

1 Plaintiff Oakley, Inc. (“Oakley”) hereby complains of Defendants Talitor Far East
2 Company Limited (“Talitor”), MungoShop.com (“Mungo”), Suprisinggift.com
3 (“Surprising”), Nutech Trading USA Inc. (“Nutech”), iOffer Corporation (“iOffer”),
4 TripleClicks (“Triple”), Carson Services Inc. (“Carson”), Brilliant Store, Inc. (“Brilliant”),
5 The Camera Box Inc. (Camera Box”), Local Deal Finder (“Local”) and Bargains For You
6 LLC (“Bargains”) (collectively, “Defendants”) and alleges as follows:

7 **I. JURISDICTION AND VENUE**

8 1. This Court has original subject matter jurisdiction over the claims in this
9 action pursuant to 28 U.S.C. §§ 1331 and 1338.

10 2. This Court has personal jurisdiction over the Defendants because Defendants
11 have a continuous, systematic, and substantial presence within this judicial district including
12 by selling and offering for sale infringing products for sale in this judicial district, and by
13 committing acts of infringement in this judicial district, including but not limited to selling
14 infringing eyewear directly to consumers and/or retailers in this district and selling into the
15 stream of commerce knowing such products would be sold in California and this district,
16 which acts form a substantial part of the events or omissions giving rise to Plaintiff’s claim.

17 3. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) and 28
18 U.S.C. § 1400(b).

19 **II. THE PARTIES**

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

23 5. Plaintiff is informed and believes, and thereon alleges, that Defendant Talitor
24 is a Taiwanese company having an office and a place of business at 6F-6, 646, Chung Hsin
25 Rd., Sec. 5, Sanchung City, TAP 24158, Taiwan.

26 6. Plaintiff is informed and believes, and thereon alleges, that Defendant Mungo
27 is a South Carolina company having an office and a place of business at 10-B Chaparral Ct.,
28 Columbia, South Carolina 29208.

1 7. Plaintiff is informed and believes, and thereon alleges, that Defendant
2 Surprising is a South Carolina company having an office and a place of business at 10-B
3 Chaparral Ct., Columbia, South Carolina 29208.

4 8. Plaintiff is informed and believes, and thereon alleges, that Defendant Nutech
5 is a corporation organized and existing under the laws of the state of New York and has a
6 principal place of business at 48 Spencer St., 3rd Floor, Brooklyn, New York 11205.

7 9. Plaintiff is informed and believes, and thereon alleges, that Defendant iOffer is
8 a corporation organized and existing under the laws of the state of California and has a
9 principal place of business at 1233 Howard St., Unit 714, San Francisco, California 94103.

10 10. Plaintiff is informed and believes, and thereon alleges, that Defendant Triple is
11 a Nebraska company having an office and a place of business at 5945 Cornhusker Hwy, Suite
12 A, Lincoln, Nebraska 68507.

13 11. Plaintiff is informed and believes, and thereon alleges, that Defendant Carson
14 is a corporation organized and existing under the laws of the state of Nebraska and has a
15 principal place of business at 14230 Holdredge, Lincoln, Nebraska 68527.

16 12. Plaintiff is informed and believes, and thereon alleges, that Defendant Brilliant
17 is a corporation organized and existing under the laws of the state of California and has a
18 principal place of business at 933 Corporate Way, Fremont, California 94539.

19 13. Plaintiff is informed and believes, and thereon alleges, that Defendant Camera
20 Box is a corporation organized and existing under the laws of the state of New York and has a
21 principal place of business at 315 Rutledge Street, Brooklyn, New York 11211.

22 14. Plaintiff is informed and believes, and thereon alleges, that Defendant Local is
23 a limited liability company organized and existing under the laws of the state of
24 Massachusetts and has a principal place of business at 100 Cummings Center, Suite 128A,
25 Beverly, Massachusetts 01915.

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1 15. Plaintiff is informed and believes, and thereon alleges, that Defendant
2 Bargains is a limited liability company organized and existing under the laws of the state of
3 Massachusetts and has a principal place of business at 100 Cummings Center, Suite 128A,
4 Beverly, Massachusetts 01915.

5 16. Plaintiff is informed and believes, and thereon alleges, that Defendants have
6 committed the acts alleged herein within this judicial district.

7 **III. GENERAL ALLEGATIONS**

8 17. Oakley has been actively engaged in the manufacture and sale of high quality
9 eyewear since at least 1985. Oakley is the manufacturer and retailer of several lines of
10 eyewear that have enjoyed substantial success and are protected by various intellectual
11 property rights owned by Oakley.

12 18. On June 20, 2006, the United States Patent and Trademark Office duly and
13 lawfully issued United States Design Patent No. D523,461 (“the D461 patent”), entitled
14 “EYEGLASS COMPONENT,” designing and claiming the design and ornamentation
15 disclosed therein. Oakley is the owner by assignment of all right, title, and interest in the
16 D461 patent. A true and correct copy of the D461 patent is attached hereto as Exhibit A.

17 19. On February 7, 1995, the United States Patent and Trademark Office duly and
18 lawfully issued United States Letters Patent No. 5,387,949 (“the ‘949 patent”), entitled
19 “Eyeglass Connection Device.” Oakley is the owner by assignment of all right, title, and
20 interest in the ‘949 patent. A true and correct copy of the ‘949 patent is attached hereto as
21 Exhibit B.

22 **IV. FIRST CLAIM FOR RELIEF**

23 (Patent Infringement of U.S. Design Patent No. D523,461)

24 (35 U.S.C. § 271)

25 20. Oakley repeats and re-alleges the allegations of paragraphs 1-19 of this
26 Complaint as if set forth fully herein.

27 21. Defendants, through their agents, employees and servants, have, and continue
28 to, knowingly, intentionally and willfully directly infringe, engage in acts of contributory

1 infringement, and/or induce the infringement of the D461 patent by directly and/or indirectly
2 making, using, selling, offering for sale and/or importing products that fall within the scope
3 and claim contained in the D461 patent.

4 22. Defendants' acts of infringement were undertaken without permission or
5 license from Oakley. Defendants had actual and/or constructive knowledge of the D461
6 patent, and their actions constitute willful and intentional infringement of the D461 patent.

7 23. Oakley is informed and believes, and thereon alleges, that Defendants have
8 derived and received, and will continue to derive and receive, gains, profits and advantages
9 from the aforesaid acts of infringement in an amount that is not presently known to Oakley.
10 By reason of the aforesaid infringing acts, Oakley has been damaged and is entitled to
11 monetary relief in an amount to be determined at trial.

12 24. Due to the aforesaid infringing acts, Oakley has suffered and continues to
13 suffer great and irreparable injury, for which Oakley has no adequate remedy at law.

14 **V. SECOND CLAIM FOR RELIEF**

15 (Patent Infringement of U.S. Patent No. 5,387,949)

16 (35 U.S.C. § 271)

17 25. Oakley repeats and re-alleges the allegations of paragraphs 1-24 of this
18 Complaint as if set forth fully herein.

19 26. Defendants, through their agents, employees and servants, have, and continue
20 to, knowingly, intentionally and willfully directly infringe, engage in acts of contributory
21 infringement, and/or induce the infringement of the '949 patent by directly and/or indirectly
22 making, using, selling, offering for sale and/or importing products which are covered by one
23 or more claims of the '949 patent.

24 27. Defendants' acts of infringement were undertaken without permission or
25 license from Oakley. Defendants had actual and/or constructive knowledge of the '949
26 patent, and their actions constitute willful and intentional infringement of the '949 patent

27 28. Oakley is informed and believes, and thereon alleges, that Defendants have
28 derived and received, and will continue to derive and receive, gains, profits and advantages

1 from the aforesaid acts of infringement in an amount that is not presently known to Oakley.
2 By reason of the aforesaid infringing acts, Oakley has been damaged and is entitled to
3 monetary relief in an amount to be determined at trial.

4 29. Due to the aforesaid infringing acts, Oakley has suffered and continues to
5 suffer great and irreparable injury, for which Oakley has no adequate remedy at law.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Oakley prays for judgment in its favor against Defendants for the
8 following relief:

9 A. An Order adjudging Defendants to have willfully infringed the D461 and the
10 '949 patent under 35 U.S.C. § 271;

11 B. A preliminary and permanent injunction enjoining Defendants, their respective
12 officers, directors, agents, servants, employees and attorneys, and those persons in active
13 concert or participation with Defendants, from directly or indirectly infringing the D461
14 patent or '949 patent in violation of 35 U.S.C. § 271;

15 C. That Defendants account for all gains, profits, and advantages derived by
16 Defendants' infringement in violation of 35 U.S.C. § 271, and that Defendants pay to Oakley
17 all damages suffered by Oakley or all profits earned by Defendants;

18 D. An Order for a trebling of damages and/or exemplary damages because of
19 Defendants' willful conduct pursuant to 35 U.S.C. § 284;

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

21 F. An award to Oakley of the attorneys' fees and costs incurred by Oakley in
22 connection with this action pursuant to 35 U.S.C. § 285;

23 G. An award of pre-judgment and post-judgment interest and costs of this action
24 against Defendants;

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H. Such other and further relief as this Court may deem just and proper.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: June 14, 2011

By: s/Ali S. Razai
Michael K. Friedland
Paul N. Conover
Ali S. Razai

Attorneys for Plaintiff
OAKLEY, INC.

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DEMAND FOR TRIAL BY JURY

OAKLEY, INC. hereby demands a trial by jury on all issues so triable.

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: June 14, 2011

By: s/Ali S. Razai
Michael K. Friedland
Paul N. Conover
Ali S. Razai

Attorneys for Plaintiff
OAKLEY, INC.

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