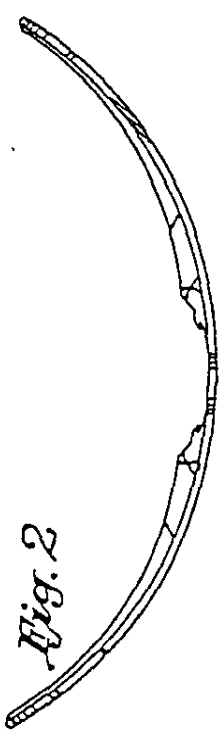
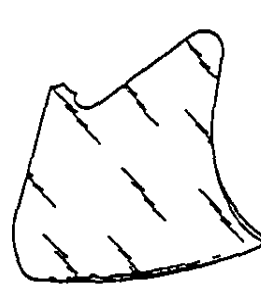
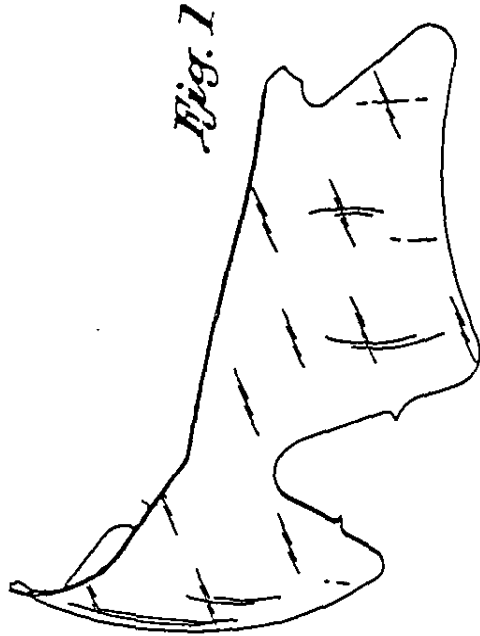
DESCRIPTION

FIG. 1 is a frontal perspective view of a unitary eye-  
glass lens showing my new design;  
FIG. 2 is a top plan view thereof;  
FIG. 3 is a front elevational view thereof;  
FIG. 4 is a bottom plan view thereof;  
FIG. 5 is a rear elevational view thereof; and,  
FIG. 6 is a right side elevational view thereof, the left  
side elevational view being a mirror image.

[57]

CLAIM

The ornamental design for a unitary eyeglass lens, as  
shown and described.





**United States Patent** [19]

[11] Patent Number: **Des. 384,364**

Yee

[45] Date of Patent: **\*\*Sep. 30, 1997**

- [54] **EYEGLASS FRAME FRONT**
- [75] Inventor: Peter Yee, Irvine, Calif.
- [73] Assignee: Oakley, Inc., Irvine, Calif.
- [\*\*] Term: 14 Years
- [21] Appl. No.: 55,504
- [22] Filed: Jun. 6, 1996
- [51] LOC (6) CL ..... 16-06
- [52] U.S. Cl. .... D16/330; D16/314
- [58] Field of Search ..... D16/300, 304,  
D16/306, 309, 311-317, 319, 325-330,  
335; 351/41, 44, 51-52, 103, 105, 106,  
109, 111, 118, 119, 124; 2/447, 448

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Article on sunglasses which appeared in *Runner's World* magazine (Jul. 1990).  
Advertisement for various sunglasses which appeared in *Surfing* magazine (Aug. 1993).

*Primary Examiner*—Raphael Barkai  
*Attorney, Agent, or Firm*—Knobbe, Martens, Olson & Bear L.L.P.

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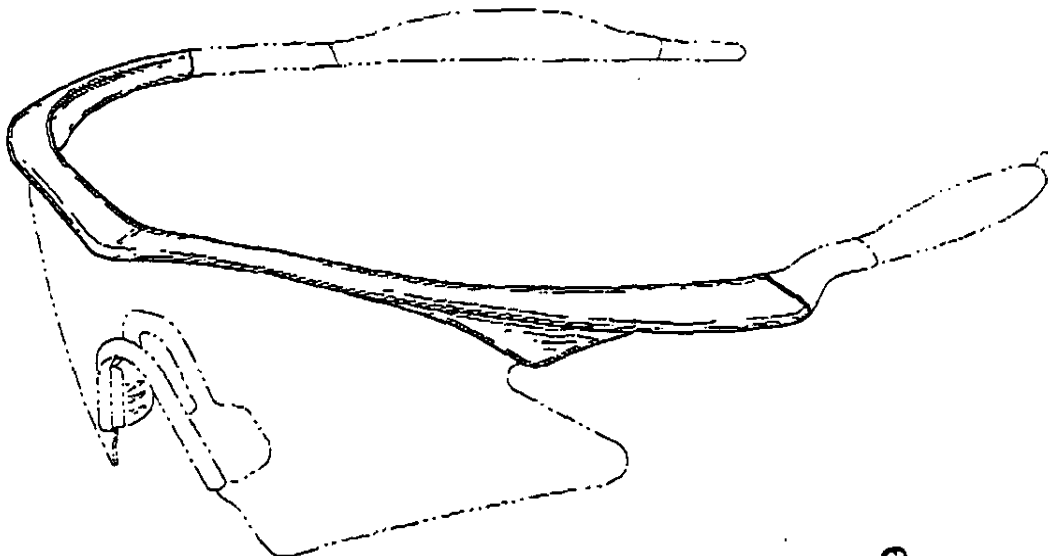
[57] **CLAIM**

The ornamental design for eyeglass frame front, as shown and described.

**DESCRIPTION**

FIG. 1 is a front perspective view of the eyeglass frame front of the present invention, the broken line showing of the earstems, nose piece and lens is for illustrative purposes only and forms no part of the claimed design;  
FIG. 2 is a front elevational view thereof;  
FIG. 3 is a rear elevational view thereof;  
FIG. 4 is a right-side elevational view thereof, the left side elevational view being a mirror image thereof;  
FIG. 5 is a top plan view thereof; and  
FIG. 6 is a bottom plan view thereof.

1 Claim, 3 Drawing Sheets

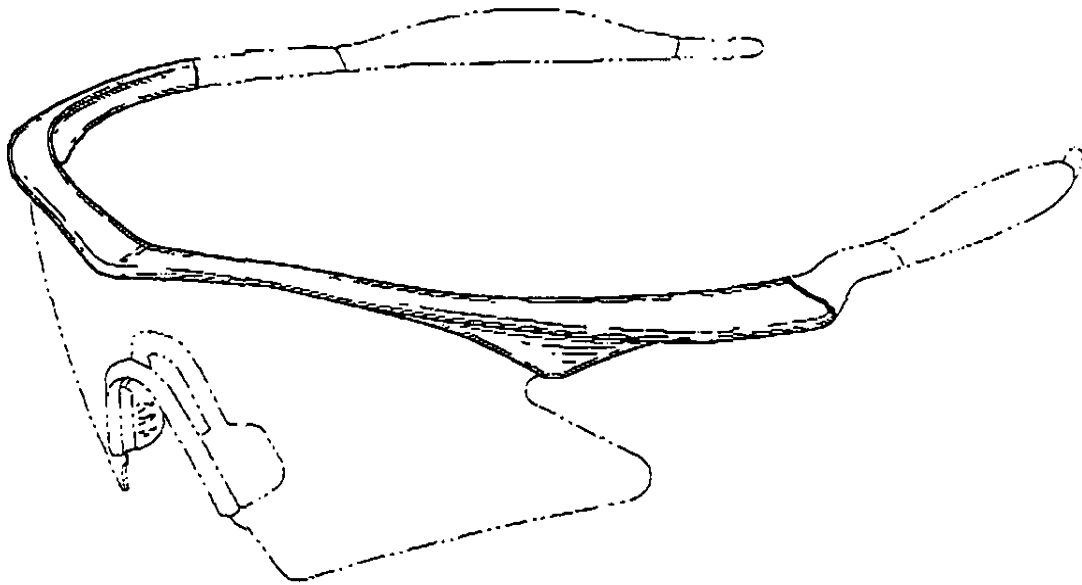


U.S. Patent

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Sheet 1 of 3

Des. 384,364



*Fig. 1*



U.S. Patent

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Sheet 2 of 3

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*Fig. 2*



*Fig. 3*



*Fig. 4*



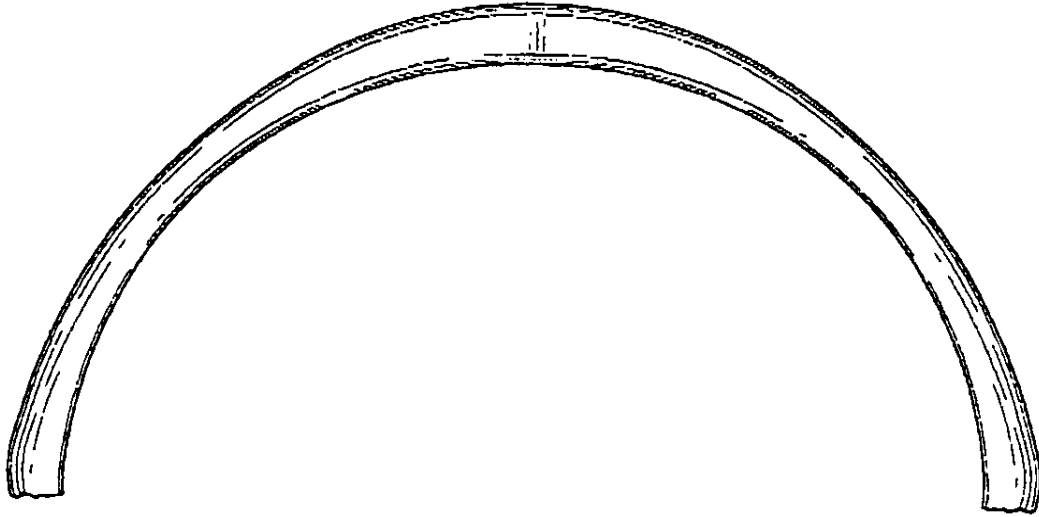
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Sep. 30, 1997

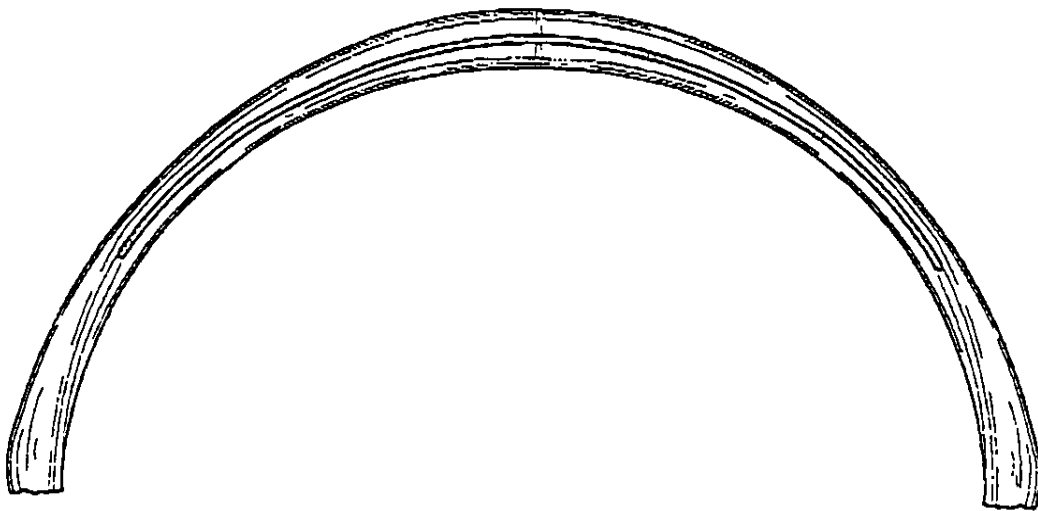
Sheet 3 of 3

Des. 384,364

*Fig. 5*



*Fig. 6*



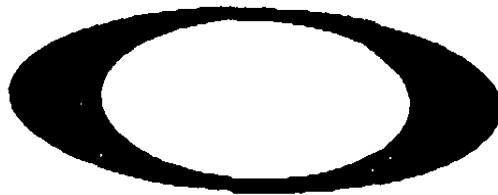
Int. Cls.: 9 and 25

Prior U.S. Cls.: 21, 22, 23, 26, 36, 38, and 39

**United States Patent and Trademark Office**

Reg. No. 1,984,501  
Registered July 2, 1996

**TRADEMARK  
PRINCIPAL REGISTER**



OAKLEY, INC. (CALIFORNIA CORPORATION)  
10 HOLLAND  
IRVINE, CA 92718

FOR: PROTECTIVE AND/OR ANTI-GLARE EYEWEAR, NAMELY SUNGLASSES, GOGGLES, SPECTACLES AND THEIR PARTS AND ACCESSORIES, NAMELY REPLACEMENT LENSES, EARSTEMS, FRAMES, NOSE PIECES AND FOAM STRIPS; CASES SPECIALLY ADAPTED FOR PROTECTIVE AND/OR ANTI-GLARE EYEWEAR AND THEIR PARTS AND ACCESSORIES, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 11-0-1993; IN COMMERCE 11-0-1993.

FOR: CLOTHING AND HEADWEAR, NAMELY T-SHIRTS, SWEATSHIRTS, JACKETS, HATS, AND CAPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 11-0-1993; IN COMMERCE 11-0-1993.

SN 74-485,534, FILED 2-2-1994.

DAVID H. STINE, EXAMINING ATTORNEY

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

Reg. No. 2,146,295

**United States Patent and Trademark Office**

Registered Mar. 24, 1998

**TRADEMARK  
PRINCIPAL REGISTER**



OAKLEY, INC. (WASHINGTON CORPORATION)  
ONE ICON ;  
FOOTHILL RANCH, CA 92610

FOR: PROTECTIVE AND/OR ANTI-GLARE EYEWEAR, NAMELY, SUNGLASSES, GOGGLES, SPECTACLES AND THEIR PARTS AND ACCESSORIES, NAMELY, REPLACEMENT LENSES, EARSTEMS, FRAMES, NOSE PIECES AND FOAM STRIPS; CASES SPECIALLY ADAPTED FOR PROTECTIVE AND/OR ANTI-GLARE EYEWEAR AND THEIR PARTS AND ACCESSORIES. IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 12-0-1994; IN COMMERCE 12-0-1994.

OWNER OF U.S. REG. NOS. 1,904,181, 1,990,262 AND OTHERS.

THE MARK CONSISTS OF AN ELLIPSE. THE MATTER SHOWN BY THE DOTTED LINES ON THE DRAWING IS NOT PART OF THE MARK AND SERVES ONLY TO SHOW THE RELATIVE POSITION OF THE MARK ON THE GOODS.

SER. NO. 75-259,669. FILED 3-18-1997.

ESTHER BELENKER, EXAMINING ATTORNEY

AO 120 (Rev.3/04)

<b>TO: Mail Stop 8</b> <b>Director of the U.S. Patent and Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR TRADEMARK</b>
---	---

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court San Diego on the following Patents or Trademarks:

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT
06CV704	4/3/06	United States District Court, Southern District of California
PLAINTIFF		DEFENDANT
Oakley		Norris Mahoney Inc
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 5,137,342	8/11/92	Oakley
2 D415,188	10/12/99	Oakley
3 D398,326	9/15/98	Oakley
4 D410,484	6/1/99	Oakley
5 D410,485	6/1/99	Oakley

In the above-entitled case, the following patent(s)/trademark(s) have been included:

DATE INCLUDED	INCLUDED BY			
	<input type="checkbox"/> Amendment	<input type="checkbox"/> Answer	<input type="checkbox"/> Cross Bill	<input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK		
1 D469,458S	01/28/03	Oakley		
2 D331,763	12/15/92	Oakley		
3 D384,364	9/30/97	Oakley		
4 1,984,501	7/2/96	Oakley		
5 2,145,295	3/24/98	Oakley		

In the above-entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGMENT		
CLERK	(BY) DEPUTY CLERK	DATE

Copy 1 - Upon initiation of action, mail this copy to Director

Copy 3 - Upon termination of action, mail this copy to Director

Copy 2 - Upon filing document adding patent(s), mail this copy to Director

Copy 4 - Case file copy

JS44

(Rev. 07/89)

**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

**I (a) PLAINTIFFS**

OAKLEY, INC., a Washington corporation

**DEFENDANTS**

NORRIS MAHONEY, INC., a Ohio corporation dba Solarex Sunglass Collection

**FILED**

06 APR - 3 AM 9:26

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Orange, CA  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Cuyahoga, OH  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED BY DEPUTY

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
Weeks, Kaufman, Nelson & Johnson  
462 Stevens Avenue, #310  
Solana Beach, CA 92075

**ATTORNEYS (IF KNOWN)**

'06 CV 0704 H NLS

**II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)**

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)**

	PT	DEF		PT	DEF
Citizen of This State	<input type="checkbox"/>	<input type="checkbox"/>	Incorporated or Principal Place of Business in This State	<input type="checkbox"/>	<input type="checkbox"/>
Citizen of Another State	<input type="checkbox"/>	<input type="checkbox"/>	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/>	<input type="checkbox"/>
Citizen or Subject of a Foreign Country	<input type="checkbox"/>	<input type="checkbox"/>	Foreign Nation	<input type="checkbox"/>	<input type="checkbox"/>

**IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).**

This is a case of Patent Infringement under 35 U.S.C. §271 and §281

**V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)**

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<ul style="list-style-type: none"> <li>110 Insurance</li> <li>120 Marine</li> <li>130 Miller Act</li> <li>140 Negotiable Instrument</li> <li>150 Recovery of Overpayment &amp; Enforcement of Judgment</li> <li>151 Medicare Act</li> <li>152 Recovery of Defaulted Student Loans (Excl. Veterans)</li> <li>153 Recovery of Overpayment of Veterans Benefits</li> <li>160 Stockholders Suits</li> <li>190 Other Contract</li> <li>195 Contract Product Liability</li> </ul>	<p><b>PERSONAL INJURY</b></p> <ul style="list-style-type: none"> <li>310 Airplane</li> <li>315 Airplane Product Liability</li> <li>320 Assault, Libel &amp; Slander</li> <li>330 Federal Employers' Liability</li> <li>340 Marine</li> <li>345 Marine Product Liability</li> <li>350 Motor Vehicle</li> <li>355 Motor Vehicle Product Liability</li> <li>360 Other Personal Injury</li> </ul>	<p><b>PERSONAL INJURY</b></p> <ul style="list-style-type: none"> <li>362 Personal Injury-Medical Malpractice</li> <li>365 Personal Injury - Product Liability</li> <li>368 Asbestos Personal Injury Product Liability</li> </ul> <p><b>PERSONAL PROPERTY</b></p> <ul style="list-style-type: none"> <li>370 Other Fraud</li> <li>371 Truth in Lending</li> <li>380 Other Personal Property Damage</li> <li>385 Property Damage Product Liability</li> </ul>	<ul style="list-style-type: none"> <li>610 Agriculture</li> <li>620 Other Food &amp; Drug</li> <li>625 Drug Related Seizure of Property 21 USC881</li> <li>630 Liquor Laws</li> <li>640 RR &amp; Truck</li> <li>650 Airline Regs</li> <li>660 Occupational Safety/Health</li> <li>690 Other</li> </ul> <p><b>LABOR</b></p> <ul style="list-style-type: none"> <li>710 Fair Labor Standards Act</li> <li>720 Labor/Mgmt. Relations</li> <li>730 Labor/Mgmt. Reporting &amp; Disclosure Act</li> <li>740 Railway Labor Act</li> <li>790 Other Labor Litigation</li> <li>791 Empl. Ret. Inc. Security Act</li> </ul>	<ul style="list-style-type: none"> <li>422 Appeal 28 USC 158</li> <li>423 Withdrawal 28 USC 157</li> </ul> <p><b>PROPERTY RIGHTS</b></p> <ul style="list-style-type: none"> <li>820 Copyrights</li> <li><input checked="" type="checkbox"/> 830 Patent</li> <li>840 Trademark</li> </ul> <p><b>SOCIAL SECURITY</b></p> <ul style="list-style-type: none"> <li>861 HIA (13958)</li> <li>862 Black Lung (923)</li> <li>863 DIWC/DIWW (405(g))</li> <li>864 SSID Title XVI</li> <li>865 RSI (405(g))</li> </ul> <p><b>FEDERAL TAX SUITS</b></p> <ul style="list-style-type: none"> <li>870 Taxes (U.S. Plaintiff or Defendant)</li> <li>871 IRS - Third Party 26 USC 7609</li> </ul>	<ul style="list-style-type: none"> <li>400 State Reappointment</li> <li>410 Antitrust</li> <li>430 Banks and Banking</li> <li>450 Commerce/ICC Rates/etc.</li> <li>460 Deportation</li> <li>470 Racketeer Influenced and Corrupt Organizations</li> <li>810 Selective Service</li> <li>850 Securities/Commodities Exchange</li> <li>875 Customer Challenge 12 USC</li> <li>891 Agricultural Acts</li> <li>892 Economic Stabilization Act</li> <li>893 Environmental Matters</li> <li>894 Energy Allocation Act</li> <li>895 Freedom of Information Act</li> <li>900 Appeal of Fee Determination Under Equal Access to Justice</li> <li>950 Constitutionality of State</li> <li>890 Other Statutory Actions</li> </ul>
<p><b>REAL PROPERTY</b></p> <ul style="list-style-type: none"> <li>210 Land Condemnation</li> <li>220 Foreclosure</li> <li>230 Rent Lease &amp; Ejectment</li> <li>240 Tort to Land</li> <li>245 Tort Product Liability</li> <li>290 All Other Real Property</li> </ul>	<p><b>CIVIL RIGHTS</b></p> <ul style="list-style-type: none"> <li>441 Voting</li> <li>442 Employment</li> <li>443 Housing/Accommodations</li> <li>444 Welfare</li> <li>440 Other Civil Rights</li> </ul>	<p><b>PRISONER PETITIONS</b></p> <ul style="list-style-type: none"> <li>510 Motions to Vacate Sentence Habeas Corpus</li> <li>530 General</li> <li>535 Death Penalty</li> <li>540 Mandamus &amp; Other</li> <li>550 Civil Rights</li> <li>555 Prisoner Conditions</li> </ul>			

**VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)**

- 1 Original Proceeding
- 2 Removal from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER f.r.e.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND:  YES  NO

**VIII. RELATED CASE(S) IF ANY (See Instructions):**

JUDGE See Notice of Related Cases Docket Number

DATE March 30, 2006

SIGNATURE OF ATTORNEY OF RECORD

PA103250 4/3/06 BM RCP# 123229