

ORIGINAL

LAW OFFICES OF SEPEHR DAGHIGHIAN, P.C.
433 NORTH CAMDEN DRIVE, FOURTH FLOOR
BEVERLY HILLS, CALIFORNIA 90210

SEPEHR DAGHIGHIAN, State Bar No. 239349

LAW OFFICES OF SEPEHR DAGHIGHIAN, P.C. FILED

433 North Camden Drive, Fourth Floor

Beverly Hills, California 90210

Telephone: (310) 887-1333

Facsimile: (310) 887-1334

E-mail: sepehr@daghighian.com

2010 APR 13 PM 3:00

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MELVIN K. SILVERMAN, *Pro Hac Vice*

Application Pending

M.K. SILVERMAN & ASSOCIATES, P.C.

One Gateway Center, Suite 2600

Newark, NJ 07102

Telephone: (973) 508-5033

Facsimile: (888) 889-5866

E-mail: mks@mkspc.com

BY _____

Attorneys for Plaintiff:

TRUST OF ANTHONY J. ANTONIOUS

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

THE IRREVOCABLE TRUST OF
ANTHONY J. ANTONIOUS, a
Florida Trust,

Plaintiff,

v.

COBRA GOLF COMPANY, a
Delaware Corporation, ACUSHNET
COMPANY, a Delaware
Corporation,

Defendants.

Case No. **10 CV 0768 LAB**

POR

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

1 Plaintiff, THE IRREVOCABLE TRUST OF ANTHONY J. ANTONIOUS
2 ("Antonious" or "Plaintiff"), files this Complaint against COBRA GOLF
3 COMPANY, a Delaware Corporation, and ACUSHNET COMPANY, a Delaware
4 Corporation (collectively, "Defendants"), and demanding a trial by jury, avers as
5 follows:

6 **JURISDICTION AND VENUE**

7 1. This is a civil action for patent infringement, under the United States
8 Patent Act, 35 U.S.C. § 101 *et seq.* The Court therefore has jurisdiction over the
9 claims pursuant to 28 U.S.C. §§ 1331 and 1338.

10 2. Venue is proper in this judicial district pursuant to 28 U.S.C. §§
11 1391(b), 1391(c) and 1400(b) because the named defendants conduct business
12 activities within this District and the acts of infringement have taken place in this
13 district.

14 **THE PARTIES**

15 3. Plaintiff, THE IRREVOCABLE TRUST OF ANTHONY J.
16 ANTONIOUS, is a trust organized under the laws of the state of Florida and
17 situated in Wanaque, Passaic County, New Jersey.

18 4. Upon information and belief, Defendant ACUSHNET COMPANY
19 ("Acushnet") is a corporation organized under the laws of the State of Delaware
20 and having a business address of 1818 Aston Avenue, Carlsbad, CA 92008.

21 5. Upon information and belief, Defendant COBRA GOLF COMPANY
22 ("Cobra Golf") is a corporation organized under the laws of the State of Delaware
23 and having a business address of 1818 Aston Avenue, Carlsbad, CA 92008. Upon
24 information and belief Cobra Golf is a wholly owned subsidiary of Acushnet.

25 **FACTS COMMON TO ALL COUNTS**

26 6. This action is brought to obtain equitable and legal relief for the
27 Defendants' infringement of Plaintiff's United States Patent.

28 7. Plaintiff is the owner of United States Design Patent No. 499,157

1 entitled Metalwood Type Golf Club Head (the "157 Patent"). The '157 Patent
2 relates to a design for a golf club head. (**Exhibit "A"**).

3 8. On information and belief, Defendants have been and are infringing,
4 contributing to infringement, and/or inducing others to infringe the '157 Patent by
5 making, using, offering for sale, selling, or importing golf clubs that infringe upon
6 the '157 Patent. Furthermore, Defendants have been on notice of Plaintiff's patent.

7 9. Defendants' acts of infringement have occurred within this district and
8 elsewhere throughout the United States.

9 10. Plaintiff is the owner of the '157 Patent. Plaintiff has complied with
10 the provisions of the United States patent laws as 35 U.S.C. § 1 *et seq.* with respect
11 to said patent.

12 11. Plaintiff has retained the undersigned counsel to represent it in this
13 matter and is obligated to pay a reasonable fee for such representation.

14 **COUNT I AGAINST ALL DEFENDANTS**
15 **PATENT INFRINGEMENT**

16 12. Plaintiff realleges and incorporates by reference the matters alleged in
17 the foregoing paragraphs of this Complaint as if fully set forth herein.

18 13. Plaintiff has not authorized Defendants to make, use, offer for sale, sell
19 or import products infringing Plaintiff's patent.

20 14. Plaintiff is informed and believes, and based thereon alleges that
21 Defendants have infringed the '157 Patent by, among other things, making, using,
22 importing, advertising, offering for sale, and selling products infringing Plaintiff's
23 patent including, without limitation, the King Cobra F Speed, the Cobra Baffler, the
24 Cobra HS9, Cobra L4V, and other such Cobra golf clubs.

25 15. Defendants are thereby directly infringing said patent, pursuant to 35
26 U.S.C. § 284.

27 16. Unless enjoined, Defendants will continue to infringe the '157 Patent,
28 and Plaintiff will suffer irreparable injury as a direct and proximate result of

1 Defendants' conduct.

2 17. Plaintiff has been damaged and injured by Defendants' conduct, and
3 until an injunction issues will continue to be damaged and injured in an amount yet
4 to be determined.

5 18. On information and belief, Defendants knew or should have known of
6 the '157 patent and the Plaintiff's rights to the patented structure.

7 19. Defendants proceeded to knowingly and willfully disregard Plaintiff's
8 right and to infringement Plaintiff's patent.

9 20. Plaintiff is therefore entitled to an amount which is treble the amount
10 of Plaintiff's damages found or assessed.

11 21. Based on Defendants' willful infringement, Plaintiff believes this to be
12 an "exceptional" case, which entitles Plaintiff to attorney's fees pursuant to 35
13 U.S.C. § 285.

14 22. Pursuant to 35 U.S.C. § 289, Plaintiff seeks the additional remedy of
15 the Defendants' revenues attributable to their infringement. In addition, Plaintiff
16 seeks an accounting of Defendants' profits, as well as interest and costs.

17 23. Defendant has caused and continues to cause irreparable injury to
18 Plaintiff by infringement of Plaintiff's patent.

19 **COUNT II AGAINST ALL DEFENDANTS**

20 **INDUCEMENT OF PATENT INFRINGEMENT**

21 24. Plaintiff realleges and incorporates by reference the matters alleged in
22 the foregoing paragraphs of this Complaint as if fully set forth herein.

23 25. Plaintiff has not authorized Defendant to make, use, offer for sale, sell
24 or import products infringing Plaintiff's patent.

25 26. Plaintiff is informed and believes, and based thereon alleges that
26 Defendants have infringed the '157 Patent by actively inducing its agents and
27 others to, among other things, make, use, import, advertise, offer for sale, and sell
28 products infringing Plaintiff's patent.

1 27. Defendants are thereby inducing others including, without limitation,
2 Defendant's distributors, retailers, and end users to infringe said patent, pursuant to
3 35 U.S.C. § 271(b).

4 28. Unless enjoined, Defendants will continue to induce infringement of
5 the '157 Patent, and Plaintiff will suffer irreparable injury as a direct and proximate
6 result of Defendants' conduct.

7 29. Plaintiff has been damaged and injured by Defendants' conduct, and
8 until an injunction issues will continue to be damaged and injured in an amount yet
9 to be determined.

10 30. On information and belief, Defendants knew or should have known of
11 the '157 patent and the Plaintiff's rights to the patented structure.

12 31. Defendants proceeded to knowingly and willfully disregard Plaintiff's
13 right and to infringement Plaintiff's patent.

14 32. Plaintiff is therefore entitled to an amount which is treble the amount
15 of Plaintiff's damages found or assessed.

16 33. Based on Defendants' willful infringement, Plaintiff believes this to be
17 an "exceptional" case, which entitles Plaintiff to attorney's fees pursuant to 35
18 U.S.C. § 285.

19 34. Pursuant to 35 U.S.C. § 289, Plaintiff seeks the additional remedy of
20 the Defendants' revenues attributable to their infringement. In addition, Plaintiff
21 seeks an accounting of Defendants' profits, as well as interest and costs.

22 **COUNT III AGAINST ALL DEFENDANTS**

23 **CONTRIBUTORY PATENT INFRINGEMENT**

24 35. Plaintiff realleges and incorporates by reference the matters alleged in
25 the foregoing paragraphs of this Complaint as if fully set forth herein.

26 36. Plaintiff has not authorized Defendant to make, use, offer for sale, sell
27 or import components of products that when combined with other components
28 result in products that infringe Plaintiff's patent.

1 prays that the Court enter a judgment in favor of Plaintiff as follows:

2 (1) That the '157 Patent is valid and enforceable;

3 (2) That the '157 Patent is infringed by the Defendants;

4 (3) That Defendants' infringement was willful;

5 (4) That Defendants and their directors, officers, employees, attorneys,
6 agents, and all persons in active concert or participation with any of the foregoing
7 be preliminarily and permanently enjoined from further acts of infringement of the
8 '157 Patent;

9 (5) That Defendants, and each of them, be required to pay Plaintiff
10 damages according to the following:

11 a) In accordance with 35 U.S.C. § 284, including actual damages,
12 and in no event less than a reasonable royalty regarding Defendants' revenues and
13 those of its agents from infringing sales revenues and of revenue conveyed thereby,
14 consequential of Defendants' infringements, pursuant to 35 U.S.C. § 271(a), (b),
15 and (c);

16 b) In accordance with 35 U.S.C. § 289, Defendants' revenue
17 attributable to their infringement and an accounting of Defendants' profits, interest
18 and costs of Plaintiff;

19 (6) That the foregoing damages awards be trebled, pursuant to 35 U.S.C. §
20 284;

21 (7) That this is an exceptional case and that Plaintiff be awarded its
22 reasonable costs and attorney's fees, pursuant to 35 U.S.C. § 285;

23 (8) That Plaintiff be awarded interest from the date of the commencement
24 of infringement; and

25 (9) That Plaintiff has such other and further relief as the Court may deem
26 equitable.

27 ///

28 ///

LAW OFFICES OF SEPEHR DAGHIGHIAN, P.C.
433 NORTH CAMDEN DRIVE, FOURTH FLOOR
BEVERLY HILLS, CALIFORNIA 90210

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: April 9, 2010

Respectfully submitted,
LAW OFFICES OF SEPEHR DAGHIGHIAN, P.C.



SEPEHR DAGHIGHIAN, ESQ.
Attorney for Plaintiff: The Irrevocable Trust of Anthony
J. Antonious

1 **DEMAND FOR JURY TRIAL**

2 Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a trial by jury of all
3 issues raised by this Complaint which are triable by jury.
4

5 Respectfully submitted,

6 **LAW OFFICES OF SEPEHR DAGHIGHIAN, P.C.**

7 Dated: April 9, 2010

8 

9 SEPEHR DAGHIGHIAN, ESQ.

10 Attorney for Plaintiff: The Irrevocable Trust of Anthony
11 J. Antonious

12 **LAW OFFICES OF SEPEHR DAGHIGHIAN, P.C.**
13 433 NORTH CAMDEN DRIVE, FOURTH FLOOR
14 BEVERLY HILLS, CALIFORNIA 90210
15
16
17
18
19
20
21
22
23
24
25
26
27
28



US00D499157S

(12) **United States Design Patent**
Antonious

(10) Patent No.: **US D499,157 S**

(45) Date of Patent: **** Nov. 30, 2004**

(54) **METALWOOD TYPE GOLF CLUB HEAD**

(76) Inventor: **Anthony J. Antonious, 7738 Calle
Facil, Sarasota, FL (US) 34238**

(**) Term: **14 Years**

(21) Appl. No.: **29/197,176**

(22) Filed: **Jan. 13, 2004**

(51) LOC (7) Cl. **21-02**

(52) U.S. Cl. **D21/752**

(58) Field of Search **D21/733, 752;
473/324-331, 343-346**

(56) **References Cited**

U.S. PATENT DOCUMENTS

D339,395 S	*	9/1993	Cameron	D21/752
D479,867 S	*	9/2003	Saliba et al.	D21/752
D481,090 S	*	10/2003	Antonious	D21/752
D481,091 S	*	10/2003	Antonious	D21/752

* cited by examiner

Primary Examiner—Mitchell Siegel

(74) *Attorney, Agent, or Firm—Welsh & Flaxman LLC*

(57) **CLAIM**

The ornamental design for a metalwood type golf club head,
as shown and described.

DESCRIPTION

FIG. 1 is a front elevational view of a metalwood type golf
club head showing my new design.

FIG. 2 is a perspective view thereof shown from the bottom.

FIG. 3 is a top plan view thereof.

FIG. 4 is a rear elevational view thereof.

FIG. 5 is a toe elevational view thereof.

FIG. 6 is a heel elevational view thereof; and,

FIG. 7 is a bottom perspective view thereof.

1 Claim, 4 Drawing Sheets

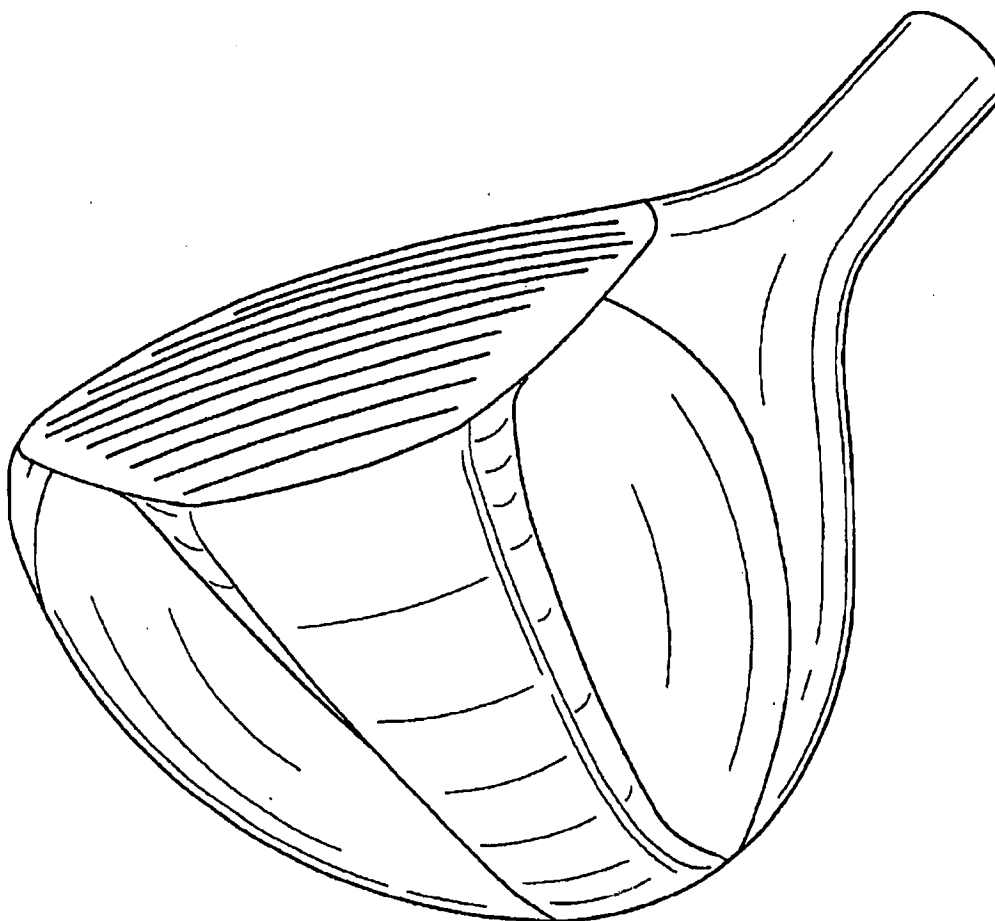


FIG.1

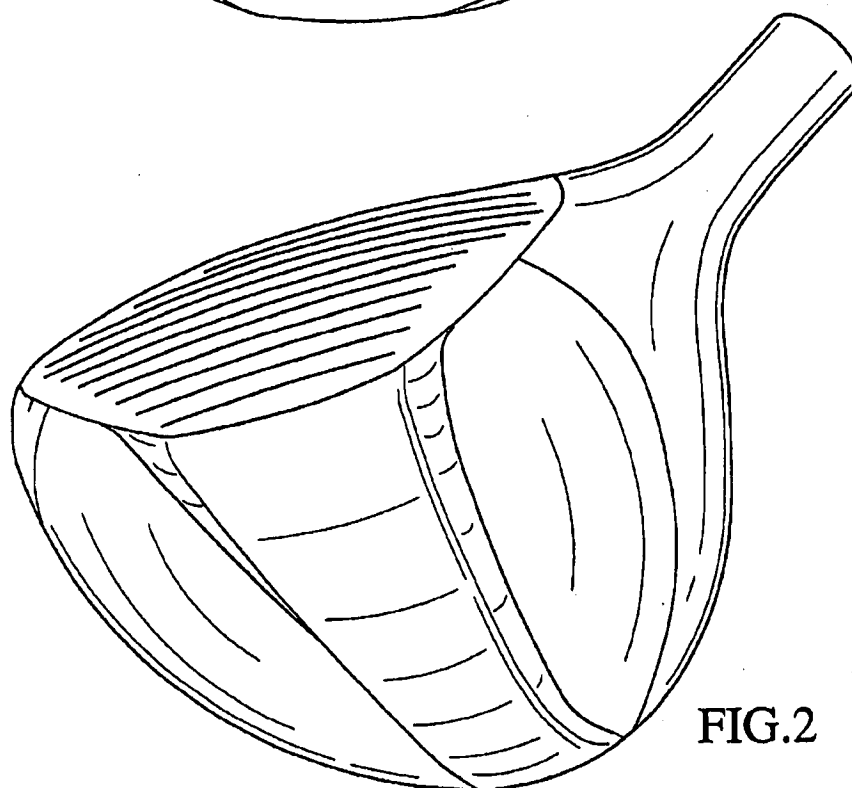
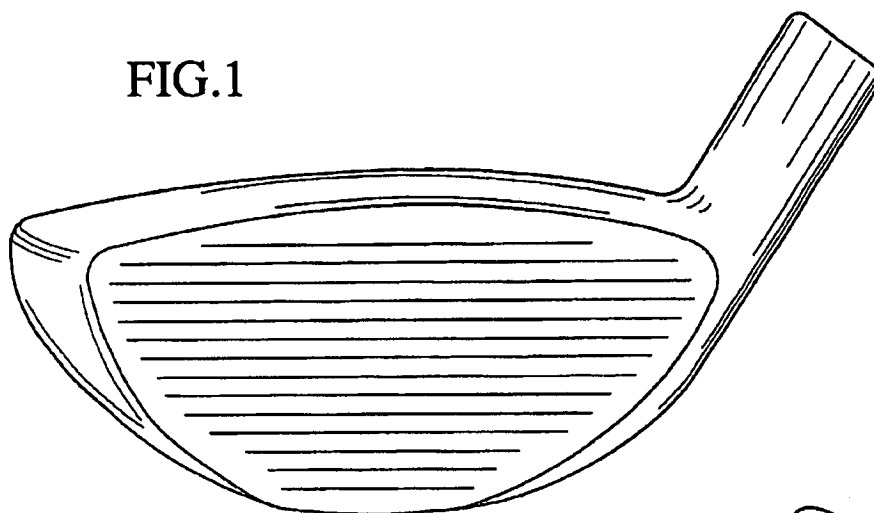


FIG.2

FIG.3

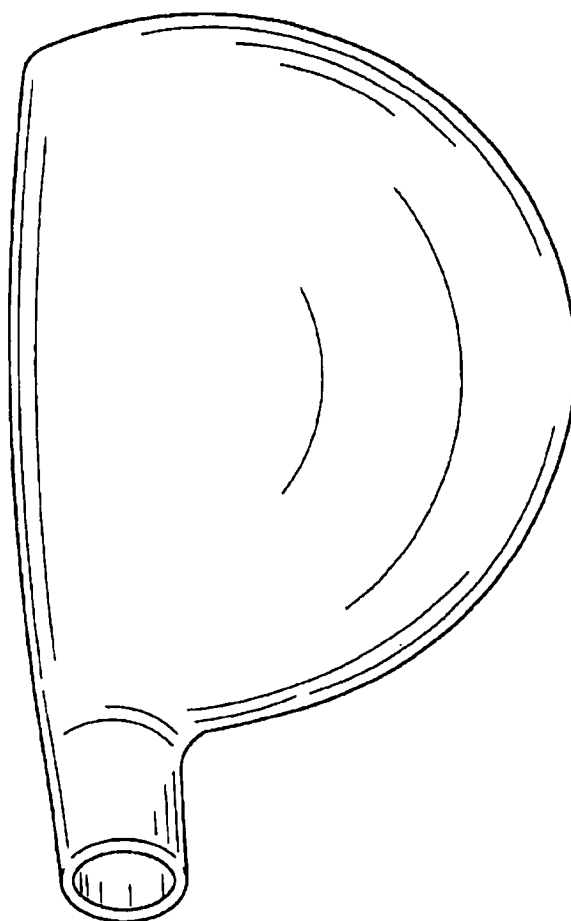


FIG.4

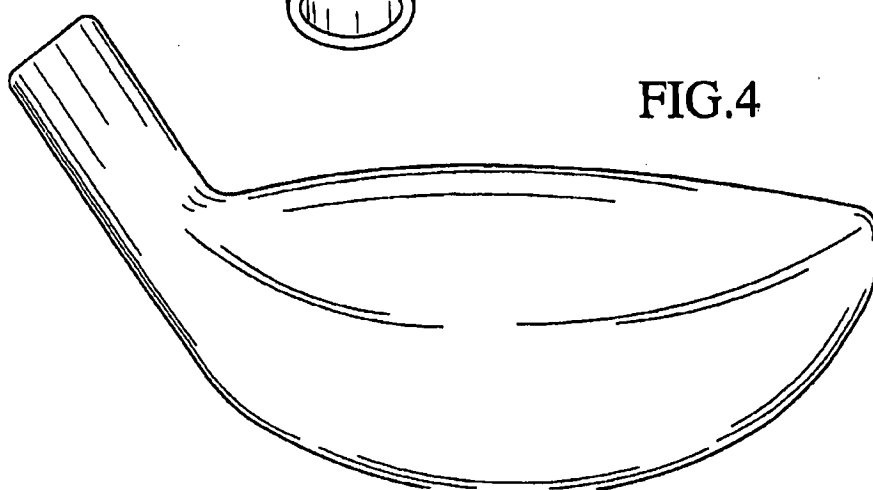


FIG.5

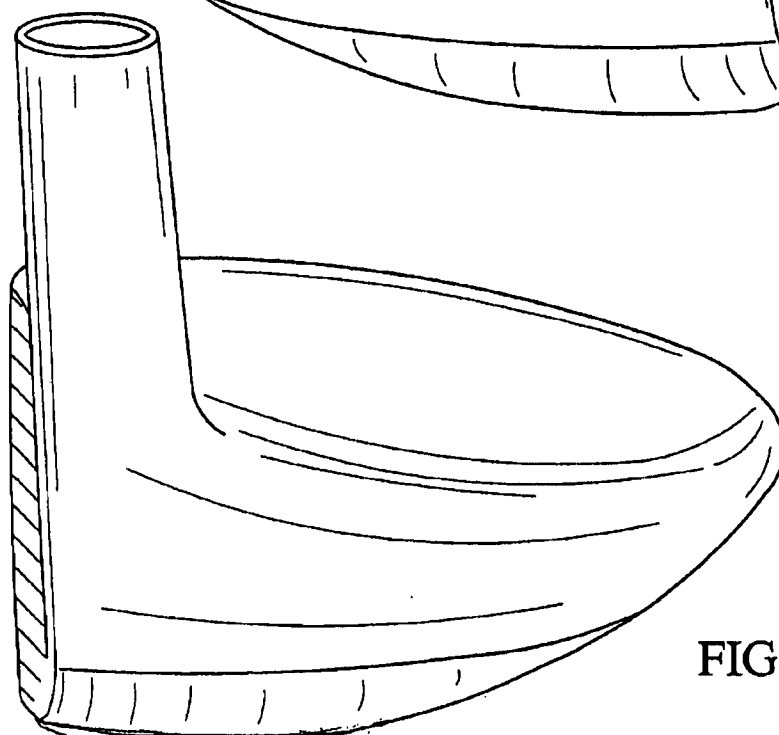
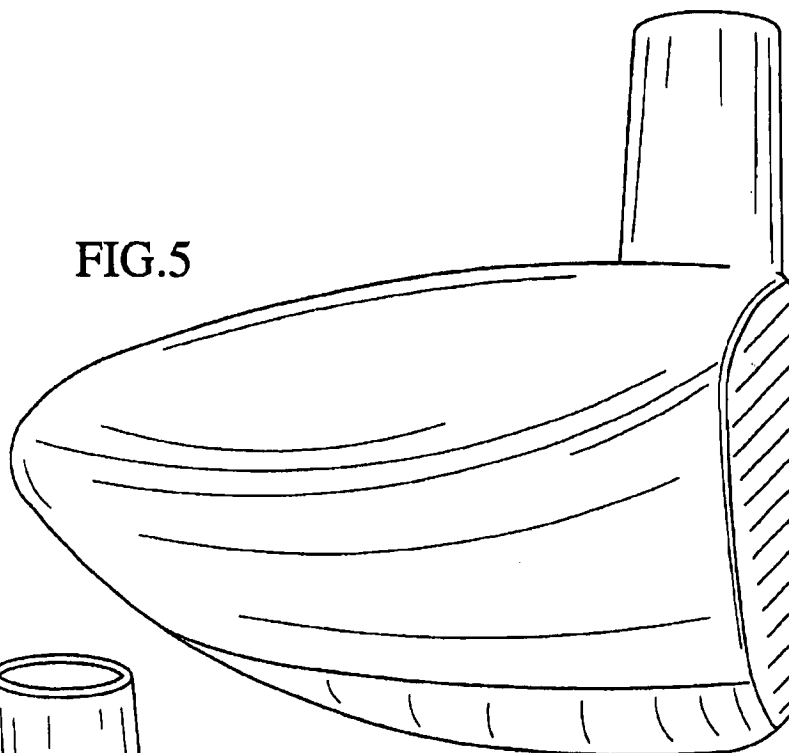


FIG.6

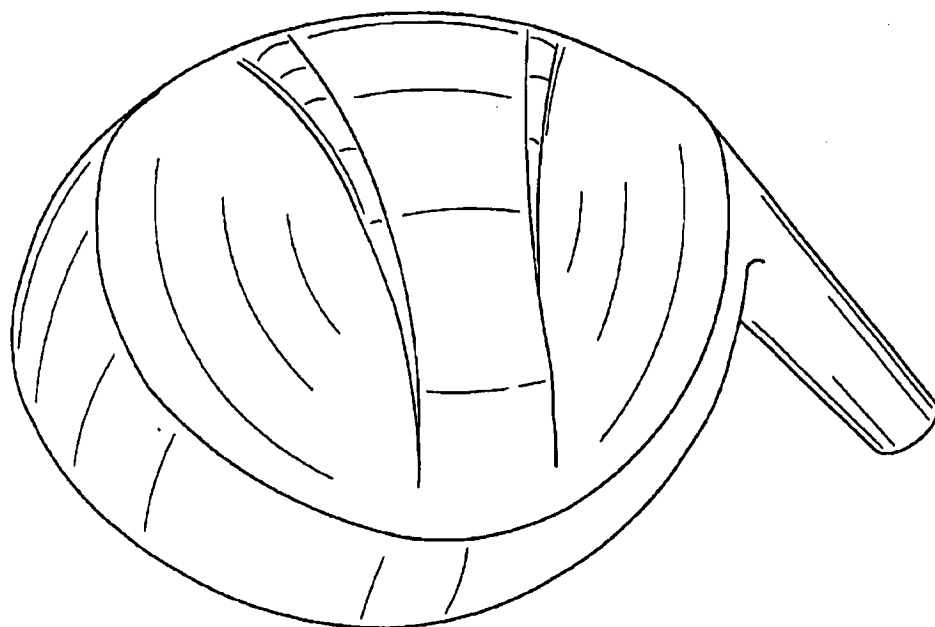


FIG. 7

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 REVERSE OF THE FORM.)

ORIGINAL

(a) PLAINTIFFS

The Irrevocable Trust of Anthony J. Antonious, a Florida Trust

(b) County of Residence of First Listed Plaintiff Passaic County, NJ
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Law Offices of Sepehr Daghighian,
433 N. Camden Drive #400, Beverly Hills, CA 90210. 310-877-1338

DEFENDANTS

Cobra Golf Company, a Delaware Corporation
Acushnet Company, a Delaware CorporationCounty of Residence of First Listed Defendant San Diego, California
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

C. 768 LAB

POR

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)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed 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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):

35 USC 101 et seq

Brief description of cause:

Patent Infringement, Inducement of Patent Infringement, Contributory Patent Infringement

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

04/09/2010

SIGNATURE OF ATTORNEY OF RECORD

Sepehr Daghighian

FOR OFFICE USE ONLY

RECEIPT #

12198

AMOUNT

\$350-

APPLYING IFP

JUDGE

MAG. JUDGE

104-13-10

W

Court Name: USDC California Southern
Division: 3
Receipt Number: CAS012198
Cashier ID: mbain
Transaction Date: 04/13/2010
Payer Name: SEPEHR DAGHIGHIAN LAW OFFICE

CIVIL FILING FEE
For: ANTONIOUS V COBRA GOLF CO
Case/Party: D-CAS-3-10-CV-000768-001
Amount: \$350.00

CHECK
Check/Money Order Num: 1793
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

There will be a fee of \$45.00
charged for any returned check.